MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR

Sixty-ninth Session
June 24, 1997

The Senate Committee on Commerce and Labor was called to order by Chairman Randolph J. Townsend, at 4:30 p.m., on Tuesday, June 24, 1997, in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chairman
Senator Ann O'Connell, Vice Chairman
Senator Kathy Augustine
Senator Dean A. Rhoads
Senator Joseph M. Neal, Jr.
Senator Raymond C. Shaffer
Senator Michael A. (Mike) Schneider

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara Buckley, Clark County Assembly District No. 8
Senator Jon C. Porter, Clark County Senatorial District No. 1
Assemblywoman Genie Ohrenschall, Clark County Assembly District No. 12
Assemblyman Jack D. Close, P.T., Clark County Assembly District No. 15
Assemblyman Mark A. Manendo, Clark County Assembly District No. 18

STAFF MEMBERS PRESENT:

Scott Young, Committee Policy Analyst
Susan Gardner, Senior Deputy Legislative Counsel
Kathy Wilcox, Committee Secretary

OTHERS PRESENT:

Michael R. Reed, Lobbyist, Local Government Energy Coalition
Judy Sheldrew, Commissioner, Public Service Commission of Nevada
Frederick Schmidt, Consumer's Advocate, Office of Advocate for Customers of Public Utilities, Office of the Attorney General

Steve King, Assistant City Attorney, City of Fallon
Timothy K. Shuba, Lobbyist, Counsel, Newmont Gold Company
Richard S. Shapiro, Lobbyist, Vice President, Government Affairs, ENRON Corporation
C. Joseph Guild, III, Attorney, Lobbyist, Manufactured Housing Community Owners
Margi Grein, Lobbyist, Director of Finance/Public Relations, State Contractors' Board
Paula Berkley, Lobbyist, Nevada Spa and Pool Institute
Alfredo Alonso, Lobbyist, Lionel Sawyer & Collins, State Contractors' Board
John Wiles, Division Counsel, Division of Industrial Relations, Department of Business and Industry
Gail Tuzzolo, Lobbyist, AMIL
Helen A. Foley, Lobbyist, Humana Inc.
Dorothy A. North, Lobbyist, Drug Commission, Chairman, Commission on Substance Abuse Education, Prevention, Enforcement and Treatment
Harold Anderson, Lobbyist, Member of Executive Board, Nevada Association of Manufactured Homeowners, and President of Flamingo West Adult Park
Marshall L. Schultz, Operator, Northern Nevada Manufactured Home Hotline
Del Dinehart, Reno Cascade Mobile Home Park
Michael Cirillo, Managing Partner, Pleasant Valley Mobile Home Park

Chairman Townsend began the meeting by reopening the hearing on Assembly Bill (A.B.) 366.

ASSEMBLY BILL 366: Revises provisions for regulation of electric service to allow customers direct access to alternative sellers of electric services. (BDR 58-1390)

Chairman Townsend called Michael R. Reed, Lobbyist, Local Government Energy Coalition, forward to testify.

Mr. Reed said:

> I'll try to be as brief as possible. I place before you, for your information, some existing statutory language [Exhibit C] that is in Nevada Revised Statutes [NRS] 704.340. I ask you to take a look at paragraph one and also to take a look at the attorney general's

> summary that's on the second page. That indicates that today and since the 1920s, municipalities have been exempted from Public Service Commission [of Nevada] control. The language that is in 366 [A.B. 366] as it's presently written, we believe, would eliminate that exemption. The purpose of 366 [A.B. 366] is to encourage competition and reduce regulation and the language that's in 366 [A.B. 366] now relating to the exemption would, we believe, fly in the face of that intent.
>
> I've also placed before you [a] one-page draft amendment [Exhibit D] that's dated June 24. The language that's underlined has been added and I'm also going to propose at this time that the second paragraph . . . be stricken and language be inserted which would prohibit municipalities and counties in the future from providing any component of electric service to a nongovernmental entity. That should take care of any concern that anybody's got that the municipalities and the counties are trying to get into direct competition with the utility companies. We still want the exemption for transactions between governmental entities.

Chairman Townsend asked, "Is there anything, currently, that I'm not understanding . . . that prohibits local government entities from working together now?"

Mr. Reed replied:

> There's nothing that prohibits it, however, A.B. 366 as it's written would require that those transactions be regulated and the municipalities, counties and other governmental entities that participated in those agreements be licensed. What we're asking for is an exemption from the licensing and the regulatory oversight of those agreements.

Chairman Townsend inquired, "Well, if you can do things between each other as municipalities, you're saying you read 366 [A.B. 366] to require you to be licensed to do that?" Mr. Reed replied affirmatively. Chairman Townsend asked the representatives of the Public Service Commission of Nevada if they read it that way.

Judy Sheldrew, Commissioner, Public Service Commission of Nevada responded:

> Nothing in 366 [A.B. 366] requires governmental entities who choose to be joint purchasers; i.e., binding themselves together to make a joint purchase, requires them to be licensed for that purpose. What it does require them to do is, if they become an aggregator and seek to, essentially, put together groups of customers and find the resources for them, and they're searching for a customer of a former utility, then they have to get licensed. And that's in the section that was added . . . by the Assembly, that is the so-called 'Texas hold-em provision.' I think, as we have said before . . . it's rapidly becoming the "Nevada hold-em provision" and I'm looking here for specifically where it is . . . [section] 36 sub[section] 6. If they want to form intergovernmental or cooperative agreements among themselves, let's say several school districts, let's say a portion of county government and school districts or hospital or some such like that, any governmental agency, that wants to join together to make a bigger customer, to, essentially, pool, there is nothing in 366 [A.B. 366]. I would suggest that Mr. Reed needs to show me where they are required to get a license and where that purchasing decision is required to be regulated. However, if they become an aggregator, if they go out and secure the resources, then I would suggest that they should be licensed. It's appropriate for them to be licensed as an alternative seller so that we can assure that they comport with standards of conduct, that they understand the rules of the game, if they're, indeed, qualified to do what they're suggesting. So, I think, that there's a basic misunderstanding here of what 366 [A.B. 366] says.

Frederick Schmidt, Consumer's Advocate, Office of Advocate for Customers of Public Utilities, Office of the Attorney General, expressed:

> Our position is this. Last night we talked about the Colorado River Commission. Colorado River Commission, we believed, deserved to be exempted because the statutes currently provide an exemption for them. The compromise that was presented, and reached, and supported unanimously by the committee was, if the Colorado River Commission is going to go into new business areas

and they're going to develop new customers for sale, but for their current customers and their loads which could be expanded, like municipality of Boulder City or power districts, they have to become an alternative seller. Consistent with that position, I think, if other local governments or other government agencies, unless they have a current exemption, should, similarly, compete on the same footing as we've now placed the Colorado River Commission; as all private sellers would.

The exemption that now is in the law is that if you form a municipal entity, and that's done under separate sections of the statute, or if you form a cooperative, then you are exempted. And, I think, that those laws and how you do that would still apply and are not overturned by this section 36 in my reading. If you are merely purchasing, I don't think any purchaser is covered by the requirement to license; because, otherwise, anybody who's a customer who wants to go out and buy would have to get licensed.

I think the intent of section 36 is if you're going to aggregate and sell, in other words, if you're going to be a seller to retail customers, then you get licensed. So as I understand Mr. Reed's amendment to the extent that he purchases, that is probably not, in that first paragraph he has, that is not already covered. To the extent that he provides service and they're not in the business of doing that now under some exemption for which Fallon is, or Boulder City is, because they have municipal corporations that do that, then, I think, he probably is covered by this section of the act, and he has to come in and get a license the same as everyone else. And I don't know that I see that necessarily as inappropriate.

As I've said again with the one caution that, hopefully, the burden of getting a license will not be significant regulation. If they think they can do a good job and do it on behalf of a group of citizens or on behalf of their own governmental services for their sanitation plant, for some water-pumping purpose, if they can do that, then fine, I have no problem with them doing that. In summary, the AG's [Attorney General's] already opined, in prior opinions, that municipalization isn't regulated. I don't think it is by virtue of this new section 36. As far as being an aggregator who sells, yes, I agree. I think Mr. Reed then is covered and, I guess, I have not yet

heard an argument on why that's inappropriate, especially given what we did with the Colorado River Commission, if we're talking about a new function that they haven't been doing in the past in terms of providing electric service to retail customers.

Chairman Townsend expressed:

Committee, I don't know what you want to do, but I'm not totally convinced this is something we have to do in this bill, to be honest with you. This is not going to happen for 2 years, and I'm not fully comfortable that we're doing the right thing or not doing the right thing. I don't know, Committee, how you feel, if this is a burning desire for you ....

Let's move on. We have the city of Fallon. You have an issue. I know you haven't had an opportunity to discuss this with the commission or the OCA [Office of Advocate for Customers of Public Utilities] or anyone else. You proposing a two-liner [Exhibit E], 'For the purposes of this section, the exercise of rights provided by NRS chapter 268 [chapter 268 of NRS] do not subject a city to the provisions of [sections] 25 through 47 [, inclusive].' Why do we need to do that?

Steve King, Assistant City Attorney, City of Fallon, replied:

First off, part of our, one of our issues was, I think, just very clearly clarified by the consumer advocate, Mr. Schmidt. We were concerned that the wording of the amendments, as they were currently drafted, somehow would get the city into a position of being classified as an alternate seller. I think that was clearly not the case from Mr. Schmidt mention[ing] by name the city of Fallon and Boulder City as being expressly exempt at this time.

We do have, however, one concern which we would like to address and the committee to recognize and make part of the record and, perhaps, if that amendment is necessary, to consider the amendment and that would be in section 36 [subsection 6, paragraph (b)]. This amendment would go to that particular section. And we look at some background. The city, through the process of natural growth, goes through an expansion and

> voluntary annexation consistent with provisions of NRS 268 [chapter 268 of NRS]. During that process, through agreement with the existing provider, which in this case happens to be Sierra Pacific Power Company, when the city goes through a voluntary annexation, the new area becomes part of the city of Fallon's electric-service area. The city of Fallon has never had an area, has never served any areas in the county, beyond its incorporated limits. We look at this language and it appears to us that it could, and I'm assuming . . . , but just through our normal annexation, let me also mention that at that point where, in this case, Sierra Pacific [Power Company] turns over its service territory to the city, the city [of Fallon] and Sierra [Pacific Power Company] mutually agree as to the price the city will pay for that distribution system. It appears to us this provision could be interpreted to elevate the city into an alternative seller under the jurisdiction of the PUC [Public Utility Commission of Nevada]. That's our concern and that's the intent of our proposed amendment.

Chairman Townsend asked Ms. Sheldrew to address that statement.

Ms. Sheldrew stated:

> Mr. Chairman, what I suggest to, perhaps, alleviate any concerns that the city of Fallon may have is simply to add the last sentence in section 36, subsection 6, paragraph (b) where it now reads, 'or an affiliate thereof' with the sentence ending there. We just add 'as except as otherwise required or permitted by law.', and I think that will address their concerns.

Mr. King said, "With the understanding that 'as permitted by law' and for part of the record includes the ability, the rights of the city pursuant to NRS chapter 268 [chapter 268 of NRS] as far as annexation. I think that does address our concerns."

Timothy K. Shuba, Lobbyist, Counsel, Newmont Gold Company, testified:

> Mr. Chairman, in the set of amendments that Newmont submitted on June 17, there was one amendment that was not picked up that I just wanted to raise for the committee. That had to do with section 46 subsection 2. And in section 46.2, [it] deals with the

> commission's responsibilities to assure that there are [is] sufficient capacity in the state to provide the necessary electric service. Our concern is that whether this section is construed as an obligation to build or an obligation to provide additional capacity, as it's drafted, is an obligation that can be put upon alternative sellers, customers, as well as, electric-distribution companies. Our concern is that alternative sellers who are providing service in this state, but who have a limited marketing objective, that is that they are going to provide a 100 megawatts of service or whatever, are contributing to the resources available to this state but may well not want to get into the business of providing additional generation or additional capacity, particularly if that involves construction obligations.

Chairman Townsend asked Ms. Sheldrew if she was getting a sense of that obligation. He remarked, "I understand the concern and I can understand why they would read it that way. I want to make sure that we're comfortable with that."

Ms. Sheldrew responded:

> Mr. Chairman, section 46 is what's left of the old section 22. We've just briefly . . . go back on what we had intended in that section and what the Assembly did. One of the issues that we have to deal with in this state that they don't have to deal with in other states where they've got, for example, an ISO [Independent System Operator] or some other quasi-governmental entity that's responsible for dealing, assuring that sufficient capacity is available, is to have some independent entity be responsible for checking that.
>
> And as . . . we discuss, and this will sound old to you, Senator Augustine, we've discussed several times, we're not sure that the competitive market is going to require that somebody continues to check that, so . . . let's be sure that somebody's continuing to assure that sufficient capacity is available in the shortterm. If we find that the market behaves as we think it will, then this is probably going to go the way of the dinosaurs; that nobody's going to have to assure itself of that.

> The only independent entity that's left, as a result of what we're proposing as far as the restructured electric industry, is really the commission and what the, this is one of the issues that probably your interim committee's going to be looking at, is capacity as well as resource diversity. But the Assembly felt it was important. It's probably even more important with your date that's been moved forward, that the commission begin to get its feet wet on doing forecasts of energy and capacity and begin to get familiar with those sorts of things. . . . The section that's now in section 46 is really a piece of that where we were supposed to do a report; and then if insufficient capacity existed, it gives the commission the authority to equitably spread that responsibility among all of the various parties in the market.
>
> We think, for a level playing field, requirements . . . should be a responsibility that's spread in and amongst all of the entities, that it isn't fair to put it on just one particular entity or another, but it does not necessarily mean it's going to be a command to build something. It really is trying to develop regulations as to how we're going to satisfy a capacity shortage, if there is one. If the market's working the way we want it to be, this will be something that we never have to worry about.

Chairman Townsend inquired:

> If there's, and I don't know what our megawattage is, capacity-wise, here, 5,000 or whatever it is, and you determine in your research that in the coming 2 years or 3 years it may need to be 5,500, then that's the standard. You don't go out and say, 'Now somebody build 500 megawatts of power.' Somebody can go acquire it or whatever, but you're alerting the world that that's what we probably are going to need. Is that a fair, so there would not be a requirement on, not Newmont, but the person from whom they buy or ....

Ms. Sheldrew concurred:

> Indeed, certainly not on the customers, but you're exactly right. What we'd be saying is that 'It looks like we're going to need X number of megawatts' and from all the reports that have been

> submitted by all of the parties including the affiliates, as well as alternative sellers, that there's only going to be 5,000 megawatts worth of energy, then we would have the authority to sit down and figure out how it is that sufficient capacity is going to be developed and it has to be fairly spread. An interesting addition that, frankly, came about as a result of a suggestion from Mr. Higgins [Walter Higgins, President and Chief Executive Officer, Sierra Pacific Power Company] that the Assembly adopted and I think is still in here, is that there is even an allowance for a competitive-bidding process to see who ought to get that additional capacity.
>
> Again, it's just a methodology for us to assure everyone that the lights will come on. Since it doesn't really start, well, it didn't start until the year 2000 because you're maintaining integrated resource planning in this interim while you're studying it. I think we've got some time to work on how this works. I don't think it's anything we need to address immediately. But it's not meant to make those that don't build, build. Clearly, that's not what's intended by the terminology, 'capacity.'

Chairman Townsend pointed out, "I didn't read it that way but I can certainly sense how you could read it to create a problem down the road for those who may want to sell to you, given the size of your capacity need."

Mr. Shuba acknowledged:

> That was our concern, Senator, and just to be clear, the proposal that we made was not that no one perform this function, but rather that, in the first instance, if there is going to be a directive to acquire or build new capacity, that there be a mechanism for, initially, looking to those who could recover it through regulated rates. . . . If that's not going to work, then there would be a default provision that basically would allow the commission to do precisely what the initial draft had.

Ms. Sheldrew added:

> . . . the problem with that proposal is that, I think, what they're referring to is the noncompetitive providers which is really the distribution system which may or may not be responsible for, may

or may not have any responsibility for providing generation services beyond those that they need to sustain the distribution system. But, I think, Mr. Chairman, since it requires us to develop regulations, we can really work this all out in the interim and if we still have a debate, we can bring it back to you. I don't think that there is anything here that should cause anybody any undue worry at this point.

Chairman Townsend called Richard S. Shapiro, Vice President, Government Affairs, ENRON Corporation, to testify.

Mr. Shapiro stated:

We share many of the concerns that Mr. Shuba has expressed on behalf of Newmont Mining. I think that the concern is that the language in section 46 is somewhat ambiguous as to whether or not this is an obligation to build or an obligation to acquire capacity. I think that what it is is largely within the discretion of the commission. And the ultimate problem with this type of provision is that these kinds of requirements, whether it's price regulation, as embodied in section 35, [subsection] 4, or obligations to build, made a great deal of sense in the context of a regulated, monopoly environment where there was an opportunity, and pretty much something close to a guarantee of recovering the cost of those investments from ratepayers.

And we're moving to a competitive marketplace where, obviously, private investment is going to come in and build generation in this state and the risk of that investment is going to be on shareholders, not consumers. The ultimate problem with this kind of provision, is that it places risk on competitive sellers without any opportunity to manage that risk. The uncertainty of how this obligation will be imposed, and it really is an obligation, that is being taken from one world and inappropriately applied to a competitive marketplace. I think it has some very anticompetitive ramifications and ....

Chairman Townsend responded:

Let me do this for you. I think this is appropriate. I think you've articulated a legitimate concern and, obviously, you, as a market

> entrant, it's not that you wouldn't trust the commission, but commissions come and go. You're more concerned about statutory construction. Tomorrow [June 25, 1997] morning, we're going to take up three issues. If there is a resolution between this regulatory body, including the OCA [Office of Advocate for Customers of Public Utilities] and the commission between now and Friday [June 27, 1997], relative to your concern, you're more than welcome to bring that to us. If there isn't, then we'll have to go to the regulatory mechanism that the commissioner has offered. Is that fair?

Mr. Shapiro replied that was fair. Chairman Townsend closed the hearing on Assembly Bill 366, and opened the hearing on Assembly Bill 522.

ASSEMBLY BILL 522: Makes various changes regarding mobile home parks. (BDR 10-1689)

Assemblywoman Barbara Buckley, Clark County Assembly District No. 8, stated Assembly Bill 522 originated from Legislative Counsel Bureau and attorney general opinions of last year. The unanimous opinion was that Nevada Revised Statutes (NRS) 118B.095 applied to all mobile home parks, unless they were owned and operated by a housing authority pursuant to 42 U.S.C.(United States Code), section 1437, which is the Conventional Public Housing Authority Fund Act. She noted there were a number of housing authority-owned or operated parks, especially in southern Nevada, with one being in her district, which is owned and operated by the Jaycees, a nonprofit organization. They entered into a lease with the Las Vegas Housing Authority and the housing authority claimed they were exempt under chapter 118B of NRS because they now operated it.

Ms. Buckley stated a number of the people in the park called her and asked if she would check to see if they were covered under chapter 118B of NRS. She asked the Legislative Counsel Bureau and they said yes. The Jaycees didn't believe the Las Vegas Housing Authority, so the Manufactured Housing Division asked the attorney general. The attorney general agreed. Now there was unanimous consensus that they do fall under chapter 118B of NRS and a few changes were felt to be necessary in order for them to "fit properly" under chapter 118B of NRS. One change would be because they're under chapter

already established, but may regulate its operation so long as regulation does not amount to prohibition under guise of regulation. AGO 204 (12-31-1920)

Commission may prescribe terms different from those indicated in application. Under ch. 109, Stats. 1919 (cf. NRS 704.370), public service commission may prescribe terms different from those indicated in application. AGO 331 (4-30-1929)

Interstate telephone company must obtain certificate of public convenience. Notwithstanding interstate telephone company subject to Federal Communications Act, Congress has not preempted field and company must obtain certificate of public convenience required under ch. 109, Stats. 1919 (cf. NRS 704.330). AGO 559 (1-8-1948)

Radio stations are not required to obtain certificate of public convenience. Under ch. 109, Stats. 1919 (cf. NRS 704.330), radio stations are controlled by Federal Communications Act and not required to obtain certificate of public convenience. AGO 559 (1-8-1948)

Congress has reserved exclusive control over air traffic in interstate commerce. Under Federal Civil Aeronautics Act, Congress has reserved exclusive control over carriage of passengers and regulation of air traffic in interstate commerce, precluding control by state commission. AGO 559 (1-8-1948)

Licensed contract carrier has right to protest issuance of certificate of public convenience in same area. Under 1931 NCL § 4437.06 (cf. NRS 706.400), relating to applications of motor carriers to do intrastate business, contract carrier having license has right to protest issuance of certificate of public convenience in same area. AGO 647 (7-16-1948)

Commission is not empowered to examine or approve contracts entered into by power districts. Under 1931 NCL § 5180.08 (cf. NRS ch. 318 and 704.330), public service commission is not empowered to examine or approve contracts entered into by power districts or to grant certificates of convenience to district in its corporate capacity or otherwise. AGO 732 (3-11-1949)

704.340 Municipalities and certain trusts for furtherance of public functions not required to obtain certificates; approval and jurisdiction of commission.

1. Subject to the provisions of subsection 3, a municipality constructing, leasing, operating or maintaining any public utility or a trust created for the benefit and furtherance of any public function pursuant to the provisions of general or special law, other than a trust which undertakes to provide transportation by use of a motor vehicle as a common or contract carrier, is not required to obtain a certificate of public convenience, but any trust so created which undertakes the operation of a public utility shall first submit a certified copy of the trust documents or prepared trust documents to the commission together with a detailed explanation of the purposes, scope, area to be affected and such other pertinent information necessary to assist the commission in making a determination as to whether the service presently being offered by any existing public utility would be unreasonably impaired by the approval of such trust documents.

2. The commission shall, after investigation and hearing on any contemplated trust coming within the provisions of subsection 1, submit a report of its findings and reasons therefor to the state and each political subdivision within which such trust contemplates operation. Such trust shall not become effective unless and until written approval has been given by the commission.

3. If a municipality assumes operation and control of a package plant for sewage treatment pursuant to the provisions of NRS 445A.555 or subsection 2 or 3 of NRS 268.4105, the plant is exempt from the jurisdiction of the commission only for the period of time the municipality continues the maintenance and operation of the plant. The certificate of public convenience as it applies to that plant is suspended for that period of time.

[Part 36 1/2:109:1919; A 1925, 243; 1947, 743; 1955, 407]—(NRS A 1971, 1036; 1975, 1409; 1979, 1921)

NEVADA CASES.

Only municipalities which operate, maintain, construct or lease public utilities are exempt from requirement of certificate of public convenience. Only municipalities which construct, lease, operate or maintain public utility are exempt under NRS 704.340 from provisions of NRS 704.330 which require certificate of public convenience. White Pine Power Dist. v. Public Serv. Comm'n, 76 Nev. 497, 358 P.2d 118 (1960), cited, Las Vegas Valley Water Dist. v. Michelas, 77 Nev. 171, at 181, 360 P.2d 1041 (1961)

ATTORNEY GENERAL'S OPINIONS.

"Municipality" as used in NRS 704.340 must be construed to include only cities. NRS 704.340 provides that municipalities are not required to obtain certificate of public convenience and necessity. NRS ch. 704 requires that every supplier of services described therein shall obtain such certificate. Term "municipality" as used in NRS 704.340 must be construed to include only cities because term is used according to usual language and understanding. AGO 58 (8-1-1963)

Municipal corporations are excluded from jurisdiction of commission. Under NRS 704.340, municipality which constructs, leases, operates or maintains any public utility shall not be required to obtain certificate of public convenience, indicating that legislature definitely intended to exclude municipal corporations from jurisdiction of public service commission. AGO 99 (12-12-1963)

704.350 Prerequisites to issuance of certificate. Every applicant for a certificate of public convenience shall furnish such evidence of its corporate character and of its franchise or permits as may be required by the commission.

[Part 36 1/2:109:1919; A 1925, 243; 1947, 743; 1955, 407]

704.360 Conduct of investigations and hearings. All hearings and investigations under NRS 704.330 to 704.430, inclusive, shall be conducted substantially as is provided for hearings and investigations of tolls, charges and service.

[Part 36 1/2:109:1919; A 1925, 243; 1947, 743; 1955, 407]

704.370 Issuance or refusal of certificate: Terms and conditions; power of commission to dispense with hearing.

1. The commission shall have the power, after hearing, to issue or refuse such certificate of public convenience, or to issue it for the construction of a portion only of the contemplated line, plant or systems, or extension thereof, and may attach thereto such terms and conditions as, in its judgment, the public convenience and necessity may require.

2. The commission, in its discretion, may dispense with the hearing on the application if, upon the expiration of the time fixed in the notice thereof, no protest against the granting of the certificate has been filed by or on behalf of any interested person.

[Part 36 1/2:109:1919; A 1925, 243; 1947, 743; 1955, 407]—(NRS A 1963, 814)

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ATTORNEY GENERAL'S OPINIONS.

Commission may prescribe terms different from those indicated in application. Under ch. 109, Stats. 1919 (cf. NRS 704.370), public service commission may prescribe terms different from those indicated in application. AGO 331 (4-30-1929)

Applicants for certificate of public convenience are entitled to formal hearing before commission. All applicants for certificate of public convenience are entitled to formal hearing before public service commission, and denial thereof might be construed as deprivation of due process. AGO B-51 (5-1-1941)

Radio-paging service is public utility. Where business operates both telephone-answering service and radio-paging service, only radio-paging service is public utility as contemplated by NRS 704.020, which defines

NON-UTILITY CONSENSUS GROUP
REVISED PROPOSED AMENDMENTS TO THE SENATE DRAFT OF A.B. 366
(June 24)

An important aspect of restructuring is providing customer access to the market place. Anything which impedes that access will hamper creation of a truly competitive market. Since governmental entities are a major portion of the customer base, they should be given express authority to form intergovernmental agreements which allow them to easily seek alternative suppliers and conduct energy transactions among themselves without regulatory interference. Therefore, we propose that the following be added to the Senate draft:

Add a new subsection to Section 35 to read:

The state and its agencies and political subdivisions may enter into intergovernmental agreements effective on or after July 1, 1999, for the purchasing and furnishing of any electric service among themselves. Such intergovernmental agreements are not subject to the jurisdiction of the commission.

Add a new subsection to Section 36 to read:

Nothing contained in this act shall be construed as requiring any state agency or political subdivision which provides any electric service to another governmental entity to become licensed as an alternative seller or to otherwise be subject to the jurisdiction of the commission.

Add a new subsection to both Section 35 and Section 36 to read:

Any state agency or political subdivision which enters into, facilitates, organizes or manages an agreement under this section will have all of the rights and privileges of an alternative seller, including access to transmission and distribution facilities.

COMMITTEE ON COMMERCE AND LABOR

PROPOSED AMENDMENT TO A.B. 366
CITY OF FALLON
JUNE 24, 1997

Add a new section - Section 36.9

Sec. 36.9 For the purposes of this section, the exercise of rights provided by NRS Chapter 268 do not subject a city to the provisions of sections 25 through 47, inclusive.

EXHIBIT E

MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR

Sixty-ninth Session
June 25, 1997

The Senate Committee on Commerce and Labor was called to order by Chairman Randolph J. Townsend, at 7:00 a.m., on Wednesday, June 25, 1997, in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chairman
Senator Ann O'Connell, Vice Chairman
Senator Kathy Augustine
Senator Dean A. Rhoads
Senator Joseph M. Neal, Jr.
Senator Raymond C. Shaffer
Senator Michael A. (Mike) Schneider

STAFF MEMBERS PRESENT:

Scott Young, Committee Policy Analyst
Beverly Willis, Committee Secretary

OTHERS PRESENT:

Peter D. Krueger, Lobbyist, Nevada Petroleum Marketers
Robert A. Ostrovsky, Lobbyist, Nevada Gasoline Retailers Association, Nevada Petroleum Marketers
Harvey Whittemore, Lobbyist, ARCO/Atlantic Richfield

Senator Townsend opened the meeting by calling on Peter D. Krueger, Lobbyist, Nevada Petroleum Marketers, who noted his organization had been working with major oil companies to come to an amicable agreement on their divorcement problem. He claimed concerns voiced by the committee, as well as dealers, pertaining to a phase in of the number of company-operated stations, had been addressed and agreed upon. Mr. Krueger maintained, ". . . each major oil company can build, during the balance of this year, two company-operated stations." He proceeded, pointing out the remainder of the agreement:

> . . . formula which will allow them to . . . in the out years up to five each to get to a cap of 30. After that 30, there is an agreement that the major oil companies can build two, for one company-operated, which will again protect the small dealer. There is also some wording which says a lessee-dealer, which is the very smallest of membership station . . . so it protects any move to put those people at risk . . . we have particular language that allows the contract dealer some protection, if they choose.

Mr. Krueger expressed his pleasure an agreement had been reached.

Robert A. Ostrovsky, Lobbyist, Nevada Gasoline Retailers Association, Nevada Petroleum Marketers, emphasized this understanding was a compromise, however, his organization was in agreement with language presented. He claimed each side had given up something; each side had won something. Mr. Ostrovsky maintained it was his hope this issue had been resolved for a long time.

Harvey Whittemore, Lobbyist, ARCO/Atlantic Richfield, presented, "Draft of Proposed Amendments Related to Divorcement to be Added to Amendment to A.B. 366 (6/22/97)" (Exhibit C). Mr. Whittemore claimed issues the committee had asked be addressed were issues associated with increasing competition, but also to find a solution to afford some relief to the smallest lessee-dealers, while protecting the contract dealers ability to grow and allowing the contract dealers ability to sell.

ASSEMBLY BILL 366: Revises provisions for regulation of electric service to allow customers direct access to alternative sellers of electric services. (BDR 58-1390)

Mr. Whittemore, addressing the issue of competition, claimed phasing in company-owned stations in such a fashion would allow all the major refiners to be able to get to 30. Mr. Whittemore gave examples of how this would be accomplished. He maintained after the number of 30 was reached, for every two company-operated stations that would be built in any counter year, one lessee-dealer site must be developed. Mr. Whittemore indicated the end result that was trying to be reached was to encourage company-operated stations, while at the same time, encouraging the lessee-dealer. He stated:

> . . . there was no restriction on the number of contract-dealer stations that can be built in the state. There never was and never has been any limitation on that, so that's not being changed. What this does is, in the marketplace is allow competition to take place, which we believe encourages and helps, potentially, the possibility of reducing gas prices to customers in the state of Nevada.

Mr. Whittemore noted that lessee-dealers, who are in existence on or before July 1, 1997, on sites they presently own, will always be lessee-dealer sites. He continued with several examples.

Mr. Whittemore then referred specifically to contract dealers. He claimed contract dealers have the ability to negotiate with major refiners, therefore, are not bound by the certain levels of restriction. Mr. Whittemore asserted the remainder of Exhibit C addresses the phase in when company-operated stations could be built. It also offers a provision that once the number 30 is reached, for every two company-operated stations that are added, a lessee-dealer will be added.

Mr. Whittemore claimed:

> We strongly believe this addresses the policy concerns expressed by this committee to increase competition, while at the same time, creating a level playing field for the smaller independent lessee-dealers, by keeping that category of service station around and not only keeping them around, but protecting them from reacquisition by the company.

Senator Rhoads and Mr. Whittemore discussed the number of stations allowed by various parties, with Senator Rhoads inquiring about the number of independent stations that could be owned, with Mr. Whittemore claiming, ". . . as many as he would like." Senator Rhoads questioned Mr. Whittemore concerning the number of stations that could be owned by ARCO. Mr. Whittemore indicated there was no limitation, stating, ". . . that's been removed." Mr. Whittemore continued, stating ". . . Is there any cap on the number of stations that can be owned by anybody? The answer is 'no.' Is there a phase in? The answer is 'yes.'" Mr. Whittemore asserted, ". . . we are phasing in the removal of the limitation . . . but, at the same time, protecting the smallest individual operators . . . .

Senator Townsend emphasized the fact, ". . . gentleman, . . . I think this is absolutely crucial, so there isn't any misunderstanding, all of your clients have had an opportunity to read this [Exhibit C] language, so you're comfortable that you can either represent to the client it's what they believe they agreed to?"

Mr. Krueger claimed he had consulted with key members of his association and stated, ". . . while they're not overly thrilled with this deal, they understand it and to answer your question, 'yes.'"

Mr. Ostrovsky noted the Nevada gasoline retailers had read and understood this agreement. He proceeded asserting, ". . . as a result of this agreement any additional funding for the office of consumer advocate is not necessary nor is there any specific language needed." Mr. Ostrovsky maintained,". . . the law was very specific as to how gasoline marketers and wholesales will operate in the state, therefore, the need to expand Fred Schmidt's office [Frederick Schmidt, Consumer's Advocate, Office of Advocate for Customers of Public Utilities, Office of the Attorney General (OCA)] to have a special unit to oversee that. He certainly has overall antitrust responsibility . . . but the need to expand his office and have a separate consumer advocate section just for petroleum, isn't necessary.

Once again, Mr. Whittemore offered remarks, asserting he had met with members of the Assembly, who had no objection to efforts made to resolve these issues.

SENATOR NEAL MOVED TO ADOPT THE DRAFT PROPOSED AMENDMENT DATED JUNE 22, 1997, RELATING TO DIVORCEMENT TO BE ADDED TO THE AMENDMENT TO A.B. 366.

SENATOR O'CONNELL SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SHAFFER WAS ABSENT FOR THE VOTE.)

* * * * *

Senator Townsend informed all those present it was his intention to take a short recess. He advised everyone to make sure that anything else that needed to be presented to the committee be supplied upon the committee's being reconvened.

The meeting was recessed at 7:35 a.m.

Senator Townsend reconvened the meeting at 8:25 a.m.

Senator Townsend opened the meeting by stating, ". . . what the goal would be, is to amend this bill, [A.B. 366] with the provisions upon which we have voted. . . . obviously 'amend and do pass,' but with a re-referral, for one reason." Senator Townsend indicated it would be necessary to present the bill to the Senate floor and have it reprinted and allow enough time for the committee, in particular, to become acquainted with any changes that might be made. He maintained it was his feeling there would not be any policies that would have been missed; however, noted there might be technical items that would need to be addressed. Senator Townsend stated, "At that point, we will not do technical things on the bill [A.B. 366] in this house, those will be done as part of the conference report."

SENATOR NEAL MOVED TO AMEND AND DO PASS AND RE-REFER A.B. 366, WITH THE AMENDMENTS THAT HAVE BEEN PROPOSED AND VOTED ON IN THE SENATE COMMITTEE ON COMMERCE AND LABOR.

SENATOR AUGUSTINE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SHAFFER WAS ABSENT FOR THE VOTE.)

* * * * *

As there was no further business, the meeting was adjourned at 8:40 a.m.

RESPECTFULLY SUBMITTED:

Beverly Willis,
Committee Secretary

APPROVED BY:

_____
Senator Randolph J. Townsend, Chairman

DATE:_____

DRAFT OF PROPOSED AMENDMENTS RELATED TO DIVORCEMENT

TO BE ADDED TO AMENDMENT TO A.B. 366 (6/22/97) :

Section 1.— *"Contract dealer" means a retailer who operates a service station pursuant to a franchise agreement if the service station is not leased to the retailer by the refiner with whom the retailer has entered into the franchise agreement.*

Sec. 2— *"Leasee dealer" means a retailer who operates a service station pursuant to a franchise agreement if the service station is leased to the retailer by the refiner with whom the retailer has entered into the franchise agreement.*

Sec. 3—*On or after July 1, 1997, a refiner shall not commence the direct operation of a service station with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee, if that service station is leased by the refiner to a leasee dealer on or before July 1, 1997.*

Sec.4 —*1. -A contract dealer shall not, ~~on or after~~ prior to July 1, 1998, sell a service station which he operates to the refiner with whom he has entered into a franchise agreement.*

2. -Except as otherwise provided in subsection 3, if a contract dealer sells a service station to a refiner in compliance with subsection 1, the refiner may not engage in the direct operation of that service station with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee.

3. -On or after July 1, 1998, a contract dealer may authorize a refiner to whom he has

EXHIBIT C

1375

sold a service station ~~in compliance with subsection 1~~ to engage in the operation of the service station directly with his own employees or through a subsidiary or commissioned agent or person on the basis of a fee, by sending a notice to the refiner, by certified mail, return receipt requested, offering the refiner to engage in the operation of the service station in such a manner. The contract dealer may, at any time before the refiner accepts such an offer, rescind the offer by sending a notice of rescission to the refiner by certified mail, return receipt requested.

4. The provisions of this section do not apply to a contract dealer who operates or has previously operated more than 3 service stations.

Sec. 5—NRS 597.440 is hereby amended to read as follows:

597.440 –1. –[On] *Except as provided in Sections 3 and 4 and as otherwise provided in this section, on* or after July 1, [1987, except as provided in subsection 3,] *1997,* a refiner [shall not commence the:

(a) Direct operation of a service station, with] *may commence, with* his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee [; or

(b) Sale of motor vehicle fuel at a service station.] , *the direct operation of the following number of additional service stations during the calendar years so indicated:*

(a) By the end of calendar year 1997, a total of an additional 2 service stations with his own employees or through a subsidiary or commissioned agent or a person on the

basis of a fee.

(b) By the end of calendar year 1998, a total of an additional 4 service stations with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee..

(c) By the end of calendar year 1999, a total of an additional 4 service stations. with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee.

(d) By the end of calendar year 2000, a total of an additional 5 service stations with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee.

(e) Service stations which were allowed but the operation of which was not commenced during the years indicated in Section 5 subsection 1, paragraphs a,b,c,and d may be added at anytime after the year indicated unless a refiner is engaging in the direct operation of 30 or more service stations with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee. The number of additional service stations directly operated by a refiner for which operation commences after July 1, 1997may total no more than 2 at the end of 1997, no more than 6 at the end of 1998, no more than 10 at the end of 1999, and no more than 15 at the end of the year 2000.

2. –On or after ~~July~~ January 1, [1988, except as provided in subsection 3, a refiner shall not engage in the direct operation of more than 15 service stations in this state, with his

own employees or through a subsidiary or commissioned agent or a person on the basis of a fee.] ~~2000~~ 2001, *a refiner who engages in the direct operation of:*

(a) Less than 30 service stations in this state, with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee, may commence the direct operation of not more than 5 additional services stations per calendar year, but in no case may he commence the direct operation of more than 30 service stations without complying with the provisions of paragraph (b).

(b) At least 30 service stations in this state, with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee, may commence the direct operation of ~~2~~ additional service stations , with his own employees or through a subsidiary or commissioned agent or person on the basis of a fee, only if, during ~~that~~ any calendar year in which such stations are added, for each ~~of the~~ 2 directly operated service stations added, he leases at least one additional service station to a leasee dealer in addition to the number of service stations leased to leasee dealers by the refiner on July 1, 1997. . For the purposes of this paragraph, ~~a~~ an additional service station leased by the refiner to a leasee dealer before the refiner engages in the direct operation of at least 30 service stations, shall be deemed to be one service station leased to a leasee dealer during any year following the year in which the refiner engages in the direct operation of at least 30 service stations.

3. -A refiner may operate a service station for not more than 90 days if the:

(a) Retailer voluntarily terminates or agrees not to renew the franchise; or

(b) Franchise is terminated by the refiner pursuant to NRS 597.270 to 597.470, inclusive.

Changes made to amendment underlined.

MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR

Sixty-ninth Session
June 27, 1997

The Senate Committee on Commerce and Labor was called to order by Chairman Randolph J. Townsend, at 8:15 a.m., on Friday, June 27, 1997, in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chairman
Senator Ann O'Connell, Vice Chairman
Senator Kathy Augustine
Senator Dean A. Rhoads
Senator Joseph M. Neal, Jr.
Senator Raymond C. Shaffer
Senator Michael A. (Mike) Schneider

GUEST LEGISLATORS PRESENT:

Assemblywoman Saundra (Sandi) Krenzer, Clark County Assembly District No. 19

STAFF MEMBERS PRESENT:

Scott Young, Committee Policy Analyst
Carolyn Hoganson, Committee Secretary

OTHERS PRESENT:

Alice A. Molasky-Arman, Commissioner, Division of Insurance, Department of Business and Industry
Sharen M. Weaver, Supervisor, Life and Health Insurance, Division of Insurance, Department of Business and Industry
Glenn D. Shippey, Actuary, Division of Insurance, Department of Business and Industry
Morgan Baumgartner, Lobbyist, Attorney, Lionel, Sawyer and Collins, Health Insurance Association of America

Robert R. Barengo, Lobbyist, Council for Affordable Health Insurance, Sunrise Hospital
Marie H. Soldo, Lobbyist, Nevada Association of Health Plans
John A. Yacenda, Lobbyist, Director, Great Basin Primary Care Association
Yvonne Silva, M.P.A., Administrator, Health Division, Department of Human Resources
Joel Glover, D.D.S., General Practicing Dentist, President, Nevada Dental Association
Susan S. Jancar, D.D.S., President, Board of Dental Examiners of Nevada
Danny Lee, Lobbyist, Researchers
Jean Laird, Deputy Administrator, Mental Hygiene and Mental Retardation Division, Department of Human Resources
Michael Fitting, M.D., Medical Director, Department of Prisons
Fred L. Hillerby, Lobbyist, Nevada Association of Health Plans
James L. Wadhams, Lobbyist, Nevada Association of Hospitals & Health Systems
Brian G. Herr, Lobbyist, Nevada Bell
M.E. (Mac) King, President/Chief Executive Officer, Nevada Bell
April Rodawold, General Counsel, Nevada Bell
Robert A. Ostrovsky, Lobbyist, Prime Cable
Judy M. Sheldrew, Commissioner, Public Service Commission
Frederick Schmidt, Consumer's Advocate, Office of Advocate for Customers of Public Utilities
Margaret A. McMillan, Lobbyist, Sprint
Lou Emmert, Vice President and General Manager, Sprint, Las Vegas
Pat Coward, Lobbyist, Nevada Association of Realtors

Chairman Townsend discussed Amendment No. 850 to Assembly Bill (A.B.) 366 (Exhibit C. Original is on file in the Research Library.) which was drafted a few days ago. He relayed the amendment would be adopted on the Senate floor today (June 27, 1997) in order to facilitate proper hearings in the Assembly.

ASSEMBLY BILL 366: Reorganizes public service commission of Nevada and makes various changes concerning regulation of utilities and governmental administration. (BDR 58-1390)

The chairman noted A.B. 366 would be addressed again later in the meeting and commenced discussion on Assembly Bill (A.B.) 521.

Chairman Townsend closed the hearing on S.B. 413 and again opened discussion on A.B. 366. The chairman indicated Nevada Bell wished to pose an additional amendment to the bill.

ASSEMBLY BILL 366: Reorganizes public service commission of Nevada and makes various changes concerning regulation of utilities and governmental administration. (BDR 58-1390)

Brian G. Herr, Lobbyist, Nevada Bell, introduced M.E. (Mac) King, President/Chief Executive Officer, Nevada Bell, and April Rodawold, General Counsel, Nevada Bell.

Mr. Herr expressed appreciation for the indulgence of the committee with the telecommunications industry and remarked there had been arduous attempts to obtain consensus on language before the committee. He stated in his 25 years of experience with Nevada Bell, there had never been an acceleration of competition in the telecommunications industry as was brought about by the Telecommunications Act of 1996. Mr. Herr expressed the Telecommunications Act of 1996 set the telecommunications industry on a course which would encourage competition, ensuring an impact on the players in the industry as well as consumers purchasing products and services. He reiterated the efforts expended to reach consensus in the industry and noted consensus was nearly impossible in the current environment of diverse and complex agendas. Mr. Herr emphasized the attempt was not to bring to the committee a proposal which was an eleventh hour "slam-dunk" proposal and expounded that was not the point before the committee at this time in the legislative session. He testified consensus was reached with Prime Cable, a key player in the amendment, yesterday morning with legal approval from Nevada Bell and SBC Communications, Inc. (the parent company of Nevada Bell) shortly before noon, and amendment language was distributed to all the players Mr. Herr could find yesterday afternoon. Mr. Herr admitted every concerned party might not have seen amendment language within the first few hours yesterday and expressed hope all interested parties had reviewed the legislation at this particular juncture.

Mr. King reminded committee members he testified before the committee on February 20,1997, and outlined all barriers for competition for all services, both resident and business, would be down by the end of the summer of 1997. Additionally, he noted, he testified Nevada Bell was the only Bell operating company in Nevada and as such, had unique restrictions. Mr. King explained he

pointed out the Public Services Commission of Nevada (PSC) had produced a rule in 1995 which was an industry-leading event, which set forth a new form of regulation recognizing the rapidly changing telecommunications industry, and which was the genesis behind a new national telecommunications act passed in 1996. This passage again altered the landscape, he elucidated. Mr. King recalled his prediction that reaching consensus among the industry players on the changes needed in the state regulation and the implementation of the national act would be difficult at best as interests continued to diverge over time. He relayed Nevada Bell signed a number of interconnection agreements with competitive local exchange carriers and was in negotiation with 20 more carriers. Mr. King maintained consensus would be reached with all carriers within the allotted 135-day time period. He drew attention to a situation where consensus was not reached with a carrier, expressing the disputed interconnection set of rules was in arbitration before the PSC and the proceeding would be completed by September 2, 1997.

Mr. King summarized the industry was a month away from completing the "cost docket," which was a very complex and intricate docket conducted by the PSC and suggested docket results would set the rules for determining rates, costs, and subsequent prices for all elements of telecommunication services offered to competitive local-exchange carriers. He emphasized the docket was absolutely critical to the business and industry infrastructure, and stressed the completion of the two dockets would provide rules and prices for reselling the entire Nevada Bell network. The result would be consumer receipt of calls advocating the change of not only long-distance carrier, but local service as well.

Mr. King maintained the playing field for the incumbent local-exchange carriers was uneven and drew attention to the hard work endured in order to reach some consensus on new rules. The amendment before the committee represented the work to date, he expounded, pointing out Ms. Rodawold would propose a three-point change to existing regulations. Mr. King asserted the first change facilitated the introduction of new services and the second alteration was a reaffirmation of the intent of the plan for alternative regulation, the omnibus rule, which contended rate-based, rate-of-return regulations should not be used for rate setting. The third change proposed reporting requirements for incumbent local-exchange carriers to reflect service provided to competitors was equal to service provided to retail customers, Mr. King concluded.

Mr. Herr prefaced Ms. Rodawold's remarks by indicating there was a fair amount of discussion surrounding Nevada Bell's request for the aforementioned

changes. He suggested some of the changes were requested in statute rather than in regulation due to change in which occurred in the parent company of Nevada Bell/Pacific Telesis. SBC Communications, Inc. was in Texas looking at Nevada and was prepared to make substantial investments in this state and in the industry, Mr. Herr insisted. He indicated there was a certainty about corrections in statute which was not there in regulation, which was the reason behind pursuing that particular avenue rather than pursuing the changes in regulation.

Ms. Rodawold explained the main points in the amendment and outlined the first point was an attempt to streamline an approvals process for new telecommunication services in order to bring those services to the marketplace in 3 months, as opposed to the 6 months presently in regulation. The process improvement benefitted consumers as well as providers of telecommunication services, she stressed. Ms. Rodawold expressed the second point concerned clarifying the intent of omnibus regulations in a manner which provided Nevada Bell with comfort it could rely on the price-regulation plan guaranteed by omnibus. In order for Nevada Bell to be incented to make investments in the state, assurance of the rules governing telecommunications was mandatory, she testified.

Ms. Rodawold commented rate-based, rate-of-return regulations were an outdated concept in the competitive world of telecommunications today. She declared the second point simply clarified the intent of omnibus regulations insofar as price regulation, so long as the inclusion of Nevada Bell in that alternative plan of regulation was indeed a reality. Ms. Rodawold expressed the third point of the amendment was identical to the Telecommunications Act of 1996, Title 47, section 251 of the United States Code and maintained the language protected competitive providers seeking to enter the local exchange market by ensuring competitive providers would receive service, equal in quality, to that provided to retail customers. She remarked competitive providers were also Nevada Bell customers on the wholesale side of the business and indicated the company wished to provide the same high quality of service which Nevada Bell ascribed to throughout its 84-year history. Ms. Rodawold interjected paragraph (a) clarified the intent of the third point to all customers and paragraph (b) established a quarterly-reporting requirement for wholesale services in the same format as the quality-of-service report on retail services which Nevada Bell was required to file on an annual basis. Finally, she summarized, there were two definitions for terms which were new to the statute, "provider of last resort" and "network elements." The definition of

"provider of last resort" was from existing PSC network regulations and the definition of "network elements" was from the Telecommunications Act of 1996, Ms. Rodawold concluded.

Senator Rhoads requested the definition of "providers of last resort." Ms. Rodawold explained "providers of last resort" were those providers who were obligated to provide basic service in their defined service territory and expressed the providers were specifically identified in the omnibus regulations. The senator inquired whether the "providers of last resort" were located in remote areas. Ms. Rodawold responded negatively, suggesting Nevada Bell was the "provider of last resort" for the northern Nevada territory and Central Telephone was the "provider of last resort" for the southern Nevada territory. Senator Rhoads indicated his telecommunication services were provided by Rural Telephone in Idaho. Ms. Rodawold agreed Senator Rhoads was probably "the provider of last resort" in his territory and declared the amendment was specific to those providers who entered the alternative plan of regulation. She commented the only two companies who entered the alternative plan of regulation, to date, were Central Telephone and Nevada Bell. Senator Rhoads asked if the amendment would affect the rural telephone companies. Ms. Rodawold stated the intent was to draft the amendment in a way which would not affect the rural telephone companies and interjected she did not believe rural companies would be affected by the proposal.

Robert A. Ostrovsky, Lobbyist, Prime Cable, informed committee members Prime Cable participated in the continuing, ongoing negotiations provided by Nevada Bell. Mr. Ostrovsky indicated Prime Cable did not oppose the adoption of the language provided by Nevada Bell and contended Prime Cable did not feel the amendment would harm the continued interest of Prime Cable in the telecommunications field.

Judy M. Sheldrew, Commissioner, Public Service Commission of Nevada, introduced Frederick Schmidt, Consumer's Advocate, Office of Advocate for Customers of Public Utilities. Ms. Sheldrew suggested the amendment was disturbing to her and stressed the commission had not had a chance to obtain a vote on the position of the PSC with regard to the amendment. She emphasized the amendment was received by the PSC at 2:00 p.m. on the previous day and there had been no prior conversations with Nevada Bell concerning any issues or necessary adjustments pursuant to the omnibus regulation. Ms. Sheldrew stated the committee, sometime ago, granted the PSC a broad sweep of authority to develop alternative regulations for the telecommunications industry.

She contended the commission took the charge to heart and, with the help of the industry, came forward with a regulation entitled the omnibus regulation, which was progressive in anticipation of the Telecommunications Act of 1996. Ms. Sheldrew pointed out the decisions reached by the PSC in finalizing the omnibus regulations were supported by the industry when the conclusion was reached in 1995. She insisted Nevada Bell was one of the players in reaching the agreements encompassed by the omnibus regulation and expressed dismay Nevada Bell chose not to bring their concerns to the commission, but to instead develop a statutory change which circumvented the omnibus regulation. The amendment placed bits and pieces of the omnibus regulation into statute, thereby removing the flexibility envisioned by the authority granted by the Legislature to the PSC, Ms. Sheldrew contended. She suggested the amendment before the committee had three problems:

- It was untimely. The work on A.B. 366 was completed by the Assembly without amendment and was almost completed by the Senate.

- The changes were unnecessary. If Mr. King required changes in the legislation, he should bring the changes to the PSC for commission consideration and input.

- The proposal was unfair. Nevada Bell was asking the committee to preclude evaluation of the rate-of-return regulation if it was to the benefit of the ratepayer and to only review rate of return if it was of benefit to the company. It was one-sided, unfair and an inappropriate inclusion for the regulation. Additionally, the time allotted to review new services was restrictive on the ability of the PSC to strictly review those services not new in entirety, but new in the bundling technique, and to rush those services through for a completion. Oftentimes, the evaluation process included examining whether or not the service was truly competitive. Nevada Bell was attempting to preclude protestation and proper decision-making techniques.

Ms. Sheldrew strongly advocated the committee not adopt the amendment to A.B. 366.

Senator Townsend addressed Ms. Sheldrew, explaining the final amendment to A.B. 366, Amendment No. 850, would be introduced on the Senate floor and transmitted to the Assembly today. He asserted any additional technical changes to A.B. 366 would be placed into a "trailer bill" and indicated the

amendment proposed by Nevada Bell, if adopted, would be included in the "trailer bill" as well. Chairman Townsend stated he wanted to ensure there was no misunderstanding about the proposal brought forth by Nevada Bell and stressed the committee had the goal of deregulating all telecommunications in its working document from day one in order to accelerate debate. Chairman Townsend indicated the debate did not accelerate immediately, as a result of timing. He pointed out when the legislative session began closing procedures, issues tended to accelerate more quickly and contended the importance of providing the industry with the opportunity to decide whether there were necessary statutory changes which could benefit the industry and the consumer. Senator Townsend remarked obviously there had not been consensus built, but there was a proposal to review.

Senator Townsend addressed Ms. Sheldrew regarding the issue of timeliness within the PSC process. He said it was his understanding the PSC scheduled a legislative discussion for Monday, June 30, 1997. Ms. Sheldrew pointed out there had been weekly agenda meetings to discuss legislation: there was a meeting yesterday (June 26, 1997) and there would be another special meeting on Monday (June 30, 1997). Senator Townsend requested whether the posted special agenda would preclude the PSC from discussing the Nevada Bell amendment as a group. Ms. Sheldrew expressed she would have to ask the PSC general counsel as to whether the posted agenda would preclude discussion on the Nevada Bell amendment to A.B. 366. She opined if the amendment would not be an addition to A.B. 366 and it was not noticed specifically, there might be some problems. Chairman Townsend stated perhaps Ms. Sheldrew could encourage the PSC legal counsel to find a way, for the benefit of the commission, to discuss this issue because there were two other commissioners involved (with the omnibus regulation) who should be made aware of the proposed statutory changes.

Mr. Schmidt stressed legislation passed by the PSC to develop competitive telecommunications services was initiated in the Senate Committee on Commerce and Labor in 1989 and noted a regulation was passed later that year with participation from Nevada Bell. The passed regulation had a rate-of-return component which provided a vehicle for rate refunds for the customers for each of the last 3 to 4 years. He suggested in 1995, the Senate Committee on Commerce and Labor forced the PSC chairman to develop further regulation since it was apparent the federal government was moving to act in that area. A regulation was adopted in 1995, which provided for a plan of alternative regulation (PAR) cases for the major utilities, Mr. Schmidt remarked. He

testified the PSC struggled to develop the 1995 regulation, which included some very late nights and hours in Las Vegas, in order to ascertain a regulation with a number of hearings and debates before the commission. Mr. Schmidt admitted there were just about as many hours spent developing PAR cases for Central Telephone (Centel) and Nevada Bell and pointed out no one got what they wanted in either the regulation or the PAR-case proceedings. He maintained the balance reached between the different parties, not just Prime Cable and Nevada Bell but also the long-distance carriers, Sprint Central Telephone, the consumer advocate and some other minor players, was hard fought and very tentative. The balance fell apart or almost fell apart numerous times, Mr. Schmidt intimated, indicating one of the major contentious provisions of the regulation was the extent to which and when the PSC would release or stop pursuing rate-of-return regulation. He expounded none of the parties wanted to halt rate-of-return regulation unless and until local competition actually was occurring.

Mr. Schmidt insisted there were compromises contained in section 704 of Nevada Administrative Code (NAC) and suggested an expert employed by the PSC was very concerned that without the rate-based, rate-of-return regulation the PSC would not be able to continue to update, modernize and invest in the reliability of the system. In section 704 of the NAC, the PSC requested two sentences be added to the regulation which required an evaluation of those standards of activity and performance before the PSC agreed to ignore earnings, he explained. Mr. Schmidt emphasized when rate based rate-of-return regulations were eliminated, the incentives were altered as to the types of investments and the breadth of the class of customers and types of customers. He declared the PSC was very concerned about obtaining fiber-optic technology for little entities and not solely big business and insisted the average user obtained a very different type of service when access was gained to fiber technology. Mr. Schmidt concluded by pointing out he did not like the notion of changing the balance, and asserted part of the Nevada Bell amendment changed the balance. When the PAR was entered which was in effect now, there probably would not be any more refunds and 50 percent of the dollars over a certain rate of return would not be obtained, he contended.

Mr. Schmidt insisted rate-of-return regulation was already released, for the most part, in this delicate balance, asserting the only stipulation concerned the finalization of the PAR case, with the rate-of-return regulation incorporation to check status. He stated there were many agreements about the provision of local service and the PSC was hopeful someone would provide local service,

albeit contending the service level was still inadequate with regard to residential entities and new companies were not yet soliciting customers for local service.

Senator Augustine indicated one item of concern, brought up on several occasions, involved PSC decision-making capabilities within an appropriate amount of time. She expressed there were some dockets open from 2 to 4 years and remarked what the committee was viewing was a lot of frustration on behalf of utility companies which were required to obtain a decision from the PSC. Senator Augustine stressed this was one of the reasons why utility companies would like to see a finite amount of time for the commission to reach a conclusion, resolution or continuance.

Ms. Sheldrew argued omnibus regulations contained a time line, which was 90 days if there was no intervention or protest, and 180 days if a protestation was expressed. She emphasized the reason that kind of time line was needed was due to the absence of new-service development for the commission, noting telephone companies were attempting to obtain a competitive classification on old services which were bundled together and represented as new services. Mr. Schmidt interjected expedited time lines were added into regulation after the Legislature met last legislative session.

Chairman Townsend recessed the Senate Committee on Commerce and Labor at 10:45 a.m. and reconvened the meeting at 2:40 p.m.

The chairman expressed there was copy contained in the Electricity Daily which was pertinent to discussion occurring in committee. He quoted the following text, ". . .While Pacific Gas and Electric is getting out of fossil-fuel generation entirely, it's parent, PG&E Corp, was getting more deeply involved. PG&E Corp announced yesterday that it would buy out Bechtel Enterprises' interest in Maryland-based U.S. Generating Company, a major, independent power developer. As a result, about 1,200 megawatts of operating, independent power-project equity will hit the U.S. market as PG&E Corp moved to become a national energy-service company." Chairman Townsend commented with this change, things would be happening very quickly and on a very large scale.

Margaret McMillan, Lobbyist, Sprint, expressed similar concerns discussed previously by the PSC regarding the Nevada Bell amendment. Ms. McMillan introduced Lou Emmert, Vice President and General Manager, Sprint, Las Vegas. Ms. Emmert stated opposition to the amendment submitted by Nevada Bell for the sole reason of necessity. She contended the amendment was unnecessary

and drew attention to the work completed by the industry and the PSC a few years ago to compile a plan for alternative regulation. Ms. Emmert stressed the plan had been in effect for 2 years, and expounded there were two companies operating under that plan, Nevada Bell and Sprint/Central Telephone. It was the contention of Sprint the plan established two years ago contained everything needed to create an atmosphere of successful competition in Nevada, she emphasized. Ms. Emmert suggested there was much activity surrounding not only the plan for alternative regulation, but encompassing the Telecommunications Act of 1996, the access-reform order recently passed, the universal service fund order passed, the costing docket heard before the commission and today, the first phase for the universal service fund docket presented to the PSC. She reiterated there was a tremendous amount of activity at the PSC and in the state of Nevada and opined opening up PAR again would complete nothing other than slowing down the process for all concerned.

Ms. Emmert declared the second concern on the part of Sprint was concerning the reporting process. Section 9, subsection (b) of the proposed amendment, contained a reporting process which would be required by those companies under the plan for alternative regulation, she maintained, expounding competition was flourishing in southern Nevada, with 36 companies in the certification process to provide local telephone service. Thirty-one of the 36 companies actually received certification and five of those companies were providing local service in southern Nevada, Ms. Emmert explained, to the tune of 8,000 access lines, which were lines provisioned and under the purview of Sprint. She elucidated the institution of a reporting process at this juncture would be cumbersome for the local company due to the inability of Sprint to separate orders. Ms. Emmert testified it was the objection of Sprint to provide parity, as the Telecommunications Act of 1996 required, between resale and wholesale customers. She remarked a manual administrative tracking process was not too administratively burdensome when tracking two orders a day. Conversely, Ms. Emmert insisted, the process was extremely burdensome when processing over 50 orders a day and would be problematic for Sprint at this time. In summary, Sprint, as usual, was in a position uniquely different than some of the other companies, she noted. Ms. Emmert suggested Sprint had pieces of the business in all areas: wireless, Internet, local and long distance. When Sprint communicated a position on issues, the position was a balanced position truly reflective of the best interests of the industry, she testified, urging committee members not to support the Nevada Bell amendment to A.B. 366. As a bottom line, Ms. Emmert requested the committee not fix what was not broken.

In response to an inquiry by Senator Neal, Ms. Emmert summarized most of what was included in the amendment submitted by Nevada Bell was already included in some other regulation for the state, either under the plan for alternative regulation or the Telecommunications Act of 1996. She reiterated the concern restating the regulation would slow down an already cumbersome process. Ms. Emmert voiced there was a clause in the amendment stating the commission would reconvene within 180 days in order to reestablish any rules which might be in conflict. She contended the mandated reconvention would reopen PAR for one thing, which would be a difficult, complex, lengthy process. Secondly, Ms. Emmert restated, the mandate of section 9, subsection (a) of the proposed amendment, was already contained in the Universal Telecommunications Act, while section 9, subsection (b), was a reporting process which would be difficult for Sprint to comply with at this time.

Senator Townsend discussed the next meeting scheduled for June 28, 1997 at 7:00 a.m. He invited interested parties to sit at the table and quickly examine technical problems contained in A.B. 366. The chairman indicated substantive issues would be addressed at a later date, with the technical drafting of the "trailer bill" proceeding immediately.

Chairman Townsend pointed out two issues were returned to the committee for reconsideration. One of the issues was a simple situation, and the recommendation was not to concur, he outlined. The first issue concerned Senate Bill (S.B.) 167, which was the subject matter relating to fraud/consumer affairs.

SENATE BILL 167: Makes various changes to provisions governing trade practices. (BDR 52-611)

The amendment was fine, Chairman Townsend asserted, noting there had not been a substantive change. He pointed out the change was contained in the area where the committee debated the issue of sports-information services and who should possess the services. The chairman noted the bill was the only vehicle left in the legislative session where sports-information services could be inserted. Chairman Townsend requested the committee not concur with the amendment, indicating another amendment would be drafted with a subsequent hearing on the newly drafted amendment.

Amend sec. 7, page 2, line 18, by deleting "*book and*" and inserting "*book or*".

Amend sec. 24, page 15, line 15, by deleting "*system.*" and inserting: "*system of wagering.*".

Senator James moved the adoption of the amendment.

Remarks by Senator James.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 538.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 869.

Amend section 1, page 1, line 10, by deleting the italicized semicolon.

Amend section 1, page 1, line 11, after "law;]" by inserting: "*as a gaming activity;*".

Amend sec. 2, page 2, line 16, after "*racing*" by inserting: "*as a gaming activity*".

Amend the title of the bill, first line, after: "to conduct dog racing" by inserting: "as a gaming activity".

Amend the summary of the bill by deleting "unlawful." and inserting: "unlawful in certain circumstances.".

Senator Titus moved the adoption of the amendment.

Remarks by Senator Titus.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 556.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 844.

Amend sec. 2, page 2, line 1, by deleting the italicized semicolon and inserting: "*, except when an owner of a unit in the time-share project who has a right to use or occupy the unit is occupying the unit pursuant to a time-share instrument as defined in NRS 119A.150;*".

Amend sec. 2, page 2, line 25, by deleting the italicized semicolon and inserting: "*, except when an owner of a unit in the time-share project who has a right to use or occupy the unit is occupying the unit pursuant to a time-share instrument as defined in NRS 119A.150;*".

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 366.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 850.

1380

Amend the bill as a whole by deleting sections 1 through 30 and the leadlines of the repealed sections and adding new sections designated as sections 1 through 348 and the leadlines of the repealed sections, following the enacting clause, to read as follows:

"Section 1. Chapter 703 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *In adopting regulations pursuant to this Title, the commission shall ensure that the regulations:*

1. Maximize the benefits of a competitive marketplace for the provision of services by utilities;

2. Maintain, to the extent possible, even and fair competition among utilities;

3. Ensure the flexibility necessary for existing utilities that provide energy to enter into a deregulated market;

4. Foster innovation in the provision of services by utilities;

5. Ensure and enhance the reliability and safety of the services provided by utilities and of the utilities that provide those services;

6. Provide for flexible mechanisms for regulating utilities; and

7. Provide effective protection of persons who depend upon the services provided by utilities.

Sec. 3. *1. The commission, by majority vote, shall organize the commission into sections, alter the organization of the commission and reassign responsibilities and duties of the sections of the commission as the commission deems necessary to provide:*

(a) Advice and guidance to the commission on economic policies relating to utilities under the jurisdiction of the commission, and the regulation of such utilities;

(b) Administrative, technical, legal and support services to the commission; and

(c) For the regulation of utilities governed by the commission and the services offered by such utilities, including, but not limited to, licensing of such utilities and services and the resolution of consumer complaints.

2. The commission shall:

(a) Formulate the policies of the various sections of the commission;

(b) Coordinate the activities of the various sections of the commission;

(c) Take such actions consistent with law as are necessary to encourage and enhance:

(1) A competitive market for the provision of utility services to customers in this state; and

(2) The reliability and safety of the provision of those services within that competitive market; and

(d) Adopt such regulations consistent with law as the commission deems necessary for the operation of the commission and the enforcement of all laws administered by the commission.

3. Before reorganizing the commission, the commission shall submit the plan for reorganization to:

(a) The director of the legislative counsel bureau for transmittal to the legislative committee on utilities and the interim finance committee; and

(b) The director of the department of administration.

Sec. 4. NRS 703.010 is hereby amended to read as follows:

703.010 As used in this chapter [:

1. "Commission"] , *unless the context otherwise requires:*

1. "Alternative seller" has the meaning ascribed to it in section 30 of this act.

2. "Commission" means the public [service] *utilities* commission of Nevada.

[2. "Fully regulated carrier" has the meaning ascribed to it in NRS 706.072.]

Sec. 5. NRS 703.020 is hereby amended to read as follows:

703.020 The public [service] *utilities* commission of Nevada is hereby created.

Sec. 6. NRS 703.030 is hereby amended to read as follows:

703.030 1. The commission consists of [five] *three* commissioners appointed by the governor for terms of 4 years.

2. The governor shall appoint as members of the commission persons who have at least 2 years of experience in one or more of the following fields:

(a) Accounting.

(b) Business administration.

(c) Finance [.] *or economics.*

(d) Administrative law.

(e) Professional engineering.

[(f) The operation of motor carriers.

3. One commissioner may be appointed to represent the general public.

4.] *3.* Not more than [three] *two* of the commissioners may be [members] :

(a) Members of the same political party.

(b) From the same field of experience.

Sec. 7. NRS 703.070 is hereby amended to read as follows:

703.070 The governor shall designate one of the commissioners to be chairman, whose term as chairman shall be at the pleasure of the governor. *The chairman shall serve as the executive officer of the commission.*

Sec. 8. NRS 703.090 is hereby amended to read as follows:

703.090 The commission shall have a seal upon which [shall] *must* be the words "Public [Service] *Utilities* Commission of Nevada," by which the commission shall authenticate its proceedings and orders. All papers made under [such seal shall] *the seal must* be admitted in evidence without further authenticity or proof.

Sec. 9. NRS 703.100 is hereby amended to read as follows:

703.100 The commission may sue and be sued in the name of the public [service] *utilities* commission of Nevada.

Sec. 10. NRS 703.110 is hereby amended to read as follows:

703.110 1. The majority of the commissioners have full power to act in all matters within their jurisdiction.

2. [Any two or three commissioners may] *If two commissioners are disqualified or if there are two vacancies within the commission, the remaining commissioner shall* exercise all the powers of the commission . [if the majority of the commissioners is disqualified or if there are two or three vacancies within the commission.]

3. Except as otherwise provided in this [subsection, public hearings must be conducted by one or more commissioners. An administrative proceeding conducted pursuant to subsection 2 of NRS 706.771 may be conducted by a hearing officer designated by the chairman of the commission.] *chapter, all hearings and meetings conducted by the commission must be open to the public. Two or more members of the commission may meet in private upon the completion of a contested case only to discuss issues concerning any proposed order or opinion of the commission relating to that contested case.*

4. As used in this section, "contested case" means a hearing or other proceeding before the commission in which:

(a) The legal rights, duties or privileges of a person are required by law to be determined by the commission after notice and an opportunity for hearing; or

(b) An administrative penalty may be imposed by the commission against a person after notice and an opportunity for hearing.

Sec. 11. NRS 703.145 is hereby amended to read as follows:

703.145 1. Any public [utility or common or contract motor carrier] *utility* subject to the jurisdiction of the commission which elects to maintain its books and records outside the State of Nevada shall, in addition to any other assessment and fees provided for by law, be assessed by the commission for an amount equal to the travel expenses and the excess of the out-of-state subsistence allowances over the instate subsistence allowances, as fixed by NRS 281.160, of commission members and staff, for investigations, inspections and audits required to be performed outside this state.

2. Any public utility subject to the jurisdiction of the commission shall, in addition to any other assessment and fees provided for by law, be assessed by the commission for an amount equal to the travel expenses and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160, of commission members and staff, for investigations, audits and appearances required to be performed out of this state as a result of interventions in:

(a) Federal Energy Regulatory Commission proceedings as authorized in NRS 703.152; or

(b) Actions involving the Federal Communications Commission or other federal regulatory agencies,

if the intervention is made to benefit the public utility or its customers.

3. The assessments provided for by this section must be determined by the commission upon the completion of each such investigation, inspection, audit or appearance and are due and payable within 30 days of receipt by the affected utility [or common or contract motor carrier] of the notice of

assessment. The total amount assessed by the commission in 1 year pursuant to subsection 2 must not exceed $50,000.

4. The records of the commission relating to the additional costs incurred by reason of the necessary additional travel must be open for inspection by the affected utility [or common or contract motor carrier] at any time within the 30day period.

5. The commission shall report to the legislature no later than February 1 of each odd-numbered year the amount of assessments charged public utilities during the previous biennium pursuant to subsection 2.

Sec. 12. NRS 703.147 is hereby amended to read as follows:

703.147 1. The public [service] *utilities* commission regulatory fund is hereby created as a special revenue fund. All money collected by the commission pursuant to law must be deposited in the state treasury for credit to the fund. Money collected for the use of the consumer's advocate must be transferred pursuant to the provisions of subsection 8 of NRS 704.035.

2. Money in the fund which belongs to the commission may be used only to defray the costs of:

(a) Maintaining staff and equipment to regulate adequately public utilities and other persons subject to the jurisdiction of the commission.

(b) Participating in all rate cases involving those persons.

(c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that regulation and participation.

(d) The salaries, travel expenses and subsistence allowances of the members of the commission.

3. All claims against the fund must be paid as other claims against the state are paid.

4. The commission must furnish upon request a statement showing the balance remaining in the fund as of the close of the preceding fiscal year.

Sec. 13. NRS 703.150 is hereby amended to read as follows:

703.150 The commission shall supervise and regulate the operation and maintenance of public utilities and other persons named and defined in chapters 704, 704A [, 706, 708 and 712] *and 708* of NRS pursuant to the provisions of those chapters.

Sec. 14. NRS 703.152 is hereby amended to read as follows:

703.152 1. The legislature finds that the cost of energy in Nevada is affected by the Federal Energy Regulatory Commission in its regulation of the transmission of energy into and out of the State of Nevada, and the concerns of the public utilities and their customers in this state should be represented at the hearings of that Commission which affect Nevada.

2. The public [service commission of Nevada,] *utilities commission*, within the limits of its budget and as it deems necessary, may bring an action, file a petition or intervene before the Federal Energy Regulatory Commission or in any court on behalf of the public utilities and their customers in this state and represent their views in any matter which affects the development, transmission, use or cost of energy in Nevada.

Sec. 15. NRS 703.191 is hereby amended to read as follows:

703.191 1. Each public utility, [fully regulated carrier and broker of services] *and alternative seller* regulated by the commission shall:

(a) Keep uniform and detailed accounts of all business transacted *in this state* in the manner required by the commission by regulation, and render them to the commission upon its request.

(b) Furnish an annual report to the commission in the form and detail which it prescribes by regulation.

2. [Except as otherwise provided in subsection 3, the] *The* reports required by this section must be prepared for each calendar year and submitted not later than May 15 of the year following the year for which the report is submitted.

3. [A motor carrier may, with the permission of the commission, prepare the reports required by this section for a year other than a calendar year which the commission specifies, and submit them not later than a date specified by the commission in each year.

4.] If the commission finds that necessary information is not contained in a report submitted pursuant to this section, it may call for the omitted information at any time.

Sec. 16. NRS 703.195 is hereby amended to read as follows:

703.195 1. Except as otherwise provided in subsection 2, any commissioner or any officer or employee of the commission who is designated by the commission, may examine during regular business hours the books, accounts, records, minutes, papers and property of any public utility [, motor carrier or broker] who does business in this state, whether or not the book, account, record, minutes, paper or property is located within [the] *this* state.

2. No personnel records of an employee may be examined pursuant to subsection 1 unless the records contain information relating to a matter of public safety or the commission determines that the examination is required to protect the interests of the public.

3. As used in this section, "personnel records" does not include:

(a) The name of the employee who is the subject of the record;

(b) The gross compensation and perquisites of the employee;

(c) Any record of the business expenses of the employee;

(d) The title or any description of the position held by the employee;

(e) The qualifications required for the position held by the employee;

(f) The business address of the employee;

(g) The telephone number of the employee at his place of business;

(h) The work schedule of the employee;

(i) The date on which the employee began his employment; and

(j) If applicable, the date on which the employment of the employee was terminated.

Sec. 17. NRS 703.196 is hereby amended to read as follows:

703.196 1. Any books, accounts, records, minutes, papers and property of any public utility [, motor carrier or broker] that are subject to examination pursuant to NRS 703.190 or 703.195 and are made available to the commission, any officer or employee of the commission, the [advocate

for customers of public utilities] *bureau of consumer protection in the office of the attorney general* or any other person under the condition that the disclosure of such information to the public be withheld or otherwise limited, must not be disclosed to the public unless the commission first determines that the disclosure is justified.

2. The commission shall take such actions as are necessary to protect the confidentiality of such information, including, without limitation:

(a) Granting such protective orders as it deems necessary; and

(b) Holding closed hearings to receive or examine such information.

3. If the commission closes a hearing to receive or examine such information, it shall:

(a) Restrict access to the records and transcripts of such hearings without the prior approval of the commission or an order of a court of competent jurisdiction authorizing access to the records or transcripts; and

(b) Prohibit any participant at such a hearing from disclosing such information without the prior authorization of the commission.

4. A representative of the staff of the commission and the [office of the advocate for customers of public utilities:] *bureau of consumer protection:*

(a) May attend any closed hearing held pursuant to this section; and

(b) Have access to any records or other information determined to be confidential pursuant to this section.

5. The commission shall consider in an open meeting whether the information reviewed or examined in a closed hearing may be disclosed without revealing the confidential subject matter of the information. To the extent the commission determines the information may be disclosed, the information must become a part of the records available to the public. Information which the commission determines may not be disclosed must be kept under seal.

Sec. 18. NRS 703.197 is hereby amended to read as follows:

703.197 1. The commission may collect fees for the filing of any official document required by this chapter and chapters 704, 704A, 705 [, 706, 708 and 712] *and 708* of NRS or by a regulation of the commission.

2. Filing fees may not exceed:

(a) For applications, $200.

(b) For petitions seeking affirmative relief, $200.

(c) For each tariff page which requires public notice and is not attached to an application, $10. If more than one page is filed at one time, the total fee may not exceed the cost of notice and publication.

(d) For all other documents which require public notice, $10.

3. If an application or other document is rejected by the commission because it is inadequate or inappropriate, the filing fee must be returned.

4. The commission may not charge any fee for filing a complaint.

Sec. 19. NRS 703.210 is hereby amended to read as follows:

703.210 1. The commission may employ, or retain on a contract basis, legal counsel who shall:

(a) Except as *otherwise* provided in subsection 2, be counsel and attorney for the commission in all actions, proceedings and hearings.

(b) Prosecute in the name of the public [service] *utilities* commission of Nevada all civil actions for the enforcement of chapters 704, 704A, 705 [, 706, 708 and 712] *and 708* of NRS and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the commission in the performance of its duties and the enforcement of chapters 704, 704A, 705 [, 706, 708 and 712] *and 708* of NRS.

2. Each district attorney shall:

(a) Prosecute any violation of chapter 704, 704A, 705, [706, 708, 711 or 712] *708 or 711* of NRS for which a criminal penalty is provided and which occurs in his county.

(b) Aid in any investigation, prosecution, hearing or trial held under the provisions of chapter 704, 704A, 705, [706, 708, 711 or 712] *708 or 711* of NRS and, at the request of the commission or its legal counsel, act as counsel and attorney for the commission.

3. The attorney general shall, if the district attorney fails or refuses to do so, prosecute all violations of the laws of this state by public utilities [and motor carriers] under the jurisdiction of the commission and their officers, agents and employees.

4. The attorney general is not precluded from appearing in or moving to intervene in any action and representing the interest of the State of Nevada in any action in which the commission is a party and is represented by independent counsel.

Sec. 20. NRS 703.230 is hereby amended to read as follows:

703.230 The commission may, in carrying out its duties:

1. Cooperate with the Federal Government, its departments and agencies.

2. Confer with the regulatory agencies of other states on matters of mutual concern and benefit to persons served by the public utilities [, motor carriers and brokers] *and alternative sellers* of this state.

3. Use the services, records, facilities and cooperation of federal and state regulatory agencies, and hold joint hearings and participate in joint conferences to reach decisions in matters which require cooperation. All necessary expenses incurred in attending hearings and conferences outside [the] *this* state are a charge against the state, and must be audited and paid as other claims against [the] *this* state are paid. The claims must be sworn to by the commissioner who incurred the expense and approved by the chairman.

Sec. 21. NRS 703.290 is hereby amended to read as follows:

703.290 1. A division of consumer [relations] *complaint resolution* is hereby established within the commission.

2. Pursuant to regulations adopted by the commission, the division of consumer [relations] *complaint resolution* shall:

(a) Receive and investigate complaints made against any public utility [, motor carrier or broker;] *or alternative seller;*

(b) Conduct appropriate investigations of the service practices of utility companies [and motor carriers and brokers;] *or alternative seller;* and

(c) Perform such other functions as are required by law or as the commission deems appropriate.

Sec. 22. NRS 703.310 is hereby amended to read as follows:

703.310 1. When a complaint is made against any public utility [, fully regulated carrier or broker of regulated services] *or alternative seller* by any person, that any of the rates, tolls, charges or schedules [,] *for regulated services*, or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, [or that any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, or the service of any broker in connection therewith,] or any regulation, measurement, practice or act affecting or relating to the production, transmission or delivery or furnishing of heat, light, gas, coal slurry, water or power, or any service in connection therewith or the transmission thereof is, in any respect, unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate, the division of consumer [relations] *complaint resolution* shall investigate the complaint. After receiving the complaint, the division shall give a copy of it to the public utility [, carrier or broker] *or alternative seller* against whom the complaint is made. Within a reasonable time thereafter, the public utility [, carrier or broker] *or alternative seller* shall provide the [division] *commission* with its written response to the complaint according to the regulations of the commission.

2. If the division of consumer [relations] *complaint resolution* is unable to resolve the complaint, the division shall transmit the complaint, the results of its investigation and its recommendation to the commission. If the commission determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 703.320.

Sec. 23. NRS 703.374 is hereby amended to read as follows:

703.374 1. A court of competent jurisdiction, after hearing, may issue an injunction suspending or staying any final order of the commission if:

(a) The applicant has filed a motion for a preliminary injunction;

(b) The applicant has served the motion on the commission and other interested parties within 20 days after the rendition of the order on which the complaint is based;

(c) The court finds there is a reasonable likelihood that the applicant will prevail on the merits of the matter and will suffer irreparable injury if injunctive relief is not granted; and

(d) The applicant files a bond or other undertaking to secure the adverse parties in such manner as the court finds sufficient.

2. The decision of the commission on each matter considered shall be deemed reasonable and just until set aside by the court, and in all actions for injunction or otherwise the burden of proof is upon the party attacking or

resisting the order of the commission to show by clear and satisfactory evidence that the order is unlawful, or unreasonable, as the case may be.

3. If an injunction is granted by the court and the order complained of is one which permanently suspends a schedule of rates and charges or a part thereof filed by any public utility pursuant to NRS 704.070 to 704.110, inclusive, [or by any fully regulated carrier pursuant to NRS 706.321 to 706.346, inclusive,] or which otherwise prevents the schedule or any part thereof from taking effect, the public utility [or carrier] complaining may keep in effect or put into effect, as the case may be, the suspended schedule or any part thereof pending final determination by the court having jurisdiction, by filing a bond with the court in such an amount as the court may fix, conditioned upon the refund to persons entitled to the excess amount if the rate or rates so suspended are finally determined by the court to be excessive.

Sec. 24. NRS 703.375 is hereby amended to read as follows:

703.375 1. If a court determines that the rate or rates considered by the commission are excessive, and that the public utility or [fully regulated carrier] *alternative seller* has collected those excessive rates, the public utility or [carrier] *alternative seller* shall compute and refund the excess or overpayment of the rate or rates pursuant to a plan approved by the commission [:

(a) For public utilities,] within 60 days after the entry of the final judgment of the court.

[(b) For carriers, within 120 days after the entry of the final judgment of the court.]

2. The public utility or [carrier] *alternative seller* shall prepare and file with the commission a statement and report in affidavit form stating that all money has been refunded according to the approved plan, and if there are persons to whom payment has not or cannot be made, the names, addresses and individual amounts of the refund must be listed in the report. The statement and report must be filed with the commission [:

(a) By the public utility] within 90 days after the entry of final judgment.

[(b) By the carrier within 150 days after the entry of final judgment.] The public utility and the [carrier] *alternative seller* shall pay the aggregate amount of the unpaid refunds to the commission.

3. The commission shall:

(a) Retain the aggregate refunds in the public [service] *utilities* commission regulatory fund subject to the claim of each person entitled thereto for his share in the refund; and

(b) Pay all valid claims which are presented for payment within 2 years after the date of the entry of final judgment of the court.

All claimants must identify themselves to the satisfaction of the commission before payment may be made.

4. Any person has a right of action against the commission in the event of a refusal of the commission to pay his claim if the person's name appears in the report filed by the public utility or [carrier.] *alternative seller.* This

action against the commission must be brought within 6 months after the refusal to pay the claim.

5. The commission shall investigate every case in which a claim is presented to it by a person claiming a refund under a plan submitted by a public utility or [carrier] *an alternative seller* which was approved by the commission. If the investigation results in a refusal by the public utility or [carrier] *alternative seller* to pay a valid claim, then the claimant has a right of action against the public utility or [carrier.] *alternative seller.*

6. Any unclaimed money which remains in the custody of the commission at the expiration of the 2-year period escheats to the state.

Sec. 25. NRS 703.377 is hereby amended to read as follows:

703.377 1. No certificate of public convenience and necessity, permit or license issued in accordance with the terms of NRS 704.005 to 704.751, inclusive, [or 706.011 to 706.791, inclusive,] is either a franchise or irrevocable.

2. [The commission may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee, suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, for a period not to exceed 60 days.

3.] Upon receipt of a written complaint or on its own motion, the commission may, after investigation and hearing, revoke any certificate, permit or license, but as to a public utility only if the commission has arranged for another public utility to provide the service for which the certificate was granted. [If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes his interest in the certificate, permit or license by so notifying the commission in writing, the commission may revoke the certificate, permit or license without a hearing.]

[4.] *3.* The proceedings thereafter are governed by the provisions of NRS 703.373 to 703.376, inclusive.

Sec. 26. NRS 703.380 is hereby amended to read as follows:

703.380 1. Unless another penalty is specifically provided, any public utility or any officer, agent or employee of a public utility who:

(a) Violates any of the provisions of this chapter or chapters 704, 705 [, 708 and 712] *and 708* of NRS;

(b) Violates any rule or regulation of the commission; or

(c) Fails, neglects or refuses to obey any order of the commission or any order of a court requiring compliance with an order of the commission,

is liable for a civil penalty not to exceed $1,000 per day for each day of the violation and not to exceed $100,000 for any related series of violations.

2. The amount of any civil penalty to be imposed pursuant to this section, and the propriety of any compromise of a penalty, must be determined by a court of competent jurisdiction upon the complaint of the commission.

3. Subject to the approval of the court, any civil penalty may be compromised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to

the size of the business of the person charged, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, must be considered.

4. Any penalty assessed pursuant to this section is not a cost of service by the public utility and may not be included in any new application by a public utility for a rate adjustment or rate increase.

Sec. 27. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 28 to 63, inclusive, of this act.

Sec. 28. *As used in sections 28 to 53, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 29 to 38, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 29. *"Aggregation service" means the service of buying electricity and reselling or otherwise providing electricity to a customer.*

Sec. 30. *"Alternative seller" means a seller of any component of electric service, other than a noncompetitive service unless the alternative seller has been designated to provide the noncompetitive service pursuant to section 45 of this act. The term includes an affiliate of a vertically integrated electric utility, but does not include a vertically integrated electric utility.*

Sec. 31. *"Customer" means the retail purchaser of electric service.*

Sec. 32. *"Effective competition" means, with respect to a particular service, a market structure and a process under which an individual seller is not able to influence significantly the price of the service as a result of:*

1. The number of sellers of the service;

2. The size of each seller's share of the market;

3. The ability of the sellers to enter or exit the market; and

4. The price and availability of comparable substitutes for the service.

Sec. 33. *"Electric distribution utility" means a utility that is in the business of supplying noncompetitive electric distribution or transmission service, or both, or a noncompetitive service pursuant to section 45 of this act, on or after July 1, 1999, or the date on which alternative sellers are authorized to provide competitive services to customers in this state, as appropriate.*

Sec. 34. *"Electric service" includes generation service, aggregation service and any other component of electric service provided, as of December 31, 1996, by a vertically integrated electric utility.*

Sec. 35. *"Generation service" means the sale of electricity or capacity from equipment that converts other forms of energy into electricity by the owner of that equipment.*

Sec. 36. *"Noncompetitive service" means any electric service determined by statute or by the commission pursuant to section 39 of this act to be unsuitable for purchase by customers from alternative sellers.*

Sec. 37. *"Potentially competitive service" means a component of electric service determined by the commission to be suitable for purchase by customers from alternative sellers.*

Sec. 38. *1. "Vertically integrated electric utility" means any public utility in the business of supplying electricity or its successor in interest that, as of December 31, 1996:*

(a) Held a certificate of public convenience and necessity issued pursuant to NRS 704.005 to 704.731, inclusive; and

(b) Had an annual operating revenue of $250,000,000 or more.

2. The term does not include a cooperative association or nonprofit corporation or association or other provider of electric service, which is declared to be a public utility pursuant to NRS 704.673 and provides service only to its members.

Sec. 39. *1. The date upon which customers may begin obtaining generation, aggregation and any other potentially competitive services from an alternative seller must be no later than July 1, 1999, unless the commission determines that a different date is necessary to protect the public interest. If the commission determines that a different date is necessary, the commission shall provide a report to the director of the legislative counsel bureau for transmittal to the legislative commission on utilities by February 1, 1999, which:*

(a) Explains the reason that the commission has not granted such an authorization; and

(b) States whether the commission will grant such an authorization by July 1, 1999.

2. The commission may:

(a) Establish different dates for the provision of different services by alternative sellers in different geographic areas; and

(b) Authorize, in gradual phases, the right to buy from alternative sellers.

3. The commission shall determine that an electric service is a potentially competitive service if provision of the service by alternative sellers:

(a) Will not harm any class of customers;

(b) Will decrease the cost of providing the service to customers in this state or increase the quality or innovation of the service to customers in this state;

(c) Is a service for which effective competition in the market is likely to develop;

(d) Will advance the competitive position of this state relative to surrounding states; and

(e) Will not otherwise jeopardize the safety and reliability of the electric service in this state.

4. If the commission determines that a market for a potentially competitive service does not have effective competition, the commission shall, by regulation, establish the method for determining prices for the service and the terms and conditions for providing the service. The regulations must ensure that the pricing method, terms and conditions are just and reasonable and not unduly discriminatory. The regulations may include pricing alternatives which authorize the seller to reduce prices below maximum pricing levels specified by the commission or any other form of alternative pricing which the commission determines to be consistent with the provisions of this subsection. In determining whether a market for an electric service has effective competition, the commission shall:

(a) Identify the relevant market;

(b) Identify, where feasible, the alternative sellers that currently participate and are reasonably expected to participate in the relevant market; and

(c) Calculate, where feasible, the market share of each participant in the market and evaluate the significance of each share.

5. The commission shall, upon its own motion or upon a showing of good cause by a party requesting a reconsideration, reconsider any determination made by the commission pursuant to this section that a service is not a competitive service or that the market for the service does not have effective competition. Upon a finding by the commission that:

(a) The service previously determined not to be a competitive service pursuant to subsection 2 has become competitive; or

(b) The market for the service previously determined not to have effective competition pursuant to subsection 3 has become effectively competitive,

the commission shall repeal the regulations which established the pricing methods and the terms and conditions for providing that service. The commission shall conduct any proceedings for the reconsideration of any such determination as expeditiously as practicable considering the current work load of the commission and the need to protect the public interest.

6. A vertically integrated electric utility shall not provide a potentially competitive service except through an affiliate:

(a) On or after July 1, 1999; or

(b) The date on which the commission determines that the service is potentially competitive,

whichever is later.

Sec. 40. *1. It is unlawful for an alternative seller to sell any electric service to a customer for consumption within this state without having first obtained a license from the commission to do so.*

2. Not later than January 1, 1999, or any different date as determined by the commission pursuant to section 39 of this act, as appropriate, the commission shall by regulation set forth the procedures and conditions that alternative sellers must satisfy to obtain a license to sell any electric services to a customer in this state, including, but not limited to, procedures and conditions relating to:

(a) Safety and reliability of service;

(b) Financial and operational fitness; and

(c) Billing practices and customer service, including the initiation and termination of service.

3. If, after reviewing the application of an alternative seller for a license, the commission finds that the applicant is qualified to be an alternative seller, the commission shall issue a license to the applicant.

4. The commission may limit, suspend or revoke a license issued to an alternative seller if the action is necessary to protect the interests of the public or to enforce the provisions of sections 28 to 53, inclusive, of this act or a regulation of the commission.

5. In determining whether an applicant is qualified for a license or whether to limit, suspend or revoke a license issued to an alternative seller, the commission may consider whether the applicant for or holder of the

license, or any affiliate thereof, has engaged in any activities which are inconsistent with effective competition.

6. A city, county or other local governmental entity or a public utility, or any affiliate thereof, which is authorized to provide electric service within the State of Nevada on or before December 31, 1996, and which has an annual operating revenue of less than $250,000,000, is subject to the provisions of sections 28 to 53, inclusive, of this act and any regulations adopted by the commission that are in effect on the date on which the city, county or other local governmental entity or public utility, or an affiliate thereof:

(a) Applies to obtain a license as an alternative seller; or

(b) Directly or indirectly attempts to provide, or act on behalf of an alternative seller in the provision of, electric service in the territory served by another city, county or other local governmental entity or public utility, or an affiliate thereof, unless the city, county or other local governmental entity or public utility, or an affiliate thereof is otherwise required or permitted by specific statute to provide such service.

7. Notwithstanding the provisions of subsection 6, a city, county or other local governmental entity or a public utility, or any affiliate thereof, does not become subject to the provisions of sections 28 to 53, inclusive, of this act, or any regulations adopted pursuant thereto, solely because the city, county or other local governmental entity or a public utility, or any affiliate thereof, provides transmission or distribution services to an alternative seller pursuant to a contract, tariff or requirement of any state or federal law, except that the city, county or other local governmental entity or public utility, or an affiliate thereof, shall provide such transmission and distribution services on an open and nondiscriminatory basis to alternative sellers in accordance with such standards as the commission may establish by regulation.

8. Regulations adopted pursuant to subsection 2:

(a) Must not be unduly burdensome;

(b) Must not unnecessarily delay or inhibit the initiation and development of competition for any service in any market; and

(c) May establish different requirements for licensing alternative sellers of:

(1) Different services; or

(2) Similar services to different classes of customers,

whenever such different requirements are appropriate to carry out the provisions of sections 28 to 53, inclusive, of this act.

Sec. 41. *1. The commission shall prohibit a provider of a noncompetitive service from providing a potentially competitive service, except through an affiliate of the provider.*

2. The commission shall require each provider of a noncompetitive service that is necessary to the provision of a potentially competitive service to make its facilities or services available to all alternative sellers on equal and nondiscriminatory terms and conditions.

Sec. 42. *1. The commission shall monitor the markets for electric services affected by sections 28 to 53, inclusive, of this act to identify and prevent activities that are inconsistent with the goals of sections 28 to 53, inclusive, of this act. The commission shall:*

(a) Establish standards of conduct related to activities that are inconsistent with the goals of sections 28 to 53, inclusive, of this act, and establish penalties for such activities and procedures for imposing such penalties; and

(b) Establish conditions and limitations on the ownership, operation and control of the assets of a provider of an electric service to:

(1) Prevent activities that are inconsistent with the goals of sections 28 to 53, inclusive, of this act; and

(2) Ensure the development of effective competition for electric services.

Such conditions and limitations may include, but are not limited to, limitations on the ownership, operation and control of transmission facilities and any generation necessary to the reliable and economic operation of such transmission facilities. In establishing such conditions and limitations, the commission shall take into consideration any financial obligations that a provider of an electric service incurred, as of the date on which customers may begin obtaining potentially competitive services from alternative sellers, to carry out a statutory obligation of a utility.

2. Upon a showing of good cause by a party requesting an investigation or upon motion of the commission, the commission shall conduct an investigation of the operation of the relevant markets for any electric service in this state to determine whether those markets are functioning in a manner consistent with the provisions of sections 28 to 53, inclusive, of this act. The investigation must include, without limitation, the effect on the market of:

(a) Transmission congestion or constraints; and

(b) Anticompetitive or discriminatory conduct.

3. The commission may require an alternative seller or a vertically integrated electric utility to provide information directly related to the provision of electric services by the alternative seller or vertically integrated electric utility in this state, including, but not limited to, documents and testimony, in accordance with the regulations of the commission relating to the discovery of information for a provider of electric service.

4. If evidence is presented to the commission that anticompetitive or discriminatory conduct, including, but not limited to, the unlawful exercise of market power, is denying customers the benefits of effective competition in a market for electric services, the commission shall:

(a) Consult with, and transmit such evidence to, the attorney general; and

(b) If appropriate, inform, and transmit such evidence to, the United States Department of Justice and any appropriate federal agency.

5. Sections 28 to 53, inclusive, of this act must not be construed as exempting alternative sellers and affiliates from any other applicable statute of this state or the United States, relating to consumer and antitrust protections. The exemption provided in paragraph (c) of subsection 3 of NRS 598A.040 does not apply to conduct of or actions taken by an alternative seller pursuant to sections 28 to 53, inclusive, of this act.

6. Nothing in sections 28 to 53, inclusive, of this act requires any person who is or has been aggrieved by the conduct of an alternative seller to seek relief first before the commission.

Sec. 43. *1. An affiliate of a provider of a noncompetitive service may provide a potentially competitive service only upon a finding by the commission after a hearing that:*

(a) The provider of the noncompetitive service is in compliance with subsection 2 of section 41 of this act;

(b) The affiliate will have, with respect to the provision of the electric service, an arm's length relationship with the entity that provides the noncompetitive service;

(c) The business or organizational relationship, or both, between the provider of the noncompetitive service and the affiliate providing the potentially competitive service does not interfere with the development of effective competition; and

(d) The risk of anticompetitive behavior by the provider of the noncompetitive service or the affiliate providing the potentially competitive service, or both, is minimal and the regulatory expenses to prevent the anticompetitive behavior are minimal.

2. The commission shall adopt regulations which specify the information which must be submitted and the procedure which will be used to process a request by an affiliate of a provider of a noncompetitive service for authorization to provide a potentially competitive service. The procedure must provide an opportunity for the affiliate to obtain a determination from the commission regarding its request to provide potentially competitive services not later than 6 months before the date on which alternative sellers may begin providing potentially competitive services.

3. If the commission determines that an affiliate of a provider of a noncompetitive service cannot provide a potentially competitive service pursuant to the provisions of this section and the provider of the noncompetitive service is a vertically integrated electric utility, the commission shall, pursuant to section 46 of this act, give the vertically integrated electric utility a reasonable opportunity to recover the costs incurred.

4. A provider of noncompetitive service and its affiliate which is providing a potentially competitive service in accordance with this section are subject to all applicable statutes of this state and the United States relating to consumer and antitrust protections in the same manner as if the provider and its affiliate were not affiliated.

Sec. 44. *1. An electric distribution utility shall provide all noncompetitive services within its territory unless the commission authorizes another entity to provide the noncompetitive service.*

2. A noncompetitive service is subject to NRS 704.001 to 704.655, inclusive, 704.701 to 704.751, inclusive, 704.800, 704.805 and 704.815.

3. The commission shall adopt regulations for noncompetitive services that allow innovative pricing methods for noncompetitive services upon a finding that the innovative pricing, when compared to pricing of services provided pursuant to subsections 1 and 2, improves the performance of the

service or lowers the cost of the service to the customer, or both. The regulations for innovative pricing must specify:

(a) The provisions that must be included in a plan of innovative pricing;

(b) The procedures for submitting an innovative plan for pricing to the commission for approval and implementation; and

(c) Which provisions of this chapter do not apply to pricing changes that are made during the period in which the innovative pricing plan is in effect.

4. The commission shall adopt regulations which ensure that a person who owns a transmission or distribution facility, or both, or a facility that provides access to a competitive service shall make the facilities available on equal and nondiscriminatory terms and conditions to all alternative sellers or to the customers of the alternative sellers, or both, as the commission may determine.

Sec. 45. *1. The commission shall designate a vertically integrated electric utility to provide electric service to customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller. The provider so designated by the commission is obligated to provide electric service to the customers. Electric service provided by the utility pursuant to this section shall be deemed to be a noncompetitive service for which the utility may recover its costs pursuant to NRS 704.001 to 704.655, inclusive, 704.701 to 704.751, inclusive, 704.800, 704.805 and 704.815.*

2. Upon a finding by the commission that the public interest will be promoted, the commission may prescribe alternate methods for providing electric service to those customers described in subsection 1. The alternate methods may include, but are not limited to, the direct assignment of customers to alternative sellers or electric distribution services or a process of competitive bidding for the right to provide electric service to the designated customers.

3. The commission shall establish minimum terms and conditions under which electric service must be provided pursuant to this section, including a minimum period during which a customer must be obligated to pay for the electric service from the assigned provider. The price charged for electric service for a particular group of customers must reflect the incremental cost of serving the group.

4. If the designated provider of the electric service is a vertically integrated electric utility, the utility shall provide the electric service through an affiliate whose sole business activity is the provision of electric service.

5. Except as otherwise provided in this subsection and subsection 6, the rate charged for residential service provided pursuant to subsection 1 must not exceed the rate charged for that service on July 1, 1997. The limitation set forth in this subsection is effective until 2 years after the date upon which, in accordance with section 39 of this act, the commission repeals the regulations which established the pricing method for that service and the terms and conditions for providing that service.

6. The commission may, in accordance with NRS 704.110, 704.120 and 704.130, approve an increase in the rate charged for residential service

provided pursuant to subsection 1 in an amount that does not exceed the increase necessitated, if any, to ensure the recovery by the electric utility of its just and reasonable costs. The provisions of this section do not limit or prohibit in any manner the operation of any order issued by the commission before July 1, 1997.

Sec. 46. *1. The commission shall determine the recoverable costs associated with assets and obligations that are documented in the accounting records of a vertically integrated electric utility and that are properly allocable to a particular potentially competitive service as of the date on which alternative sellers of similar potentially competitive services begin providing such service to customers in this state. Shareholders of the vertically integrated electric utility must be compensated fully for all such costs determined by the commission. In determining the recoverable costs, the commission shall take into account:*

(a) The extent to which the utility was legally required to incur the costs of the assets and obligations;

(b) The extent to which the market value of the assets and obligations of the utility, relating to the provision of potentially competitive services, exceeds the costs of the assets and obligations;

(c) The effectiveness of the efforts of the utility to increase the market value and realize the market value of any assets, and to decrease the costs of any obligations, associated with the provision of potentially competitive services;

(d) The extent to which the rates previously established by the commission have compensated shareholders for the risk of not recovering the costs of the assets and obligations;

(e) The effects of the difference between the market value and the cost, including, without limitation, tax considerations, for the assets and obligations; and

(f) If the utility had the discretion to determine whether to incur or mitigate the costs, the conduct of the utility with respect to the costs of the assets and obligations when compared to other utilities with similar obligations to serve the public.

2. For the purposes of this section, the commission may impose a procedure for the direct and unavoidable recovery from ratepayers of the portion of the past costs which are determined by the commission to be owed by the ratepayers. The procedure must include a determination of the period over which the recovery may occur and include the authority for the commission to assess charges on those customers on whose behalf the vertically integrated electric utility incurred costs who are no longer receiving transmission or distribution service, or both, from the vertically integrated electric utility. Such determinations and procedures must not discriminate against a participant in the market.

3. A vertically integrated electric utility that seeks to recover the costs that arise from an obligation of a qualified facility shall submit to the commission a written memorandum or stipulation executed by the qualified facility that verifies the amount and term of the obligation. The vertically integrated electric utility shall attach a copy of the obligation and all modifications thereto that have been negotiated between the vertically integrated electric utility and the qualified facility and copies of any orders and stipulations executed to resolve any dispute between the vertically integrated electric utility and the qualified facility relating to the obligation.

4. Notwithstanding the provisions of any specific statute to the contrary, an electric utility that is subject to an existing qualified facility contract on the effective date of this section shall continue to honor that obligation. Nothing in sections 28 to 53, inclusive, of this act shall be deemed to authorize the commission to reopen, force the renegotiation of, or interfere with the enforcement of any such existing obligation. Nothing in this section requires an electric utility and a qualified facility to modify any contract that was in existence on June 1, 1997, between the electric utility and the qualified facility.

5. As used in this section:

(a) "Obligation of a qualified facility" means an executed power purchase agreement between an electric utility and a qualified facility.

(b) "Qualified facility" means a cogeneration or small power production facility that meets the criteria of and has been certified as a qualified facility pursuant to Title 18, Code of Federal Regulations, sections 292.201 to 292.207, inclusive, as those sections existed on June 1, 1997.

Sec. 47. *A vertically integrated electric utility shall take such reasonable steps as are necessary to minimize layoffs and any other adverse effects on the employees of the vertically integrated electric utility that result from the beginning of provision of potentially competitive services by alternative sellers. The commission shall, pursuant to section 46 of this act, give the vertically integrated electric utility a reasonable opportunity to recover the costs incurred in taking such reasonable steps required by this section, including, without limitation, cost for severance pay, retraining, job placement and early retirement.*

Sec. 48. *1. The commission shall establish procedures to ensure that a customer of an alternative seller is not switched to another alternative seller without a reliable confirmation of the customer's intent to make such a change and approval of the specific details of the change.*

2. The commission shall establish minimum standards for the form and content of all disclosures, explanations or sales information disseminated by a person selling a competitive service to ensure that the person provides adequate, accurate and understandable information about the service which enables a customer to make an informed decision relating to the source and type of electric service purchased. Such standards:

(a) Must not be unduly burdensome;

(b) Must not unnecessarily delay or inhibit the initiation and development of competition for any service in any market; and

(c) May establish different requirements for disclosures, explanations or sales information relating to:

(1) Different services; or

(2) Similar services to different classes of customers,

whenever such different requirements are appropriate to carry out the provisions of sections 28 to 53, inclusive, of this act.

3. The commission, before the commencement of direct access to alternative sellers for an electric service, shall carry out an educational program for customers to:

(a) Inform customers of the changes in the provision of electric service, including, but not limited to, the availability of alternative sellers of electric service;

(b) Inform customers of the requirements relating to disclosures, explanations or sales information for sellers of competitive services; and

(c) Provide assistance to customers in understanding and using the information to make reasonably informed choices about which service to purchase and from whom to purchase it.

Sec. 49. *1. Each vertically integrated electric utility shall submit to the commission, pursuant to a schedule established by the commission, a plan for compliance with the requirements set forth in sections 28 to 53, inclusive, of this act and the applicable regulations. The vertically integrated electric utility shall include with the plan any information the commission needs to:*

(a) Set rates for electric services, including, but not limited to:

(1) A statement of the costs of the utility to provide the service.

(2) The amount of revenue required by the utility.

(b) Allocate among customers the costs of service and the requirements for revenues for noncompetitive services.

(c) Adopt regulations for potentially competitive services if a market is not sufficiently competitive.

2. The commission may exempt a vertically integrated electric utility or an alternative seller from the strict application of any provision of this chapter, other than the provisions of sections 28 to 53, inclusive, of this act, upon a determination by the commission that the exemption is necessary to achieve effective competition within the electric industry.

Sec. 50. *1. Except as otherwise provided in this section, the Colorado River commission may sell electricity and provide transmission service or distribution service, or both, to meet the existing and future requirements of:*

(a) Any customer that the Colorado River commission on the effective date of this section was serving or had a contract to serve; and

(b) The Southern Nevada Water Authority,

without being subject to the provisions of sections 28 to 53, inclusive, of this act or to the jurisdiction of the commission.

2. The Colorado River commission may sell electricity or provide transmission service or distribution service, or both, to customers whom the Colorado River commission was not serving, or with whom it did not have a contract, on the effective date of this section if the Colorado River commission:

(a) Obtains a license to act as an alternative seller; and

(b) Allows its system for transmission and distribution to be utilized by other alternative sellers pursuant to such terms and conditions as may be established by the commission.

3. As used in this section, "Southern Nevada Water Authority" has the meaning ascribed to it in NRS 538.041.

Sec. 51. *1. The commission shall develop regular forecasts of electric energy based on the information submitted to the commission pursuant to subsection 3. The forecast must include:*

(a) A description of the facilities needed to meet the future requirements for electric services;

(b) An evaluation of the extent to which a retail electric service is subject to competition;

(c) A description of those actions needed to accommodate competition in the provision of potentially competitive services; and

(d) An evaluation of whether sufficient capacity will be available to customers at a reasonable price and will be selected by customers after the commission has authorized the provision of potentially competitive services by alternative sellers.

2. If the commission determines that sufficient capacity will not be available to customers at a reasonable price, the commission may establish equitable obligations for customers, electric distribution utilities or alternative sellers to ensure that sufficient capacity is made available. Any obligation that discriminates against or unduly burdens a customer, an electric distribution utility or an alternative seller is not reasonable and may not be imposed by the commission. The commission may, by regulation, specify those methods and procedures to ensure that sufficient capacity is made available, including competitive solicitations or other method or procedure deemed to be appropriate and necessary by the commission.

3. Each entity providing a potentially competitive service or a noncompetitive service shall submit to the commission annually, in the format prescribed by the commission, information that the commission determines is necessary to:

(a) Monitor the development of competition to provide electric services; and

(b) Ensure the availability of adequate, reliable, efficient and economic electric service.

Sec. 52. *1. The commission shall establish a portfolio for domestic energy standards that sets forth the minimum percentage of the total electricity sold during each calendar year that must be derived from renewable energy resources. The portfolio must:*

(a) Be set at two-tenths of one percent of the total amount of electricity annually consumed by customers in this state be derived from renewable energy sources as of January 1, 2001.

(b) Be increased biannually thereafter by two-tenths of one percent of the total annual electric consumption by the customers until the standard reaches a total of 1 percent of the total amount of electricity consumed.

(c) Be derived entirely from not less than 50 percent renewable energy systems.

(d) Be derived from not less than 50 percent solar energy resources.

(e) Be based on renewable energy credits, if applicable.

2. Each electric utility and alternative seller that provides electric service in this state shall comply with the portfolio standard established by the commission pursuant to this section. At the end of each calendar year, the electric utility and alternative seller shall submit a report, in a format approved by the commission, of the quantity of renewable energy and credits, if applicable, that the utility or alternative seller generated, purchased, sold and traded to meet the standards of the portfolio.

3. In establishing the portfolio pursuant to this section, the commission may establish a system of credits pursuant to which an electric utility and alternative seller may comply with the provisions of this section. A system of credits must provide that:

(a) Credits are issued by renewable energy systems for every kilowatt of energy which it produces; and

(b) Holders of credits may trade or sell the credits to other parties.

4. After the portfolio reaches 1 percent, the commission may, upon notice and hearing, increase the portfolio in such amounts as it determines is reasonable.

5. The electric utility and alternative seller shall submit a report to the commission that provides information relating to the compliance by the electric utility or alternative seller with the requirements of this section. Such reports must be made at least annually, unless the commission by regulation determines that such reports must be made more frequently than annually, and must include clear and concise information that sets forth:

(a) If the electric utility installed a renewable energy system during the period for which the report is being made, the date installation date;

(b) The capacity of renewable energy systems of the electric utility or alternative seller;

(c) The amount of production of energy from the renewable energy systems;

(d) The portion of the production of energy that is directly derived from renewable energy resources;

(e) The quantity of energy from renewable energy systems that is transmitted or distributed, or both, to customers in this state by the utility or alternative seller; and

(f) Such other information that the commission by regulation may deemed relevant.

6. Nothing in this section applies to:

(a) Rural electric cooperatives established pursuant to chapter 81 of NRS;

(b) General improvement districts established pursuant to chapter 318 of NRS; or

(c) Utilities established pursuant to chapter 709 or 710 of NRS.

7. As used in this section:

(a) "Renewable energy resources" means wind, solar, geothermal and biomass energy resources that are naturally regenerated.

(b) "Renewable energy system" means an energy system that utilizes renewable energy resources to produce electricity or solar thermal energy systems that reduce the consumption of electricity that was installed and commenced operations after July 1, 1997.

Sec. 53. *The commission shall prepare a quarterly report for the legislature that assesses the developments in the electric industry in the State of Nevada. The reports must be submitted to the director of the legislative counsel bureau for transmittal to the legislature and must include, but are not limited to, a discussion of:*

1. Whether there is effective competition for each potentially competitive service;

2. The compatibility of direct access for retail customers to alternative sellers with environmental goals;

3. The effects of direct access for retail customers to alternative sellers on each class of customers, compared to the noncompetitive regulatory structure;

4. The opportunities to cooperate, formally or informally, with other states or the Federal Government in the implementation of effective competition; and

5. Additional legislation necessary to achieve the goals of sections 28 to 53, inclusive, of this act.

Sec. 54. *1. The commission shall adopt regulations that require each utility which provides telecommunication services to:*

(a) An elementary or secondary public school; or

(b) A public library,

to establish discounts in the rates for the telecommunication services that the utility provides to that school or library. The amount of the discount must be determined by the commission in a manner that is consistent with the provisions of 47 U.S.C. § 254.

2. The commission shall adopt regulations that require each utility which provides telecommunication services to:

(a) Public or private providers of health care which serve persons in rural areas; or

(b) Persons with low income and persons in rural, insular and high-cost areas,

to ensure that such providers of health care and persons have access to telecommunication services that are reasonably comparable to those services available in urban areas and that the rates for such services charged by the utility are reasonably comparable to those charged in the urban areas, to the extent required by the provisions of 47 U.S.C. § 254.

3. The commission shall adopt regulations which set forth the requirements for eligibility for persons with low income and definitions for rural, insular and high-cost areas.

4. *Any regulations adopted pursuant to this section must be consistent with the provisions of 47 U.S.C. § 254.*

5. *As used in this section, "public library" has the meaning ascribed to it in NRS 379.0057.*

Sec. 55. *The provisions of NRS 704.820 to 704.900, inclusive, of this act do not apply to plants for generating electrical energy that are located in counties whose population is 100,000 or more.*

Sec. 56. 1. *The commission may require that any person who constructs a plant for generating electrical energy after July 1, 1997, to offer up to 50 percent of the energy or capacity of the plant to all electric utilities and alternative sellers. If the offer is declined, the person may export the capacity of the project. If less than 50 percent of the capacity of such a plant sold during its first 156 months of commercial operation is sold to all electric utilities or alternative sellers, or both, in this state, the applicant shall reoffer the capacity of the plant to all public utilities in this state. This reoffer must provide an opportunity to purchase energy or capacity at fair market value and ensure that 50 percent of the total capacity of the plant is available to all electric utilities and alternative sellers in this state. Any purchase of energy or capacity as a result of the reoffer is effective 84 months after the execution of the contracts of purchase.*

2. *A person who constructs a plant for the generation of electricity after July 1, 1997, shall submit written evidence, in a manner required by the commission, of its compliance with the provisions of subsection 1 to the commission and the bureau of consumer protection. If the commission finds that the person has not complied or is not in compliance with the provisions of subsection 1, the commission may suspend the operation of the plant until the plant comes into compliance.*

Sec. 57. *The commission shall expend up to $500,000 from its reserve account to provide education and informational services necessary to educate and inform the residents in this state on issues related to the provision of competitive utility services in this state. The commission shall contract with an independent person to provide such educational and informational services.*

Sec. 58. *As used in sections 58 to 63, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 59 and 60 of this act, have the meanings ascribed to them in those sections.*

Sec. 59. *"Person" includes a government, a governmental agency and a political subdivision of a government.*

Sec. 60. *"Potentially competitive service" means a component of service relating to the provision of natural gas to customers in this state that is determined by the commission to be suitable for purchase by customers from alternative sellers.*

Sec. 61. 1. *Upon the receipt of a specific request for an exemption by a public utility that supplies natural gas, the commission may, to the extent it deems necessary, exempt any service offered by the public utility from the strict application of one or more provisions of this chapter. Such an exemption may be made only upon a determination by the commission, after notice*

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and a hearing, that the service is competitive, discretionary or potentially competitive.

2. *The commission shall adopt regulations necessary to establish an alternative plan of regulation of a public utility that supplies natural gas and that is otherwise subject to regulation pursuant to the provisions of this chapter. The alternative plan may include, but is not limited to, provisions that:*

(a) Allow adjustment of the rates charged by the public utility during the period in which the utility elects the alternative plan of regulation.

(b) Specify the provisions of this chapter that do not apply to a public utility which elects to be regulated under the alternative plan.

(c) Provide for flexibility of pricing for services that are discretionary, competitive or commercially viable.

3. *A public utility that elects to be regulated under the alternative plan established pursuant to this section is not subject to the remaining provisions of this chapter to the extent specified pursuant to this section.*

4. *It is unlawful for an alternative seller to sell any service relating to the supply of natural gas to a customer for his consumption within this state without first having obtained a license from the commission to do so.*

Sec. 62. 1. *Not later than January 1, 1999, the commission shall, by regulation, set forth the procedures and conditions that alternative sellers must satisfy before obtaining a license to sell potentially competitive services to customers in this state, including, but not limited to:*

(a) Safety;

(b) Reliability of service;

(c) Financial reliability;

(d) Fitness to serve new customers; and

(e) Billing practices and customer services including the initiation and termination of service.

2. *The commission may deny the application of a prospective alternative seller for a license, or may limit, suspend or revoke a license issued to an alternative seller, if the action is necessary to protect the interests of the public or to enforce the provisions of this chapter or a regulation of the commission. In determining whether to take any of those actions, the commission may consider whether the applicant for or holder of such a license, or any affiliate thereof, has engaged in activities which are inconsistent with effective competition.*

Sec. 63. 1. *A customer of natural gas within the service territory of a public utility that supplies natural gas who obtains his own supply of natural gas or capacity on a pipeline from a person other than the public utility for at least 30 continuous days may seek restoration of service from the public utility in accordance with the tariffs filed pursuant to this section.*

2. *A public utility that supplies natural gas shall file a tariff with the commission that states the terms and conditions under which a customer may restore his gas service from the public utility pursuant to this section. The tariff must be reviewed by the commission and must include, without limitation:*

(a) A procedure for reestablishing the gas service;

(b) Methods of accounting to be used for identifying and billing actual costs incurred by the public utility for:

(1) Reestablishing service;

(2) Obtaining new supplies of gas for the customers; and

(3) Acquiring and maintaining the necessary capacity for transporting the supplies of gas, if applicable;

(c) Methodology for determining the costs of administration and overhead costs; and

(d) Methods of accounting to determine any incremental costs incurred by the public utility to serve the customer or group of customers;

(e) Procedures for curtailment to be used in establishing priorities of service;

(f) Procedures that will be available to customers to resolve disputes in billing; and

(g) The minimum period during which the customer must take the resumed service.

3. For the purposes of this section, a public utility may charge its actual cost of obtaining any additional supply of gas to serve the returning customers. The commission may verify a public utilities compliance with its tariff filed pursuant to this section.

Sec. 64. NRS 704.001 is hereby amended to read as follows:

704.001 It is hereby declared to be the purpose and policy of the legislature in enacting this chapter:

1. To confer upon the commission the power, and to make it the duty of the commission, to regulate public [utilities;] *utilities to the extent of its jurisdiction;*

2. To provide for fair and impartial regulation of public utilities;

3. To provide for the safe, economic, efficient, prudent and reliable operation and service of public utilities; and

4. To balance the interests of customers and shareholders of public utilities by providing public utilities with the opportunity to earn a fair return on their investments while providing customers with just and reasonable rates.

Sec. 65. NRS 704.010 is hereby amended to read as follows:

704.010 "Commission" means the public [service] *utilities* commission of Nevada.

Sec. 66. NRS 704.020 is hereby amended to read as follows:

704.020 1. "Public utility" *or "utility"* includes:

(a) Any person who owns, operates, manages or controls any railroad or part of a railroad as a common carrier in this state, or cars or other equipment used thereon, or bridges, terminals, or sidetracks, or any docks or wharves or storage elevators used in connection therewith, whether or not they are owned by the railroad.

(b) Telephone companies and other companies which provide telecommunication or a related service to the public.

(c) Radio or broadcasting instrumentalities providing common or contract service.

(d) All companies which own cars of any kind or character, used and operated as a part of railroad trains, in or through this state. All duties required of and penalties imposed upon any railroad or any officer or agent thereof are, insofar as applicable, required of and imposed upon the owner or operator of any telephone, radio and broadcasting companies, companies providing telecommunication or related services to the public and companies which own cars of any kind or character, used and operated as a part of railroad trains in or through this state, and their officers and agents, and the commission may supervise and control all such companies and persons to the same extent as railroads.

2. "Public utility" *or "utility"* also includes:

(a) Any person who owns, operates or controls any ditch, flume, tunnel or tunnel and drainage system, charging rates, fares or tolls, directly or indirectly.

(b) Any plant or equipment, or any part of a plant or equipment, within [the] *this* state for the production, delivery or furnishing for or to other persons, including private or municipal corporations, heat, gas, coal slurry, light, power in any form or by any agency, water for business, manufacturing, agricultural or household use, or sewerage service, whether or not within the limits of municipalities.

(c) Any system for the distribution of liquefied petroleum gas to 10 or more users.

The commission may supervise, regulate and control all such utilities, subject to the provisions of this chapter and to the exclusion of the jurisdiction, regulation and control of such utilities by any municipality, town or village, unless otherwise provided by law.

3. The provisions of this chapter and the term "public utility" apply to [:

(a) All charges connected with the transportation of persons or property, including icing charges and mileage charges.

(b) All] *all* railroads, express companies, car companies, and all associations of persons, whether or not incorporated, that do any business as a common carrier upon or over any line of railroad within this state.

[(c) Any common or contract carrier engaged in the transportation of passengers and property, except common or contract motor carriers subject to the provisions of chapter 706 of NRS.]

Sec. 67. NRS 704.030 is hereby amended to read as follows:

704.030 "Public utility" *or "utility"* does not include:

1. [Persons insofar as they own, control, operate or manage motor vehicles operated as hearses, ambulances or hotel buses engaged in the transportation of persons for hire exclusively within the limits of a city of this state.

2.] Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

[3.] *2.* Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this state if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to $5,000 or less during the immediately preceding 12 months.

[4. Any common motor carrier, contract motor carrier of passengers or property, or private motor carrier subject to the provisions of chapter 706 of NRS.

5.] *3.* Persons not [normally] *otherwise* engaged in the [production and sale of] *business of furnishing, producing or selling* water *or services for the disposal of sewage, or both,* but who sell or furnish water *or services for the disposal of sewage, or both,* as an accommodation in an area where water [is] *or services for the disposal of sewage, or both, are* not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water [,] *or services for the disposal of sewage, or both,* for compensation, to persons within the political subdivision.

[6.] *4.* Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

[7.] *5.* Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

[8.] *6.* Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who are licensed as alternative sellers to provide electric services.

8. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

Sec. 68. NRS 704.032 is hereby amended to read as follows:

704.032 The commission on economic development may participate in proceedings before the public [service] *utilities* commission of Nevada concerning a public utility in the business of supplying electricity or natural gas to advocate the accommodation of the state plan for industrial development and diversification. The commission on economic development may intervene as a matter of right in a proceeding pursuant to NRS 704.736 to 704.755, inclusive.

Sec. 69. NRS 704.033 is hereby amended to read as follows:

704.033 1. The commission shall levy and collect an annual assessment from all public utilities subject to the jurisdiction of the commission.

2. Except as otherwise provided in subsection 3, the annual assessment must be:

(a) For the use of the commission, not more than 3.50 mills; and

(b) For the use of the consumer's advocate [,] *of the bureau of consumer protection in the office of the attorney general,* not more than 0.75 mills,

on each dollar of gross operating revenue derived from the intrastate operations of such utilities in the State of Nevada, except that the minimum assessment in any 1 year must be $10. The total annual assessment must be not more than 4.25 mills.

3. For railroads the total annual assessment must be the amount levied for the use of the commission pursuant to paragraph (a) of subsection 2. The levy for the use of the consumer's advocate must not be assessed against railroads.

4. The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:

(a) Telephone utilities, except as provided in paragraph (c), the revenue shall be deemed to be all intrastate revenues that are considered by the commission for the purpose of establishing rates.

(b) Railroads, the revenue shall be deemed to be the revenue received only from freight and passenger intrastate movements.

(c) All public utilities, the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility for resale.

Sec. 70. NRS 704.035 is hereby amended to read as follows:

704.035 1. On or before June 1 of each year, the commission shall mail revenue report forms to all public utilities under its jurisdiction, to the address of those utilities on file with the commission. The revenue report form serves as notice of the commission's intent to assess the utilities, but failure to notify any utility does not invalidate the assessment with respect thereto.

2. Each public utility subject to the provisions of NRS 704.033 shall complete the revenue report referred to in subsection 1, compute the assessment and return the completed revenue report to the commission accompanied by payment of the assessment and any penalty due, pursuant to the provisions of subsection 5.

3. The assessment is due on July 1 of each year, but may, at the option of the public utility, be paid quarterly on July 1, October 1, January 1 and April 1.

4. The assessment computed by the utility is subject to review and audit by the commission, and the amount of the assessment may be adjusted by the commission as a result of the audit and review.

5. Any public utility failing to pay the assessment provided for in NRS 704.033 on or before August 1, or if paying quarterly, on or before August 1, October 1, January 1 or April 1, shall pay, in addition to such assessment, a penalty of 1 percent of the total unpaid balance for each month or portion thereof that the assessment is delinquent, or $10, whichever is greater, but no penalty may exceed $1,000 for each delinquent payment.

6. When a public utility sells, transfers or conveys substantially all of its assets or certificate of public convenience and necessity, the commission shall determine, levy and collect the accrued assessment for the current year not later than 30 days after the sale, transfer or conveyance, unless the transferee has assumed liability for the assessment. For purposes of this

subsection the jurisdiction of the commission over the selling, transferring or conveying public utility continues until it has paid the assessment.

7. The commission may bring an appropriate action in its own name for the collection of any assessment and penalty which is not paid as provided in this section.

8. The commission shall, on a quarterly basis, transfer to the account for the consumer's advocate *of the bureau of consumer protection in the office of the attorney general* that portion of the assessments collected which belongs to the consumer's advocate.

Sec. 71. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 or as otherwise provided by the commission pursuant to NRS 704.095 or 704.097:

1. Whenever there is filed with the commission any schedule stating a new or revised individual or joint rate, fare or charge, or any new or revised individual or joint regulation or practice affecting any rate, fare or charge, or any schedule resulting in a discontinuance, modification or restriction of service, the commission may, upon complaint or upon its own motion without complaint, at once, without answer or formal pleading by the interested utility, investigate or, upon reasonable notice, conduct a hearing concerning the propriety of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice.

2. Pending the investigation or hearing and the decision thereon, the commission, upon delivering to the utility affected thereby a statement in writing of its reasons for the suspension, may suspend the operation of the schedule and defer the use of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice, but not for more than 150 days beyond the time when the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.

3. Whenever there is filed with the commission any schedule stating an increased individual or joint rate, fare or charge for service or equipment, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. During any hearing concerning the increased rates, fares or charges determined by the commission to be necessary, the commission shall consider evidence in support of the increased rates, fares or charges based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but no new rates, fares or charges may be placed into effect until the changes have been experienced and certified by the utility to the commission. The commission shall also consider evidence supporting expenses for

depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the filing with the commission of the certification required in this subsection, or before the expiration of any period of suspension ordered pursuant to subsection 2, whichever time is longer, the commission shall make such order in reference to those rates, fares or charges as is required by this chapter.

4. After full investigation or hearing, whether completed before or after the date upon which the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice is to go into effect, the commission may make such order in reference to the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice has become effective.

5. Whenever an application is filed by a public utility for an increase in any rate, fare or charge based upon increased costs in the purchase of fuel or power, and the public utility has elected to use deferred accounting for costs of the purchase of fuel or power in accordance with the commission's regulations, the commission, by appropriate order after a public hearing, shall allow the public utility to clear the deferred account not more often than every 6 months by refunding any credit balance or recovering any debit balance over a period not to exceed 1 year as determined by the commission. The commission shall not allow a recovery of a debit balance or any portion thereof in an amount which would result in a rate of return in excess of the rate of return most recently granted the public utility.

6. Except as otherwise provided in subsection 7 or in NRS 707.350, whenever a general rate application for an increased rate, fare or charge for, or classification, regulation, discontinuance, modification, restriction or practice involving service or equipment has been filed with the commission, a public utility shall not submit another general rate application until all pending general rate applications for increases in rates submitted by that public utility have been decided unless, after application and hearing, the commission determines that a substantial financial emergency would exist if the other application is not permitted to be submitted sooner.

7. A public utility may not file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale more often than once every 30 days.

8. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 [or 704.755] and accepted by the commission for acquisition or construction pursuant to NRS 704.751 [or 704.755] and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility. [For the purposes of] As used in this subsection, "utility

facility" has the meaning ascribed to it in subsections 1 [, 2 and 3] *and 2* of NRS 704.860.

Sec. 72. NRS 704.130 is hereby amended to read as follows:

704.130 1. All rates, [fares,] charges, classifications and joint rates fixed by the commission are in force, and are prima facie lawful, from the date of the order until changed or modified by the commission, or pursuant to NRS 703.373 to 703.376, inclusive.

2. All regulations, practices and service prescribed by the commission must be enforced and are prima facie reasonable unless suspended or found otherwise in an action brought for the purpose, pursuant to the provisions of NRS 703.373 to 703.376, inclusive, or until changed or modified by the commission itself upon satisfactory showing made, or by the public utility by filing a bond pursuant to NRS 703.374.

Sec. 73. NRS 704.185 is hereby amended to read as follows:

704.185 1. A public utility [which purchases fuel, including] *that supplies* natural gas for resale [, or power] may record upon its books and records all cost increases or decreases in [fuels or purchased power] *the cost of the gas* in deferred accounts. Any public utility *that supplies natural gas* which utilizes deferred accounting to reflect changes in costs of [fuels and purchased power] *gas* shall include in its annual report to the commission a statement showing the allocated rate of return for each of its operating departments in Nevada which uses deferred accounting.

2. If the rate of return for any department using deferred accounting is greater than the rate of return allowed by the commission in the last rate proceeding, the commission shall order the utility *that supplies natural gas* which recovered any deferred [fuel and purchased power] costs *of gas* through rates during the reported period to transfer to the next energy adjustment period that portion of such recovered amounts which exceeds the authorized rate of return.

Sec. 74. NRS 704.190 is hereby amended to read as follows:

704.190 1. Every public utility operating in this state shall, whenever an accident occurs in the conduct of its operation causing death, give prompt notice thereof to the commission, in such manner and within such time as the commission may prescribe. If in its judgment the public interest requires it, the commission may cause an investigation to be made forthwith of any accident, at such place and in such manner as the commission shall deem best.

2. Every such public utility shall report to the commission, at the time, in the manner and on such forms as the commission shall by its printed rules and regulations prescribe, all accidents happening in this state and occurring in, on or about the premises, plant, instrumentality or facility used by any such utility in the conduct of its business.

3. The commission shall [promulgate and] adopt all reasonable rules and regulations necessary for the administration and enforcement of this section. Such rules and regulations [shall in any event] *must* require that all accidents required to be reported herein [shall] be reported to the commission at least

once every calendar month by such officer or officers of the utility as the commission shall direct.

4. The commission shall adopt and utilize all accident report forms, which forms shall be so designed as to provide a concise and accurate report of the accident and which report shall in any event show the true cause of the accident. The accident report forms adopted for the reporting of railroad accidents shall be the same in design as near as may be as the railroad accident report forms provided and used by the [Interstate Commerce Commission.] *Surface Transportation Board.*

5. If any accident reported to the commission shall be reported by the utility as being caused by or through the negligence of an employee and thereafter such employee is absolved from such negligence by the utility and found not to be responsible for the accident, such fact [shall] *must* be reported by the utility to the commission.

6. All accident reports herein required [shall] *must* be filed in the office of the commission and there preserved. Notwithstanding any other provisions of law, neither any accident report made as required by this chapter, nor any report of the commission made pursuant to any accident investigation made by it, [shall be] *is* open to public inspection or disclosed to any person, except upon order of the commission, nor [shall] *may* either or any of the reports, or any portion thereof, be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in the accident report or report of any such investigation.

Sec. 75. NRS 704.210 is hereby amended to read as follows:

704.210 The commission may:

1. Adopt necessary and reasonable regulations governing the procedure, administration and enforcement of the provisions of this chapter, subject to the provisions of NRS 416.060.

2. Prescribe classifications of the service of all public utilities and, except as otherwise provided in NRS 704.075, fix and regulate the rates therefor.

3. Fix just and reasonable charges for [transportation of all intrastate freight and passengers, accommodations in sleeping cars and all matter carried by express companies within the state, for the transportation of messages by telegraph companies,] and the rates and tolls for the use of telephone lines within the state.

4. Adopt just and reasonable regulations for the apportionment of all joint rates and charges between public utilities.

5. Consider the need for the conservation of energy when acting pursuant to the provisions of subsections 1, 2 and 3.

Sec. 76. NRS 704.223 is hereby amended to read as follows:

704.223 1. If a business with a new industrial load has been certified by the commission on economic development pursuant to NRS 231.139, the public [service] *utilities* commission of Nevada may authorize a public utility that furnishes electricity for the business to purchase or transmit a portion of the electricity provided to the business to reduce the overall cost

of the electricity to the business. The purchases of electricity may be made by the business with the new industrial load, by agreement between the public utility and the business or by the public utility on behalf of the business, and must be made in accordance with such rates, terms and conditions as are established by the public [service] *utilities* commission of Nevada.

2. If additional facilities are determined by the affected utility to be required as the result of authorization granted pursuant to subsection 1, the facilities must be constructed, owned and operated by the affected utility. The business must agree as a condition to the authorization granted pursuant to subsection 1 to continue its business in operation in Nevada for 30 years. The agreement must require appropriate security for the reimbursement of the utility for the remaining portion of the value of the facilities which has not been depreciated by the utility and will not be mitigated by use of the facilities for other customers in the event that the business, or its successor in interest, does not remain in operation for 30 years.

3. Nothing in this section authorizes the Federal Energy Regulatory Commission to order the purchase or transmittal of electricity in the manner described in subsection 1.

4. All of the rules, regulations and statutes pertaining to the public [service] *utilities* commission of Nevada and public utilities apply to actions taken pursuant to this section.

5. Any authorization granted by the public [service] *utilities* commission of Nevada pursuant to this section must include such terms and conditions as the commission determines are necessary to ensure that the rates or charges assessed to other customers of the public utility do not subsidize the cost of providing service to the business.

Sec. 77. NRS 704.275 is hereby amended to read as follows:

704.275 The commission shall determine whether a hearing must be held when the proposed change by a public utility furnishing telephone service in any schedule stating a new or revised individual or joint rate [, fare] or charge, or any new or revised individual or joint regulation or practice affecting any rate [, fare] or charge, will result in an increase in annual gross revenue as certified by the applicant of $50,000 or 10 percent of the applicant's gross revenue, whichever is less.

Sec. 78. NRS 704.310 is hereby amended to read as follows:

704.310 1. Whenever any person, company, corporation or association which is not engaged in business as a public utility as defined by this chapter, and which does not furnish, sell, produce or deliver to others light, heat [, power or water,] *or power,* under a franchise received from [the] *this* state or from any county or municipality within [the state, shall be] *this state, is* able, from any surplus beyond the needs or requirements of its own business, and [shall desire] *desires* to sell, produce, furnish and deliver to any other person, company, association or corporation any light, heat [, power or water, such] *or power, the* person, company, association or corporation shall apply to the commission for authority to sell, produce, furnish or

deliver any such surplus light, heat [, power or water,] *or power,* and shall submit to the commission the proposed contract by which such light, heat [, power or water] *or power* is to be sold, furnished, produced or delivered.

2. The commission shall thereupon ascertain whether it is advisable in the public interest that [such] *the* contract be executed and, if the commission [shall approve such] *approves the* contract, then [such] *the* person, company, corporation or association [shall have] *has* the right to furnish, sell, produce and deliver such light, heat [, power or water] *or power* in accordance with the terms of [such] *the* contract, and [shall] *does* not thereby become a public utility within the meaning of this chapter, nor [shall it be] *is it* subject to the jurisdiction of the commission.

Sec. 79. NRS 704.340 is hereby amended to read as follows:

704.340 1. Subject to the provisions of subsection 3, a municipality constructing, leasing, operating or maintaining any public utility or a trust created for the benefit and furtherance of any public function pursuant to the provisions of general or special law, [other than a trust which undertakes to provide transportation by use of a motor vehicle as a common or contract carrier,] is not required to obtain a certificate of public convenience, but any trust so created which undertakes the operation of a public utility shall first submit a certified copy of the trust documents or prepared trust documents to the commission together with a detailed explanation of the purposes, scope, area to be affected and such other pertinent information necessary to assist the commission in making a determination as to whether the service presently being offered by any existing public utility would be unreasonably impaired by the approval of such trust documents.

2. The commission shall, after investigation and hearing on any contemplated trust coming within the provisions of subsection 1, submit a report of its findings and reasons therefor to the state and each political subdivision within which such trust contemplates operation. Such trust [shall] *does* not become effective unless and until written approval has been given by the commission.

3. If a municipality assumes operation and control of a package plant for sewage treatment pursuant to the provisions of NRS 445A.555 or subsection 2 or 3 of NRS 268.4105, the plant is exempt from the jurisdiction of the commission only for the period of time the municipality continues the maintenance and operation of the plant. The certificate of public convenience as it applies to that plant is suspended for that period of time.

Sec. 80. NRS 704.640 is hereby amended to read as follows:

704.640 Any person who:

1. Operates any public utility to which NRS 704.005 to 704.751, inclusive, *and sections 58 to 63, inclusive, of this act,* applies without first obtaining a certificate of public convenience and necessity or in violation of its terms;

2. Fails to make any return or report required by NRS 704.005 to 704.751, inclusive, *and sections 58 to 63, inclusive, of this act,* or by the commission pursuant to NRS 704.005 to 704.751, inclusive [;] *and sections 58 to 63, inclusive, of this act;*

3. Violates, or procures, aids or abets the violating of any provision of NRS 704.005 to 704.751, inclusive [;] *and sections 58 to 63, inclusive, of this act;*

4. Fails to obey any order, decision or regulation of the commission;

5. Procures, aids or abets any person in his failure to obey the order, decision or regulation; or

6. Advertises, solicits, proffers bids or otherwise holds himself out to perform as a public utility in violation of any of the provisions of NRS 704.005 to 704.751, inclusive, *and sections 58 to 63, inclusive, of this act,*

shall be fined not more than $500.

Sec. 81. NRS 704.669 is hereby amended to read as follows:

704.669 1. Except as *otherwise* provided in subsection 2, every corporation or other person who sells geothermal energy to the public is affected with a public interest, is a public utility and is subject to the jurisdiction and control of the commission. The authority of the commission to regulate such persons is limited to the authority granted by this section and NRS 704.033 and 704.035.

2. This section does not apply to any corporation or other person described in subsection [6] *4* of NRS 704.030 or to any political subdivision of the state authorized to sell energy to the public.

3. The commission shall adopt just and reasonable regulations governing the sale of energy from geothermal resources to the public. The regulations must provide for a system of operating permits which:

(a) May not be denied because the area which the applicant proposes to serve is already being served by a gas or electric utility.

(b) May not convey an exclusive right to supply geothermal energy in the area which the applicant proposes to serve.

(c) Specify in each case the geographic area in which the applicant reasonably can provide the services authorized in the permit.

(d) Require the applicant to enter into a contract with each customer served by the utility. The form and scope of the contract must be subject to review and approval of the commission. The contract must specify at least:

(1) The period of time during which service will be provided. The contract must provide for a period of at least 3 years unless such a provision is expressly waived by the customer.

(2) The rates or the formula for determining rates to be charged during the term of the contract.

(3) That the utility will submit to binding arbitration, pursuant to chapter 38 of NRS, matters relating to damages suffered by the customer as a result of a disruption in service and that in any such arbitration, the utility is liable for damages unless it establishes that the disruption was caused by circumstances beyond its control, or another affirmative defense, or establishes that it was not negligent.

4. Before issuing an operating permit the commission must find that:

(a) The applicant is fit, willing and able to provide the services authorized in the permit.

(b) The applicant has tested the geothermal reservoir to determine whether it appears to be capable of providing sufficient energy to supply the intended uses.

(c) The system which the applicant intends to use to produce and distribute the heat meets appropriate standards.

5. The commission has continuing authority to regulate the utilities described in this section to ensure that each utility adheres to the conditions set forth in its operating permit and that the utility provides adequate services.

Sec. 82. NRS 704.755 is hereby amended to read as follows:

704.755 [1.] A utility which supplies natural gas in this state shall [, periodically, as] *file annually with the commission, in a format* prescribed by the commission, [submit to the commission a plan] *an informational report* which describes:

[(a)] *1.* The anticipated demand for natural gas made on its system by its customers;

[(b)] *2.* The estimated cost of supplying natural gas sufficient to meet the demand and the means by which the utility proposes to minimize that cost; [and

(c)] *3.* The sources of planned acquisitions of natural gas, including an estimate of the cost and quantity of the acquisitions to be made from each source and an assessment of the reliability of the source [.

2. The commission shall, by regulation, provide for the procedure and schedule for and the contents and method of preparing, reviewing and approving the plan.

3. The costs of preparing the plan are allowable expenses of the utility for the purpose of establishing rates. The commission may provide for the timely recovery of those costs.

4. The application of this section is limited to any public utility in the business of supplying natural gas which has an annual operating revenue in this state of $10,000,000 or more.] *; and*

4. Significant operational or capital requirements of the utility related to its provision of gas service in this state.

Sec. 83. NRS 704.820 is hereby amended to read as follows:

704.820 NRS 704.820 to 704.900, inclusive, *and sections 55 and 56 of this act* shall be known and may be cited as the Utility Environmental Protection Act.

Sec. 84. NRS 704.825 is hereby amended to read as follows:

704.825 1. The legislature hereby finds and declares that:

(a) There is at present and will continue to be a growing need for electric, gas and water services which will require the construction of new facilities. It is recognized that such facilities cannot be built without in some way affecting the physical environment where such facilities are located.

(b) It is essential in the public interest to minimize any adverse effect upon the environment and upon the quality of life of the people of the state which such new facilities might cause.

(c) Present laws and practices relating to the location of such utility facilities should be strengthened to protect environmental values and to take into account the total cost to society of such facilities.

(d) Existing provisions of law may not provide adequate opportunity for natural persons, groups interested in conservation and the protection of the environment, state and regional agencies, local governments and other public bodies to participate in [any and all proceedings before the public service commission of Nevada] *proceedings* regarding the location and construction of major facilities.

2. The legislature, therefore, hereby declares that it is the purpose of NRS 704.820 to 704.900, inclusive, to provide a forum for the expeditious resolution of all matters concerning the location and construction of electric, gas and water transmission lines and associated facilities.

Sec. 85. NRS 704.850 is hereby amended to read as follows:

704.850 "Person" includes a *natural person, corporation, partnership, public utility,* government, [a] governmental agency , [and a] political subdivision of a government [.] *and any other entity that seeks to construct a utility facility.*

Sec. 86. NRS 704.855 is hereby amended to read as follows:

704.855 1. "Public utility" or "utility" includes those public utilities defined in NRS 704.020 and not excluded by NRS 704.030 and any oil pipeline carrier described and regulated under chapter 708 of NRS.

2. ["Public utility" also includes any corporation which:

(a) Is a parent or an affiliated corporation of a public utility or a subsidiary of that parent or affiliated corporation; and

(b) Owns, independently or in combination with any other public utility, a one-third interest in a utility facility.

3.] "Public utility" does not include plants or equipment used to generate electrical energy that is wholly consumed on the premises of and by the producer thereof.

Sec. 87. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities;

2. Electric transmission lines and transmission substations designed to operate at 200 kilovolts or more, and not required by local ordinance to be placed underground when constructed outside any incorporated city;

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside any incorporated city;

4. Telephone and telegraph equipment buildings, their associated facilities and the sites thereof, when constructed outside any incorporated city;

5. Water storage, transmission and treatment facilities [;] , *other than facilities for the storage, transmission or treatment of water from mining operations;* and

6. Sewer transmission and treatment facilities.

Sec. 88. NRS 704.870 is hereby amended to read as follows:

704.870 1. A [public utility which] *person who* applies for a permit

must file with the commission an application, in such form as the commission prescribes, containing:

(a) A description of the location and of the utility facility to be built thereon;

(b) A summary of any studies which have been made of the environmental impact of the facility; *and*

(c) [A statement explaining the need for the facility; *and*

(d)] A description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility . [;

(e) A summary of the examination of conservation measures and alternative sources of energy which was made before the construction of a facility using fossil fuel; and

(f) Such other information as the applicant may consider relevant or as the commission may by regulation or order require.]

A copy or copies of the studies referred to in paragraph (b) must be filed with the commission and be available for public inspection.

2. [A person who is not a public utility and who applies for a permit must file with the commission an application, in such form as the commission prescribes, containing:

(a) A description of the location and of the utility facility to be built thereon;

(b) A summary of any studies which have been made of the environmental impact of the facility; and

(c) Such other information as the applicant may consider relevant.

3.] A copy of the application must be filed with the administrator of the division of environmental protection of the state department of conservation and natural resources.

[4.] *3.* Each application must be accompanied by:

(a) Proof of service of a copy of the application on the clerk of each local government in the area in which any portion of the facility is to be located, both as primarily and as alternatively proposed; and

(b) Proof that public notice thereof was given to persons residing in the municipalities entitled to receive notice [under] *pursuant to* paragraph (a) by the publication of a summary of the application in newspapers published and distributed in the area in which the utility facility is proposed to be located.

Sec. 89. NRS 704.885 is hereby amended to read as follows:

704.885 1. The parties to a permit proceeding include:

(a) The applicant.

(b) The division of environmental protection of the state department of conservation and natural resources.

(c) Each local government entitled to receive service of a copy of the application [under subsection 4] *pursuant to subsection 3* of NRS 704.870, if it has filed with the commission a notice of intervention as a party, within [45] *30* days after the date it was served with a copy of the application.

(d) Any person residing in a local government entitled to receive service of a copy of the application [under subsection 4] *pursuant to subsection 3* of NRS 704.870, if such a person has petitioned the commission for leave to intervene as a party within [45] *30* days after the date of the published notice and if the petition has been granted by the commission for good cause shown.

(e) Any domestic nonprofit corporation or association, formed in whole or in part to promote conservation of natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial and industrial groups, or to promote the orderly development of the areas in which the facility is to be located, if it has filed with the commission a notice of intent to be a party within [45] *30* days after the date of the published notice.

2. Any person may make a limited appearance in the proceeding by filing a statement of position within [45] *30* days after the date of the published notice. A statement filed by a person making a limited appearance becomes part of the record. No person making a limited appearance has the right to present oral testimony or cross-examine witnesses.

3. The commission may, for good cause shown, grant a petition for leave to intervene as a party to participate in subsequent phases of the proceeding, filed by a municipality, government agency, person or organization who is identified in paragraph (c), (d) or (e) of subsection 1, but who failed to file in a timely manner a notice of intervention, a petition for leave to intervene or a notice of intent to be a party, as the case may be.

Sec. 90. NRS 704.890 is hereby amended to read as follows:

704.890 1. [The] *Within 150 days after a person has filed an application for a permit, the* commission shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions or modifications of the construction, operation or maintenance of the utility facility as the commission deems appropriate.

2. The commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the commission, to a [public utility] *person* unless it finds and determines:

(a) [The basis for the need of the facility;

(b)] The nature of the probable effect on the environment;

[(c)] *(b)* That the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives [, and other pertinent considerations;] ;

[(d)] *(c)* That the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder; *and*

[(e)] *(d)* That the facility will serve the public interest . [; and

(f) That if the facility or a part thereof is intended to meet the requirements of customers in this state for electricity, it is included in the utility's plan to increase its supply of electricity or decrease the demands made on its system by its

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3. The commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the commission, to a person other than a public utility unless it finds and determines:

(a) The nature of the probable environmental impact; and

(b) That the location of the facility as proposed conforms to applicable state and local environmental laws and regulations issued thereunder.

4.] *3.* If the commission determines that the location of all or a part of the proposed facility should be modified, it may condition its permit upon such a modification.

[5.] *4.* A copy of the order and any opinion issued with it must be served upon each party.

]6. The commission may require that any person applying for a permit to construct a plant for generating electrical energy offer the energy or capacity of the project to all public utilities in this state which primarily serve retail customers. If the offer is declined, the applicant may export the capacity of the project. If less than 50 percent of the capacity of such a project sold during its first 156 months of commercial operation is sold to public utilities in this state, the applicant shall reoffer the capacity of the project to all public utilities in this state. This reoffer must provide an opportunity to purchase energy or capacity at fair market value and ensure that 50 percent of the total capacity of the project is available to public utilities in this state. Any purchase of energy or capacity as a result of the reoffer is effective 84 months after the execution of the contracts of purchase.]

Sec. 91. NRS 704.891 is hereby amended to read as follows:

704.891 Any person other than a public utility who receives a permit pursuant to subsection [3] 2 of NRS 704.890 shall, on or before the date *on which* construction of a utility facility is commenced and on a date no later than 12 months before the scheduled date of commercial operation of that facility, file with the commission reports which contain:

1. The location, nature and capacity of that facility;

2. The anticipated date for commercial operation of that facility;

3. Information regarding whether any public utility in this state has contracted for the purchase of the capacity or other services of that facility; and

4. Information regarding whether any capacity or other services of that facility is available for purchase by public utilities in this state.

Sec. 92. NRS 704.950 is hereby amended to read as follows:

704.950 1. The tenant of a lot in a mobile home park or occupant of a dwelling in a company town who believes that the landlord or owner has violated the provisions of NRS 704.930, 704.940 or 704.960 may complain to the division of consumer [relations] *complaint resolution* of the commission. The division shall receive and promptly investigate the complaint. If the division is unable to resolve the complaint, the division shall transmit the complaint and its recommendation to the commission.

2. The commission shall investigate, give notice and hold a hearing upon

the complaint, applying to the extent practicable the procedures provided for complaints against public utilities in chapter 703 of NRS.

3. If the commission finds that the landlord of the mobile home park or owner of the company town has violated the provisions of NRS 704.930, 704.940 or 704.960, it shall order him to cease and desist from any further violation. If the violation involves an overcharge for a service, the commission shall determine the amount of the overcharge and order the landlord or owner to return that amount to the tenant or occupant within a specified time.

4. If the landlord or owner fails or refuses to comply with its order, the commission may compel compliance by any appropriate civil remedy available to it under this chapter. For the purposes of compelling compliance by the landlord or owner, the commission may use such methods as are available for the commission to compel the compliance of a public utility.

Sec. 93. NRS 704A.180 is hereby amended to read as follows:

704A.180 1. Within 15 days after the receipt of the petition, each public utility corporation other than the municipality shall notify the municipality of the petition's receipt and shall request the municipality to notify the public utility corporation of the basis to be used by the municipality in the apportionment of the costs to be defrayed by special assessments levied against the specially benefited lots within the proposed service district if the facilities of the public utility corporation therein are to be placed underground under this chapter.

2. Within 30 days of the receipt by the municipality of each such request, or, if the public utility corporation is the municipality, the petition, the governing body shall state, by resolution, the basis for the apportionment of those costs by assessments against the specially benefited lots, subject to the provisions of subsections 5 and 6 of NRS 704A.240, and shall forthwith cause a certified true copy of the resolution pertaining to each public utility corporation requesting the basis of assessments to be furnished thereto.

3. Within 120 days after receipt of the basis for assessments, or, if the public utility corporation is the municipality, after the adoption of the resolution, each public utility corporation serving the area shall:

(a) Make a study of the cost of providing new underground electric and communication facilities or conversion of its facilities in the area to underground service.

(b) Make available in its office to the petitioners and to all owners of real property within the proposed service district a joint report of the results of the study of the public utility corporations affected.

4. If a public utility corporation subject to the jurisdiction of the public [service] *utilities* commission of Nevada determines as a result of the study that installation of the proposed service is not economically or technically feasible, it may, with the concurrence of the public [service] *utilities* commission of Nevada, so state in the joint report and proceed no further toward installation of the proposed service. Nothing in this chapter requires the public [service] *utilities* commission of Nevada to participate in preparation of the joint report referred to in this section.

5. If a public utility corporation is a city or county and if it determines as a result of the study that installation of the proposed service is not economically or technically feasible, it may, with the concurrence of its governing body, as provided by resolution so state in the joint report and proceed no further toward installation of the proposed service.

6. Except for the facilities of each public utility corporation described in subsection 4 or 5, if any, the joint report must:

(a) Contain an estimate of the costs to be assessed to each lot of real property located within the proposed service district for the construction of new facilities or conversion of facilities within public places.

(b) Indicate the estimated cost to be assessed to each lot of real property for placing underground the facilities of the public utility corporation located within the boundaries of each lot.

(c) Indicate the estimated cost, if any, to be borne by the public utility corporation for any facilities to be provided by it and which remain its property rather than becoming property of owners of individual lots, as provided by regulations of the public [service] *utilities* commission of Nevada in the case of a public utility corporation other than a city or county, and, in the case of any public utility corporation, by any other applicable laws, ordinances, rules or regulations.

7. The costs of preparing the joint report must be borne by the public utility corporation or corporations whose electric or communication facilities are to be included in the proposed service district unless the governing body orders the establishment of the service district, in which event the costs must be included in the costs of the service district.

Sec. 94. NRS 704A.240 is hereby amended to read as follows:

704A.240 1. At the place, date and hour specified for the hearing in the notice or at any subsequent time to which the hearing may be adjourned the governing body shall give full consideration to all written objections which have been filed and shall hear all owners of real property within the proposed service district desiring to be heard.

2. If the governing body determines at the hearing that:

(a) The requirements for the establishment of a service district have been satisfied;

(b) Objections have not been filed in writing by more than 40 percent of the owners of real property within the proposed service district, or by owners of more than 40 percent of the real property on a square foot basis in the proposed service district;

(c) Considering all objections, the cost of construction or conversion as contained in the joint report prepared pursuant to NRS 704A.180 is economically and technically feasible for the public utility corporations involved and the owners of real property affected; and

(d) The proposed service district is a reasonably compact area of reasonable size,

the governing body shall enact an ordinance establishing the area as a service district.

3. The ordinance [shall:] *must:*

(a) State the costs to be assessed to each lot in the service district, [which shall include] *including* the appropriate share of all costs referred to in NRS 704A.180 and 704A.210.

(b) Direct the public utility corporation owning overhead electric or communication facilities within the service district to construct or convert such facilities to underground facilities and, in the case of a public utility corporation other than a city or county, in accordance with standard underground practices and procedures approved by the public [service] *utilities* commission of Nevada.

(c) State the method of levying assessments, the number of installments, and the times when the costs assessed will be payable.

4. Before enacting an ordinance establishing a service district, the governing body shall exclude by resolution or ordinance any territory described in the petition which the governing body finds will not be benefited by inclusion in the service district or for which territory construction or conversion is not economically or technically feasible.

5. The basis for apportioning the assessments:

(a) [Shall] *Must* be in proportion to the special benefits derived to each of the several lots comprising the assessable property within the service district; and

(b) [Shall] *Must* be on a front foot, area, zone or other equitable basis as determined by the governing body.

6. Regardless of the basis used for the apportionment of assessments, in cases of wedge or V or any other irregularly shaped lots, an amount apportioned thereto [shall] *must* be in proportion to the special benefits thereby derived.

7. The assessable property in the service districts consists of the lots specially benefited by the construction or conversion of service facilities, except:

(a) Any lot owned by the Federal Government in the absence of consent of Congress to its assessment; and

(b) Any lot owned by the municipality.

Sec. 95. NRS 704A.300 is hereby amended to read as follows:

704A.300 1. The service facilities within the boundaries of each lot within an underground conversion service district must be placed underground at the same time as or after the underground system in private easements and public places is placed underground. The public utility corporation involved, directly or through a contractor, shall, in accordance with the rules and regulations of the public utility corporation, but subject to the regulations of the public [service] *utilities* commission of Nevada in the case of a public utility corporation other than a city or county, and, in the case of any [public] utility corporation, subject to any other applicable laws, ordinances, rules or regulations of the municipality or any other public agency under the police power, convert to underground its facilities on any such lot in the case of:

(a) An electric public utility, up to the service entrance.

(b) A communication public utility, to the connection point within the house or structure.

2. All costs or expenses of conversion must be included in the costs on which the underground conversion cost for such property is calculated, as provided in this chapter.

Sec. 96. NRS 705.210 is hereby amended to read as follows:

705.210 1. As used in this section:

(a) "Employees" means persons actually engaged in or connected with the movement of any train.

(b) "Railroad" includes all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract agreement or lease.

2. The provisions of this section [shall] apply to any common carrier or carriers, their officers, agents and employees engaged in the transportation of passengers or property by railroad in the State of Nevada.

3. It [shall be] *is* unlawful for any common carrier, its officers or agents, subject to this section, to require or permit any employee subject to this section to be or remain on duty for a longer period than 16 consecutive hours, and whenever any such employee of such common carrier [shall have] *has* been continuously on duty for 16 hours he [shall] *must* be relieved and not required or permitted again to go on duty until he has had at least 10 consecutive hours off duty. No such employee who has been on duty 16 hours in the aggregate in any 24-hour period [shall] *must* be required or permitted to continue or again go on duty without having had at least 8 consecutive hours off duty.

4. No employee who, by the use of the telegraph or telephone or other electrical device, dispatches, reports, transmits, receives or delivers orders or who from towers, offices, places and stations operates signals or switches or similar mechanical devices controlling, pertaining to, or affecting the movement of trains of more than two cars [shall] *must* be required or permitted to be or remain on duty in any 24-hour period for a longer period than 8 hours, which [period of 8 hours shall] *must* be wholly within the limits of a continuous shift and upon the completion of [which period such employee shall] *that period the employee must* not be required or permitted again to go on duty until the expiration of 16 hours. This subsection [shall] *does* not apply to employees who , in case of emergency , use the telephone to obtain orders or information governing the movement of trains. In case of emergency, [the employees named in this subsection] *such employees* may be permitted to be and remain on duty for 4 additional hours in a 24 hour period of not exceeding 3 days in any week.

5. Any common carrier, or any officer or agent thereof, requiring or permitting any employee to go, be or remain on duty in violation of subsections 3 and 4 shall be punished by a fine of not more than $500.

6. In all prosecutions under this section the common carrier shall be deemed to have had knowledge of all acts of its officers and agents.

7. The provisions of this section [shall] *do* not apply:

(a) In any case of casualty or unavoidable accident or the act of God.

(b) Where the delay was the result of a cause not known to the carrier or its officers or agents in charge of such employee at the time the employee left the terminal and which could not have been foreseen.

(c) To the crews of wrecking or relief trains.

(d) To railroads not maintaining a regular night train schedule.

8. The public [service] *utilities* commission of Nevada shall:

(a) Execute and enforce the provisions of this section, and all powers granted by law to the public [service] *utilities* commission of Nevada are hereby extended to it in the execution of this section.

(b) Lodge with the proper district attorneys information of any violations of this section which may come to its knowledge.

Sec. 97. NRS 705.360 is hereby amended to read as follows:

705.360 1. Every company, corporation lessee, manager or receiver, owning or operating a railroad in this state, shall equip, maintain, use and display at night upon each locomotive being operated in road service in this state an electric or other headlight of at least 1,500 candle power, measured without the aid of a reflector. Any electric headlight which will pick up and distinguish a man dressed in dark clothes upon a dark, clear night at a distance of 1,000 feet is deemed the equivalent of a 1,500 candle power headlight measured without the aid of a reflector.

2. This section does not apply to:

(a) Locomotive engines regularly used in switching cars or trains.

(b) Railroads not maintaining regular night train schedules.

(c) Locomotives going to or returning from repair shops when ordered in for repairs.

3. Any railroad company, or the receiver or lessee thereof, which violates the provisions of this section is liable to the public [service] *utilities* commission of Nevada for a penalty of not more than $1,000 for each violation.

Sec. 98. NRS 705.370 is hereby amended to read as follows:

705.370 1. Each railroad company or corporation or its receiver, owning or operating any railroad within this state, shall equip and maintain in each of its passenger trains, cabooses, locomotives, motors or diesel engines used in the propelling of trains or switching of cars an emergency first-aid kit whose contents must be those prescribed by the public [service] *utilities* commission of Nevada. Each passenger train and each caboose must be equipped with at least one stretcher. All of the contents of the emergency first-aid kits, except the stretchers, must be stored on each passenger train, caboose, locomotive, motor or diesel engine, in a clean, sanitary and sterile container and in an accessible place at all times, which places, including the storage places of stretchers, must be plainly designated.

2. The employee of any railroad company or corporation or its receiver, having charge of any passenger train, caboose, locomotive, motor or diesel engine, shall as soon as possible report in writing to the office or officer

designated by the company, corporation or receiver for the purpose, whenever any of the emergency first-aid kit has been used or has been found missing. The emergency first-aid kit must only be used to render first medical or surgical aid to injured passengers, employees or other injured persons requiring first aid.

3. Any railroad company or corporation or its receiver, which refuses, neglects or fails to comply with the provisions of this section is liable for a penalty to the public [service] *utilities* commission of Nevada of $25 for each failure to equip a passenger train, caboose, locomotive or motor or diesel engine with the emergency first-aid kit specified in subsection 1.

4. Any person who removes, carries away from its proper place or uses any emergency first-aid kit provided in this section, except for the purpose of administering first aid in the event of injury to any passenger, employee or other person shall be fined not more than $500.

Sec. 99. NRS 705.420 is hereby amended to read as follows:

705.420 Any railroad company or receiver of any railroad company, and any person engaged in the business of common carrier doing business in the State of Nevada, which violates any of the provisions of NRS 705.390 is liable to the public [service] *utilities* commission of Nevada for a penalty of $500 for each violation.

Sec. 100. NRS 705.421 is hereby amended to read as follows:

705.421 The department of transportation:

1. Shall develop, in conjunction with the public [service] *utilities* commission of Nevada, a state plan for rail service; and

2. May carry out the plan, including projects to:

(a) Preserve rail lines;

(b) Rehabilitate rail lines to improve service; and

(c) Restore or improve freight service on rail lines which are potentially subject to abandonment.

Sec. 101. NRS 705.425 is hereby amended to read as follows:

705.425 1. A state program for the physical preservation, in place, of property of lines of railroad, while service on such lines is discontinued, is hereby established to provide an alternative to actual abandonment.

2. The department of transportation shall determine whether a line of railroad is eligible for admission to the program. A rail line may be admitted if:

(a) The [Interstate Commerce Commission] *Surface Transportation Board* has approved the line for abandonment or discontinuance of service or the department of transportation has determined that the line is potentially subject to abandonment;

(b) The owners, operators and users of the line, the department of transportation and all counties and cities affected have agreed to the admission of the line to the program; and

(c) The owners and operators of the line agree to suspend service on the line for 5 years without removing or disposing of any of the trackage or other operating rail properties of the line, as an alternative to abandonment,

to permit consideration by interested parties of means of preventing the ultimate abandonment of the line.

3. At the end of 5 years the department of transportation may grant an extension, admitting the line of railroad to the program for not more than 5 additional years, if, in the judgment of the director of the department of transportation:

(a) The line is still potentially subject to abandonment; and

(b) The extension will facilitate the restoration of service on the line.

4. The owner of a line of railroad which has been admitted to the program is entitled to an allowance for taxes on the trackage and other operating rail properties of the line admitted. The department of transportation shall provide to the department of taxation all information requested by the department of taxation to carry out the system of allowances for taxes on the operating property of lines admitted to the program.

Sec. 102. NRS 705.427 is hereby amended to read as follows:

705.427 The department of transportation may contract for the acquisition, by lease or purchase, and operation of trackage and other rail properties of lines of railroad which:

1. The [Interstate Commerce Commission] *Surface Transportation Board* has approved for abandonment or discontinuance of service; or

2. The director of the department of transportation has determined to be potentially subject to abandonment,

for the purpose of maintaining existing freight service or providing for such service in the future, but no such contract may require the expenditure of state money unless previously authorized by the legislature.

Sec. 103. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 104 to 129, inclusive, of this act.

Sec. 104. *"Authority" means the transportation services authority created pursuant to section 114 of this act.*

Sec. 105. *1. The transportation services authority is hereby created.*

2. The authority consists of three members appointed by the governor. After the initial term each member shall serve a term of 4 years.

3. The governor shall appoint to the authority members who have at least 2 years of experience in one or more of the following fields:

(a) Accounting.

(b) Business administration.

(c) Economics.

(d) Administrative law.

(e) Transportation.

(f) Professional engineering.

At least one but not more than two of the members appointed must be residents of Clark County.

4. Not more than two of the members may be:

(a) Members of the same political party.

(b) From the same field of experience.

5. All of the members must be persons who are independent of the industries regulated by the authority. No elected officer of this state or any political subdivision is eligible for appointment.

6. The members of the authority shall give their entire time to the business of the authority and shall not pursue any other business or vocation or hold any other office of profit.

7. Each member of the authority serves at the pleasure of the governor.

Sec. 106. *1. The governor shall designate one of the members of the authority to be chairman. The chairman is the executive officer of the authority and serves at the pleasure of the governor.*

2. The members of the authority are in the unclassified service of the state.

Sec. 107. *The authority may sue and be sued in the name of the transportation services authority.*

Sec. 108. *1. A majority of the members of the authority may exercise all of the power and conduct the business of the authority relating to common or contract carrier, taxicabs, and the warehousing of household goods as provided in this chapter and chapter 712 of NRS.*

2. Except as otherwise provided in this subsection, public hearings must be conducted by one or more members of the authority. An administrative proceeding conducted pursuant to subsection 2 of NRS 706.771 may be conducted by a hearing officer designated by the chairman of the authority.

Sec. 109. *1. Any common or contract carrier subject to the jurisdiction of the authority that elects to maintain its books and records outside the State of Nevada shall, in addition to any other assessment and fees provided for by law, be assessed by the authority for an amount equal to the travel expenses and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160, of members of the authority and staff, for investigations, inspections and audits required to be performed outside this state.*

2. The assessments provided for by this section must be determined by the authority upon the completion of each such investigation, inspection, audit or appearance and are due within 30 days after receipt by the affected common or contract carrier of the notice of assessment.

3. The records of the authority relating to the additional costs incurred by reason of the necessary additional travel must be open for inspection by the affected common or contract carrier at any time within the 30-day period.

Sec. 110. *1. The transportation services authority regulatory fund is hereby created as a special revenue fund. All money collected by the authority pursuant to law must be deposited in the state treasury for credit to the fund.*

2. Money in the fund may be used only to defray the costs of:

(a) Maintaining staff and equipment needed to regulate adequately persons subject to the jurisdiction of the authority.

(b) Participating in all proceedings relevant to the jurisdiction of the authority.

(c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that maintenance and participation.

(d) The salaries, travel expenses and subsistence allowances of the members of the authority.

3. All claims against the fund must be paid as other claims against the state are paid.

4. The authority must furnish upon request a statement showing the balance remaining in the fund as of the close of the preceding fiscal year.

Sec. 111. *Employees of the authority who are peace officers may carry firearms in the performance of their duties.*

Sec. 112. *Except as otherwise provided in section 116 of this act, the authority shall make and publish biennial reports showing its proceedings. All biennial reports, records, proceedings, papers and files of the authority must be open at all reasonable times to the public.*

Sec. 113. *1. Each fully regulated carrier and common or contract carrier regulated by the authority shall:*

(a) Keep uniform and detailed accounts of all business transacted in the manner required by the authority by regulation and render them to the authority upon its request.

(b) Furnish an annual report to the authority in the form and detail that it prescribes by regulation.

2. Except as otherwise provided in subsection 3, the reports required by this section must be prepared for each calendar year and submitted not later than May 15 of the year following the year for which the report is submitted.

3. A carrier may, with the permission of the authority, prepare the reports required by this section for a year other than a calendar year that the authority specifies and submit them not later than a date specified by the authority in each year.

4. If the authority finds that necessary information is not contained in a report submitted pursuant to this section, it may call for the omitted information at any time.

Sec. 114. *Every annual report, record or statement required by law to be made to the authority must be submitted under oath by the proper officer, agent or person responsible for submitting the report, record or statement.*

Sec. 115. *1. Except as otherwise provided in subsection 2, any member of the authority or any officer or employee of the authority who is designated by the authority may examine during the regular business hours the books, accounts, records, minutes, papers and property of any person who is regulated by the authority and who does business in this state, whether or not the book, account, record, minutes, paper or property is located within this state.*

2. No personnel records of an employee may be examined pursuant to subsection 1 unless the records contain information relating to a matter of public safety or the authority determines that the examination is required to protect the interests of the public.

3. As used in this section, "personnel records" does not include:

(a) The name of the employee who is the subject of the record;

(b) The gross compensation and perquisites of the employee;

(c) Any record of the business expenses of the employee;

(d) The title or any description of the position held by the employee;

(e) The qualifications required for the position held by the employee;

(f) The business address of the employee;

(g) The telephone number of the employee at his place of business;

(h) The work schedule of the employee;

(i) The date on which the employee began his employment; and

(j) If applicable, the date on which the employment of the employee was terminated.

Sec. 116. *1. Any books, accounts, records, minutes, papers and property of any carrier that are subject to examination pursuant to sections 112 and 115 of this act, and are made available to the authority, any officer or employee of the authority, or any other person under the condition that the disclosure of such information to the public be withheld or otherwise limited, must not be disclosed to the public unless the authority first determines that the disclosure is justified.*

2. The authority shall take such actions as are necessary to protect the confidentiality of such information, including, without limitation:

(a) Granting such protective orders as it deems necessary; and

(b) Holding closed hearings to receive or examine such information.

3. If the authority closes a hearing to receive or examine such information, it shall:

(a) Restrict access to the records and transcripts of such hearings without the prior approval of the authority or an order of a court of competent jurisdiction authorizing access to the records or transcripts; and

(b) Prohibit any participant at such a hearing from disclosing such information without the prior authorization of the authority.

4. The authority shall consider in an open meeting whether the information reviewed or examined in a closed hearing may be disclosed without revealing the confidential subject matter of the information. To the extent the authority determines the information may be disclosed, the information must become a part of the records available to the public. Information that the authority determines may not be disclosed must be kept under seal.

Sec. 117. *1. The authority may collect fees for the filing of any official document required by this chapter or by a regulation of the authority.*

2. Filing fees may not exceed:

(a) For applications, $200.

(b) For petitions seeking affirmative relief, $200.

(c) For each tariff page that requires public notice and is not attached to an application, $10. If more than one page is filed at one time, the total fee may not exceed the cost of notice and publication.

(d) For all other documents that require public notice, $10.

3. If an application or other document is rejected by the authority because it is inadequate or inappropriate, the filing fee must be returned.

4. The authority may not charge any fee for filing a complaint.

Sec. 118. *1. The attorney general shall:*

(a) Act as counsel and attorney for the authority in all actions, proceedings and hearings.

(b) Prosecute in the name of the transportation services authority all civil actions for the enforcement of this chapter and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the authority in the performance of its duties and the enforcement of this chapter.

2. The attorney general or any district attorney may prosecute any violation of this chapter or chapter 712 of NRS for which a criminal penalty is provided.

Sec. 119. *The authority may, in carrying out its duties:*

1. Cooperate with the Federal Government and its departments and agencies.

2. Confer with the regulatory agencies of other states on matters of mutual concern and benefit to persons served by motor carriers of this state.

Sec. 120. *1. When a complaint is made against any fully regulated carrier by any person, that any of the rates, tolls, charges or schedules, or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate, the authority shall investigate the complaint. After receiving the complaint, the authority shall give a copy of it to the carrier or tow car operator against whom the complaint is made. Within a reasonable time thereafter, the carrier or tow car operator shall provide the authority with its written response to the complaint according to the regulations of the authority.*

2. If the authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in section 120 of this act.

Sec. 121. *1. When, in any matter pending before the authority, a hearing is required by law, or is normally required by the authority, the authority shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The authority shall by regulation specify:*

(a) The manner of giving notice; and

(b) Where not specified by law, the persons entitled to notice in each type of proceeding.

2. Unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the authority a request that the hearing be held, the authority may dispense with a hearing and act upon the matter pending.

3. If a request for a hearing is filed, the authority shall give at least 10 days' notice of the hearing.

Sec. 122. *1. A complete record must be kept of all hearings before the authority, and all testimony must be taken down by the stenographer appointed by the authority, or, under the direction of any competent person appointed by the authority, reported by sound recording equipment in the manner authorized for reporting testimony in district courts. The testimony reported by a stenographer must be transcribed and filed with the record in the matter. The authority may by regulation provide for the transcription or safekeeping of sound recordings. The costs of recording and transcribing testimony at any hearing, except those hearings ordered pursuant to section 120 of this act must be paid by the applicant. If a complaint is made pursuant to section 120 of this act by a customer or by a political subdivision of this state or a municipal organization, the complainant is not liable for any costs. Otherwise, if there are several applicants or parties to any hearing, the authority may apportion the costs among them in its discretion.*

2. Whenever any petition is served upon the authority, before the action is reached for trial, the authority shall file a certified copy of all proceedings and testimony taken with the clerk of the court in which the action is pending.

3. A copy of the proceedings and testimony must be furnished to any party, on payment of a reasonable amount, to be fixed by the authority, and the amount must be the same for all parties.

4. The provisions of this section do not prohibit the authority from restricting access to the records and transcripts of a hearing pursuant to subsection 2 of section 116 of this act.

Sec. 123. *1. Any party is entitled to an order by the authority for the appearance of witnesses or the production of books, papers and documents containing material testimony.*

2. Witnesses appearing upon the order of the authority are entitled to the same fees and mileage as witnesses in civil actions in the courts of this state, and the fees and mileage must be paid out of the state treasury in the same manner as other claims against the state are paid. No fees or mileage may be allowed unless the chairman of the authority certifies the correctness of the claim.

Sec. 124. *The authority may require, by order to be served on any person regulated by the authority in the same manner as a subpoena in a civil action, the production at a time and place designated by the authority of any books, accounts, papers or records kept by the person in any office or place outside this state, or verified copies in lieu thereof if the authority so directs, so that an examination may be made by the authority or under its direction, or for use as testimony.*

Sec. 125. *Any person who is aggrieved by any action or inaction of the authority is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS. The authority may adopt such regulations as may be necessary to provide for a judicial review pursuant to this section.*

Sec. 126. *1. A certificate of public convenience and necessity, permit or license issued in accordance with this chapter is not a franchise and may be revoked.*

2. The authority may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee, suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, and sections 104 to 129, inclusive, of this act for a period not to exceed 60 days.

3. Upon receipt of a written complaint or on its own motion, the authority may, after investigation and hearing, revoke any certificate, permit or license. If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes his interest in the certificate, permit or license by so notifying the authority in writing, the authority may revoke the certificate, permit or license without a hearing.

4. The proceedings thereafter are governed by the provisions of chapter 233B of NRS.

Sec. 127. (Deleted by amendment.)

Sec. 128. *1. A vehicle used as a taxicab, limousine or other passenger vehicle in passenger service must be impounded by the authority if a certificate of public convenience and necessity has not been issued authorizing its operation. A hearing must be held by the authority no later than the conclusion of the second normal business day after impoundment, weekends and holidays excluded. As soon as practicable after impoundment, the authority shall notify the registered owner of the vehicle:*

(a) That the registered owner of the vehicle must post a bond in the amount of $20,000 to ensure his presence at all proceedings held pursuant to this section;

(b) Of the time set for the hearing; and

(c) Of his right to be represented by counsel during all phases of the proceedings.

2. The authority shall hold the vehicle until the registered owner of the vehicle appears and:

(a) Proves that he is the registered owner of the vehicle;

(b) Proves that he holds a valid certificate of public convenience and necessity;

(c) Proves that the vehicle meets all required standards of the authority; and

(d) Posts a bond in the amount of $20,000 with the administrator.

The authority shall return the vehicle to its registered owner when the owner meets the requirements of this subsection and pays all costs of impoundment.

3. If the registered owner is unable to meet the requirements of paragraphs (b) or (c) subsection 2, the authority may assess an administrative fine against the registered owner for each such violation in the amount of $5,000. The maximum amount of the administrative fine that may be assessed against a registered owner for a single impoundment of his vehicle

pursuant to this section is $10,000. The authority shall return the vehicle after any administrative fine imposed pursuant to this subsection and all costs of impoundment have been paid.

Sec. 129. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.013 to 706.791, inclusive, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, *and section 104 of this act,* have the meanings ascribed to them in those sections.

Sec. 130. NRS 706.031 is hereby amended to read as follows:

706.031 "Commission" means the public [service] *utilities* commission of Nevada.

Sec. 131. NRS 706.072 is hereby amended to read as follows:

706.072 "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the [commission] *authority* a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the [commission.] *authority.*

Sec. 132. NRS 706.085 is hereby amended to read as follows:

706.085 "Household goods" means any of the following:

1. Personal effects and property used or to be used in a dwelling which are part of the equipment or supply of the dwelling and such other similar property as the [commission] *authority* may provide by regulation. The term does not include property moving from a factory or store, except property that the householder has purchased with the intent to use in his dwelling and that is transported at the request of, and the transportation charges paid to the carrier by, the householder.

2. Furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments which are part of the stock, equipment or supply of the stores, offices, museums, institutions, hospitals or other establishments and such other similar property as the [commission] *authority* may provide by regulation. The term does not include the stock in trade of any establishment whether cosigner or consignee, other than used furniture and used fixtures, when transported as incidental to moving the establishment, or a portion of the establishment, from one location to another.

3. Articles, including objects of art, displays and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods and such other similar articles as the [commission] *authority* may provide by regulation. This subsection does not include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.

Sec. 133. NRS 706.151 is hereby amended to read as follows:

706.151 1. It is hereby declared to be the purpose and policy of the legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, to confer upon the [commission] *authority* the power and to make

it the duty of the [commission] *authority* to regulate fully regulated carriers and brokers of regulated services to the extent provided in this chapter and to confer upon the department the power to license all motor carriers and to make it the duty of the department to enforce the provisions of this chapter and the regulations adopted by the [commission] *authority* pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation, to promote safe, adequate, economical and efficient service and foster sound economic conditions in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for intrastate transportation by fully regulated carriers without unjust discriminations against or undue preferences or advantages being given to any motor carrier or applicant for a certificate of public convenience and necessity.

(e) To discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier business within this state.

2. All of the provisions of this chapter must be administered and enforced with a view to carrying out the declaration of policy contained in this section.

Sec. 134. NRS 706.153 is hereby amended to read as follows:

706.153 The provisions of NRS 706.151 to 706.163, inclusive, 706.168, 706.311 to 706.436, inclusive, 706.471, 706.473, 706.475, 706.6411 to 706.749, inclusive, and 706.881 to 706.885, inclusive, *and sections 104 to 129, inclusive, of this act,* do not apply to an operator of a tow car.

Sec. 135. NRS 706.156 is hereby amended to read as follows:

706.156 1. All common and contract motor carriers and brokers are hereby declared to be, to the extent provided in this chapter:

(a) Affected with a public interest; and

(b) Subject to NRS 706.011 to 706.791, inclusive [.] , *and sections 104 to 129, inclusive, of this act.*

2. Fully regulated carriers are subject to the regulation of rates, charges and services by the [commission.] *authority.*

3. A purchaser or broker of transportation services which are provided by a common motor carrier who holds a certificate of public convenience and necessity may resell those services, in combination with other services and facilities that are not related to transportation, but only in a manner complying with the scope of authority set forth in the certificate of the common motor carrier. The [commission] *authority* shall not prohibit or

restrict such a purchaser or broker from reselling those transportation services to any person based upon that person's affiliation, or lack of affiliation, with any group.

Sec. 136. NRS 706.158 is hereby amended to read as follows:

706.158 The provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* relating to brokers do not apply to any person whom the [commission] *authority* determines is:

1. A motor club which holds a valid certificate of authority issued by the commissioner of insurance; or

2. A bona fide charitable organization, such as a nonprofit corporation or a society, organization or association for educational, religious, scientific or charitable purposes.

Sec. 137. NRS 706.166 is hereby amended to read as follows:

706.166 The [commission] *authority* shall:

1. Subject to the limitation provided in NRS 706.168 and to the extent provided in this chapter, supervise and regulate every fully regulated carrier and broker of regulated services in this state in all matters directly related to those activities of the motor carrier and broker actually necessary for the transportation of persons or property, including the handling and storage of that property, over and along the highways.

2. Cooperate with the department in its issuance of permits by performing safety and operational investigations of all persons applying for a permit from the department to transport radioactive waste, and reporting its findings to the department.

3. Enforce the standards of safety applicable to the employees, equipment, facilities and operations of those common and contract carriers subject to the [commission] *authority* or the department by:

(a) Providing training in safety;

(b) Reviewing and observing the programs or inspections of the carrier relating to safety; and

(c) Conducting inspections relating to safety at the operating terminals of the carrier.

4. To carry out the policies expressed in NRS 706.151, adopt regulations providing for agreements between two or more fully regulated carriers relating to:

(a) Fares;

(b) Rates;

(c) Classifications;

(d) Divisions;

(e) Allowances; and

(f) Charges, including charges between carriers and compensation paid or received for the use of facilities and equipment.

These regulations may not provide for collective agreements which restrain any party from taking free and independent action.

Sec. 138. NRS 706.168 is hereby amended to read as follows:

706.168 The authority of the [commission] *transportation services authority* to supervise and regulate motor carriers and brokers respectively,

to the extent provided in this chapter, must be exercised separately. A motor carrier is responsible only for his own acts and those of his employees or agents who are not brokers. A broker is responsible only for his own acts and those of his employees or agents who are not motor carriers.

Sec. 139. NRS 706.171 is hereby amended to read as follows:

706.171 1. The [commission] *authority* and the department may:

(a) Make necessary and reasonable regulations governing the administration and enforcement of the provisions of this chapter for which they are each responsible.

(b) Adopt by reference any appropriate rule or regulation, as it exists at the time of adoption, issued by the United States Department of Transportation, the [Interstate Commerce Commission,] *Surface Transportation Board,* any other agency of the Federal Government, or the National Association of Regulatory Utility Commissioners.

(c) Require such reports and the maintenance of such records as they determine to be necessary for the administration and enforcement of this chapter.

(d) Except as otherwise provided in this section, examine, at any time during the business hours of the day, the books, papers and records of any fully regulated carrier, and of any other common, contract or private motor carrier doing business in this state to the extent necessary for their respective duties. The [commission] *authority* and the department may examine in other states or require by subpoena the production inside this state of such books, papers and records as are not maintained in this state.

(e) Temporarily waive any requirement for a certificate or permit when an emergency exists as defined in NRS 706.561.

2. No personnel records of an employee of a fully regulated carrier, or of any other common, contract or private motor carrier may be examined pursuant to paragraph (d) of subsection 1 unless the records contain information relating to a matter of public safety or the [commission] *authority* and the department determine that the examination is required to protect the interests of the public.

3. The department may adopt regulations to ensure the payment of any fee due or authorized under the provisions of this chapter.

4. As used in this section, "personnel records" does not include:

(a) The name of the employee who is the subject of the record;

(b) The gross compensation and perquisites of the employee;

(c) Any record of the business expenses of the employee;

(d) The title or any description of the position held by the employee;

(e) The qualifications required for the position held by the employee;

(f) The business address of the employee;

(g) The telephone number of the employee at his place of business;

(h) The work schedule of the employee;

(i) The date on which the employee began his employment; and

(j) If applicable, the date on which the employment of the employee was terminated.

Sec. 140. NRS 706.173 is hereby amended to read as follows:

706.173 *1.* The [commission or the department] *authority* may, by regulation applicable to [all motor vehicles transporting hazardous materials and to] common, contract and private motor carriers of passengers and property, adopt standards for [:

1. Safety] *safety* for drivers and vehicles . [; and]

2. The *department may, by regulation applicable to all motor vehicles transporting hazardous materials, adopt standards for the* transportation of hazardous materials and hazardous waste as defined in NRS 459.430.

Sec. 141. NRS 706.174 is hereby amended to read as follows:

706.174 1. The [commission] *authority* may adopt regulations specifying the procedures to be used to administer and provide investigative support to the department in assisting the department in the issuance of permits to transport radioactive waste. Those regulations may include provisions:

(a) Delegating to the staff of the [commission] *authority* the administrative function of providing verifications or findings of investigations concerning safety, financial obligations and insurance to the department, but the [commission] *authority* retains the authority to act upon any disputes regarding actions taken by the staff of the [commission.] *authority.*

(b) Requiring the [commission] *authority* to provide a copy of all verifications or investigative findings to the affected carrier.

(c) Specifying the procedures to be used in acting upon any disputes that arise as a consequence of the administration and enforcement of this section by the [commission.] *authority.*

2. The procedures adopted by the [commission] *authority* must not require the [commission] *authority* to issue any public notice regarding the investigations conducted for the purpose of assisting the department or of the verification or investigative findings the [commission] *authority* provides to the department beyond the notice to the affected carriers specified in paragraph (b) of subsection 1.

Sec. 142. NRS 706.176 is hereby amended to read as follows:

706.176 The [commission may employ one chief inspector and such other inspectors and personnel and incur such other expenses as may be necessary for the efficient administration of this chapter. All such personnel shall perform such duties as may be assigned to them by the commission.] *authority may:*

1. Appoint a deputy who serves in the unclassified service of the state.

2. Appoint a secretary who shall perform such administrative and other duties as are prescribed by the authority.

3. Employ such other personnel as may be necessary.

Sec. 143. NRS 706.201 is hereby amended to read as follows:

706.201 All costs of administration of this chapter [shall] *must* be paid from the state highway fund on claims presented by the [commission] *authority* or department, approved by the state board of examiners.

Sec. 144. NRS 706.231 is hereby amended to read as follows:

706.231 Sheriffs and all other peace officers and traffic officers of this state are charged with the duty, without further compensation, of assisting in the enforcement of this chapter. They shall make arrests for this purpose when requested by an authorized agent of the department, [commission] *authority* or other competent authority.

Sec. 145. NRS 706.246 is hereby amended to read as follows:

706.246 Except as otherwise provided in NRS 706.235:

1. A common or contract motor carrier shall not permit or require a driver to drive or tow any vehicle revealed by inspection or operation to be in such condition that its operation would be hazardous or likely to result in a breakdown of the vehicle, and a driver shall not drive or tow any vehicle which by reason of its mechanical condition is so imminently hazardous to operate as to be likely to cause an accident or a breakdown of the vehicle. If, while any vehicle is being operated on a highway, it is discovered to be in such an unsafe condition, it may be continued in operation, except as further limited by subsection 2, only to the nearest place where repairs can safely be effected, and even that operation may be conducted only if it is less hazardous to the public than permitting the vehicle to remain on the highway.

2. A common or contract motor carrier or private motor carrier shall not permit or require a driver to drive or tow, and a driver shall not drive or tow, any vehicle which:

(a) By reason of its mechanical condition is so imminently hazardous to operate as to be likely to cause an accident or a breakdown; and

(b) Has been declared "out of service" by an authorized employee of the [commission] *authority* or the department.

When the repairs have been made, the carrier shall so certify to the [commission] *authority* or the department, whichever agency declared the vehicle "out of service," as required by the [commission] *authority* or the department.

Sec. 146. NRS 706.251 is hereby amended to read as follows:

706.251 1. Every person operating a vehicle used by any motor carrier under the jurisdiction of the [commission] *authority* shall forthwith report each accident occurring on the public highway, wherein the vehicle may have injured the person or property of some person other than the person or property carried by the vehicle, to the sheriff or other peace officer of the county where the accident occurred. If the accident immediately or proximately causes death, the person in charge of the vehicle, or any officer investigating the accident, shall furnish to the [commission] *authority* such detailed report thereof as required by the [commission.] *authority.*

2. All accident reports required in this section must be filed in the office of the [commission] *authority* and there preserved. An accident report made as required by this chapter, or any report of the [commission] *authority* made pursuant to any accident investigation made by it, is not open to public inspection and must not be disclosed to any person, except upon order of the

[commission.] *authority.* The reports must not be admitted as evidence or used for any purpose in any action for damages growing out of any matter mentioned in the accident report or report of any such investigation.

Sec. 147. NRS 706.256 is hereby amended to read as follows:

706.256 The [commission] *authority* may, in the interest of safety or service, after hearing:

1. Determine and order repairs of facilities of common and contract motor carriers; and

2. Order the use of safety appliances by such carriers in the interest of the public and employees.

Sec. 148. NRS 706.266 is hereby amended to read as follows:

706.266 It is unlawful for any common, contract or private motor carrier to operate as a motor carrier of intrastate commerce within this state without having furnished the [commission] *authority* the following:

1. Where a person does not hold a certificate of public convenience and necessity or a permit to operate as a common or contract motor carrier in the State of Nevada, an affidavit certifying that the person intends to operate as a private carrier.

2. Such other information as the [commission] *authority* may request.

Sec. 149. NRS 706.281 is hereby amended to read as follows:

706.281 1. In addition to any identifying device provided for in this chapter, each motor vehicle within the provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* must have the name of the person or operator operating the vehicle prominently and conspicuously displayed on both sides of the vehicle in such location, size and style as may be specified by the [commission.] *authority.* The display shall not be deemed advertising for the purposes of NRS 706.285 unless additional information about the operator is included.

2. This section does not apply to motor vehicles:

(a) Weighing 10,000 pounds or less operated by private carriers and not operated in combination with any other vehicle.

(b) Operated by an employer for the transportation of his employees, whether or not the employees pay for the transportation.

Sec. 150. NRS 706.285 is hereby amended to read as follows:

706.285 All advertising by a fully regulated carrier of intrastate commerce must include the number of the certificate of public convenience and necessity or contract carrier's permit issued to him by the [commission.] *authority.*

Sec. 151. NRS 706.291 is hereby amended to read as follows:

706.291 1. The [commission] *authority* shall require every fully regulated carrier and every operator of a tow car, within such time and in such amounts as the [commission] *authority* may designate, to file with the [commission] *authority* in a form required and approved by the [commission] *authority* a liability insurance policy, or a certificate of insurance in lieu thereof, or a bond of a surety company, or other surety, in such reasonable sum as the [commission] *authority* may deem necessary to protect adequately the interests of the public.

2. The department shall require every other common and contract motor carrier and every private carrier, within such time and in such amounts as the department may designate, to file with the department in a form required and approved by the department a liability insurance policy, or a certificate of insurance in lieu thereof, a bond of a surety company, or other surety, in such reasonable sum as the department may deem necessary to protect adequately the interests of the public.

3. The liability insurance policy or certificate, policy or bond of a surety company or other surety must bind the obligors thereunder to pay the compensation for injuries to persons or for loss or damage to property resulting from the negligent operation of the carrier.

4. The [commission] *authority* and the department may jointly prescribe by regulation the respective amounts and forms required by subsections 1 and 2.

Sec. 152. NRS 706.296 is hereby amended to read as follows:

706.296 Every common and contract motor carrier who engages in transportation intrastate and the collection of the purchase price of goods sold by the shipper to the consignee shall provide a bond, to be filed with the [commission,] *authority,* for the benefit of the shipper in an amount which the [commission] *authority* deems reasonably sufficient as an aggregate but not to exceed $1,000, to insure the shipper against any loss of the moneys so collected by the carrier through misappropriation, negligence or other defalcations.

Sec. 153. NRS 706.303 is hereby amended to read as follows:

706.303 The [commission] *authority* shall adopt regulations requiring all operators of horse-drawn vehicles subject to its regulation and supervision to maintain a contract of insurance against liability for injury to persons and damage to property for each such vehicle. The amounts of coverage required by the regulations:

1. Must not exceed a total of:

(a) For bodily injury to or the death of one person in any one accident, $250,000;

(b) Subject to the limitations of paragraph (a), for bodily injury to or death of two or more persons in any one accident, $500,000; and

(c) For injury to or destruction of property in any one accident, $50,000; or

2. Must not exceed a combined single-limit for bodily injury to one or more persons and for injury to or destruction of property in any one accident, $500,000.

Sec. 154. (Deleted by amendment.)

Sec. 155. NRS 706.321 is hereby amended to read as follows:

706.321 1. Every common or contract motor carrier shall file with the [commission:] *authority:*

(a) Within a time to be fixed by the [commission,] *authority,* schedules and tariffs which must be open to public inspection, showing all rates, fares and charges which the carrier has established and which are in force at the time for any service performed in connection therewith by any carrier controlled and operated by it.

(b) As a part of that schedule, all regulations that in any manner affect the rates or fares charged or to be charged for any service.

2. No changes may be made in any schedule, including schedules of joint rates, or in the regulations affecting any rates or charges, except upon 30 days' notice to the [commission,] *authority,* and all those changes must be plainly indicated on any new schedules filed in lieu thereof 30 days before the time they are to take effect. The [commission,] *authority,* upon application of any carrier, may prescribe a shorter time within which changes may be made. The 30 days' notice is not applicable when the carrier gives written notice to the [commission] *authority* 10 days before the effective date of its participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have been previously filed with and approved by the [commission.] *authority.*

3. The [commission] *authority* may at any time, upon its own motion, investigate any of the rates, fares, charges, regulations, practices and services, and, after hearing, by order, make such changes as may be just and reasonable.

4. The [commission] *authority* may dispense with the hearing on any change requested in rates, fares, charges, regulations, practices or service.

5. All rates, fares, charges, classifications and joint rates, regulations, practices and services fixed by the [commission] *authority* are in force, and are prima facie lawful, from the date of the order until changed or modified by the [commission,] *authority,* or pursuant to [NRS 703.373 to 703.376, inclusive.] *sections 123, 124 and 125, of this act.*

6. All regulations, practices and service prescribed by the [commission] *authority* must be enforced and are prima facie reasonable unless suspended or found otherwise in an action brought for the purpose, [pursuant to the provisions of NRS 703.373 to 703.376, inclusive,] or until changed or modified by the [commission] *authority* itself upon satisfactory showing made.

Sec. 156. NRS 706.323 is hereby amended to read as follows:

706.323 1. Except as provided in subsection 2, the [commission] *authority* may not investigate, suspend, revise or revoke any rate proposed by a common motor carrier or contract motor carrier because the rate is too high or too low and therefore unreasonable if:

(a) The motor carrier notifies the [commission] *authority* that it wishes to have the rate reviewed by the [commission] *authority* pursuant to this subsection; and

(b) The rate resulting from all increases or decreases within 1 year is not more than 10 percent above or 10 percent below the rate in effect 1 year before the effective date of the proposed rate.

2. This section does not limit the [commission's] authority *of the transportation services authority* to investigate, suspend, revise or revoke a proposed rate if the rate would violate the provisions of NRS 706.151.

Sec. 157. NRS 706.326 is hereby amended to read as follows:

706.326 1. Whenever there is filed with the [commission] *authority* any schedule or tariff stating a new or revised individual or joint rate, fare or charge, or any new or revised individual or joint regulation or practice affecting any rate, fare or charge, or any schedule or tariff resulting in a discontinuance, modification or restriction of service, the [commission] *authority* may enter upon an investigation or, upon reasonable notice, enter upon a hearing concerning the propriety of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice.

2. Pending the investigation or hearing and the decision thereon, the [commission,] *authority*, upon delivering to the common or contract motor carrier affected thereby a statement in writing of its reasons for the suspension, may suspend the operation of the schedule or tariff and defer the use of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice, but not for a longer period than 150 days beyond the time when the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.

3. After full investigation or hearing, whether completed before or after the date upon which the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice is to go into effect, the [commission] *authority* may make such order in reference to the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice has become effective.

4. The [commission] *authority* shall determine whether a hearing [shall] *must* be held to consider the proposed change in any schedule stating a new or revised individual or joint rate, fare or charge. In making that determination , the [commission] *authority* shall consider all timely written protests, any presentation the staff of the [commission] *authority* may desire to present, the application and any other matters deemed relevant by the [commission.] *authority*.

Sec. 158. NRS 706.331 is hereby amended to read as follows:

706.331 1. If, after due investigation and hearing, any authorized rates, tolls, fares, charges, schedules, tariffs, joint rates or any regulation, measurement, practice, act or service complained of is found to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of the provisions of this chapter, or if it is found that the service is inadequate, or that any reasonable service cannot be obtained, the [commission] *authority* may substitute therefor such other rates, tolls, fares, charges, tariffs, schedules or regulations, measurements, practices, service or acts and make an order relating thereto as may be just and reasonable.

2. When complaint is made of more than one matter, the [commission] *authority* may order separate hearings upon the several matters complained of at such times and places as it may prescribe.

3. No complaint may at any time be dismissed because of the absence of direct damage to the complainant.

4. The [commission] *authority* may at any time, upon its own motion, investigate any of the matters listed in subsection 1, and, after a full hearing as above provided, by order, make such changes as may be just and reasonable, the same as if a formal complaint had been made.

Sec. 159. NRS 706.341 is hereby amended to read as follows:

706.341 [No] *A* common motor carrier authorized to operate by NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* shall *not* discontinue any service established under the provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* and all other laws relating thereto and made applicable thereto by NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* without an order of the [commission] *authority* granted only after public notice or hearing in the event of protest.

Sec. 160. NRS 706.346 is hereby amended to read as follows:

706.346 1. A copy, or so much of the schedule or tariff as the [commission] *authority* determines necessary for the use of the public, [shall] *must* be printed in plain type and posted in every office of a common motor carrier where payments are made by customers or users, open to the public, in such form and place as to be readily accessible to the public and conveniently inspected.

2. When a schedule or tariff of joint rates or charges is or may be in force between two or more of such carriers or between any such carrier and a public utility, such schedule or tariff shall be printed and posted in like manner.

Sec. 161. NRS 706.351 is hereby amended to read as follows:

706.351 1. It is unlawful for:

(a) A fully regulated carrier to furnish any pass, frank, free or reduced rates for transportation to any state, city, district, county or municipal officer of this state or to any person other than those specifically enumerated in this section.

(b) Any person other than those specifically enumerated in this section to receive any pass, frank, free or reduced rates for transportation.

2. This section does not prevent the carriage, storage or hauling free or at reduced rates of passengers or property for charitable organizations or purposes for the United States, the State of Nevada or any political subdivision thereof.

3. This chapter does not prohibit a fully regulated common carrier from giving free or reduced rates for transportation of persons to:

(a) Its own officers, commission agents or employees, or members of any profession licensed under Title 54 of NRS retained by it, and members of their families.

(b) Inmates of hospitals or charitable institutions and persons over 60 years of age.

(c) Persons who are physically handicapped or mentally handicapped and who present a written statement from a physician to that effect.

(d) Persons injured in accidents or wrecks and physicians and nurses attending such persons.

(e) Persons providing relief in cases of common disaster.

(f) Attendants of livestock or other property requiring the care of an attendant, who must be given return passage to the place of shipment, if there is no discrimination among shippers of a similar class.

(g) Officers, agents, employees or members of any profession licensed under Title 54 of NRS, together with members of their families, who are employed by or affiliated with other common carriers, if there is an interchange of free or reduced rates for transportation.

(h) Indigent, destitute or homeless persons when under the care or responsibility of charitable societies, institutions or hospitals, together with the necessary agents employed in such transportation.

(i) Students of institutions of learning.

(j) Groups of persons participating in a tour for a purpose other than transportation.

4. This section does not prohibit common motor carriers from giving free or reduced rates for the transportation of property of:

(a) Their officers, commission agents or employees, or members of any profession licensed under Title 54 of NRS retained by them, or pensioned or disabled former employees, together with that of their dependents.

(b) Witnesses attending any legal investigations in which such carriers are interested.

(c) Persons providing relief in cases of common disaster.

(d) Charitable organizations providing food and items for personal hygiene to needy persons or to other charitable organizations within this state.

5. This section does not prohibit the [commission] *authority* from establishing reduced rates, fares or charges for specified routes or schedules of any common motor carrier providing transit service if the reduced rates, fares or charges are determined by the [commission] *authority* to be in the public interest.

6. Only fully regulated common carriers may provide free or reduced rates for the transportation of passengers or household goods, pursuant to the provisions of this section.

7. As used in this section, "employees" includes:

(a) Furloughed, pensioned and superannuated employees.

(b) Persons who have become disabled or infirm in the service of such carriers.

(c) Persons who are traveling to enter the service of such a carrier.

Sec. 162. NRS 706.371 is hereby amended to read as follows:

706.371 The [commission] *authority* may regulate and fix the maximum number of contracts and the minimum carrying charges of all intrastate contract motor carriers, and conduct hearings, make and enter necessary

orders and enforce the same with respect thereto in the same manner and form as is now or may hereafter be provided by law for the regulation of the rates, charges and services of common motor carriers.

Sec. 163. NRS 706.386 is hereby amended to read as follows:

706.386 It is unlawful, except as provided in NRS 373.117 and 706.745, for any fully regulated common motor carrier to operate as a carrier of intrastate commerce within this state without first obtaining a certificate of public convenience and necessity from the [commission.] *authority.*

Sec. 164. NRS 706.391 is hereby amended to read as follows:

706.391 1. Upon the filing of an application for a certificate of public convenience and necessity to operate as a motor carrier, the [commission] *authority* shall fix a time and place for hearing thereon.

2. The [commission] *authority* shall issue such a certificate if it finds that:

(a) The applicant is fit, willing and able to perform the services of a common motor carrier;

(b) The proposed operation will be consistent with the legislative policies set forth in NRS 706.151;

(c) The granting of the certificate will not unreasonably and adversely affect other carriers operating in the territory for which the certificate is sought; and

(d) The proposed service will benefit the traveling and shipping public and the motor carrier business in this state.

3. The [commission] *authority* shall not find that the potential creation of competition in a territory which may be caused by the granting of a certificate, by itself, will unreasonably and adversely affect other carriers operating in the territory for the purposes of paragraph (c) of subsection 2.

4. An applicant for such a certificate has the burden of proving to the [commission] *authority* that the proposed operation will meet the requirements of subsection 2.

5. The [commission] *authority* may issue a certificate of public convenience and necessity to operate as a common motor carrier, or issue it for:

(a) The exercise of the privilege sought.

(b) The partial exercise of the privilege sought.

6. The [commission] *authority* may attach to the certificate such terms and conditions as, in its judgment, the public interest may require.

7. The [commission] *authority* may dispense with the hearing on the application if, upon the expiration of the time fixed in the notice thereof, no petition to intervene has been filed on behalf of any person who has filed a protest against the granting of the certificate.

Sec. 165. NRS 706.396 is hereby amended to read as follows:

706.396 Any person who, after hearing, has been denied a certificate of public convenience and necessity to operate as a carrier must not be permitted again to file a similar application with the [commission] *authority* covering the same type of service and over the same route or routes or in the same territory for which the certificate of public convenience and necessity

was denied except after the expiration of 180 days after the date the certificate of public convenience and necessity was denied.

Sec. 166. NRS 706.398 is hereby amended to read as follows:

706.398 The [commission:] *authority:*

1. Shall revoke or suspend, pursuant to the provisions of this chapter, the certificate of public convenience and necessity of a common motor carrier which has failed to:

(a) File the annual report required by [NRS 703.191] *section 113 of this act* within 60 days after the report is due; or

(b) Operate as a carrier of intrastate commerce in this state under the terms and conditions of its certificate,

unless the carrier has obtained the prior permission of the [commission.] *authority.*

2. May revoke or suspend, pursuant to the provisions of [NRS 703.377,] *this chapter,* the certificate of public convenience and necessity of a common motor carrier which has failed to comply with any provision of this chapter or any regulation of the [commission] *authority* adopted pursuant thereto.

Sec. 167. NRS 706.411 is hereby amended to read as follows:

706.411 Every order refusing or granting any certificates of public convenience and necessity, or granting or refusing permission to discontinue, modify or restrict service is prima facie lawful from the date of the order until changed or modified by the order of the [commission or] *authority* pursuant to [NRS 703.373 to 703.376, inclusive.] *the provisions of this chapter.*

Sec. 168. NRS 706.426 is hereby amended to read as follows:

706.426 An application for a permit for a new operation as a contract motor carrier shall be:

1. Made to the [commission] *authority* in writing.

2. In such form and be accompanied by such information as the [commission] *authority* may require.

Sec. 169. NRS 706.431 is hereby amended to read as follows:

706.431 1. A permit may be issued to any applicant therefor, authorizing in whole or in part the operation covered by the application, if it appears from the application or from any hearing held thereon that:

(a) The applicant is fit, willing and able properly to perform the service of a contract motor carrier and to conform to all provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* and the regulations adopted thereunder; and

(b) The proposed operation will be consistent with the public interest and will not operate to defeat the legislative policy set forth in NRS 706.151.

2. An application must be denied if the provisions of subsection 1 are not met.

3. The [commission] *authority* shall revoke or suspend pursuant to the provisions of *this* chapter [703 of NRS] the permit of a contract motor carrier who has failed to file the annual report required in [NRS 703.191] *section 113 of this act* within 60 days after the report is due.

4. The [commission] *authority* shall adopt regulations providing for a procedure by which any contract entered into by a contract motor carrier after he has been issued a permit pursuant to this section may be approved by the [commission] *authority* without giving notice required by statute or by a regulation of the [commission.] *authority.*

Sec. 170. NRS 706.436 is hereby amended to read as follows:

706.436 Any person who has been denied a permit to act as a contract motor carrier after hearing [shall not be permitted again to] *may not* file a similar application with the [commission] *authority* covering the same type of service and over the same route or routes or in the same territory for which the permit was denied except after the expiration of 180 days after the date the permit was denied.

Sec. 171. NRS 706.442 is hereby amended to read as follows:

706.442 Any person engaging in the intrastate transportation or storage of household goods shall comply with the following requirements:

1. A person requesting service must be provided with a written, binding estimate of the cost of providing the requested service at least 1 business day before the date on which the service is to be provided, unless the request for service is not made in time to meet the requirement.

2. The charges assessed for the service rendered may not exceed the amount in the written estimate, unless the customer requested services in addition to those included in the written estimate and agreed to pay additional charges.

3. If the person for whom service was provided pays any amount consistent with the provisions of subsection 2, the provider of service shall release immediately any household goods that were transported or stored to that person.

4. If a person requesting service alleges that any household goods were damaged or lost, the person that provided the service shall:

(a) Attempt to resolve the dispute; and

(b) Identify the carrier of his insurance and explain the procedures to file a claim.

5. The provider of service shall advise all persons for whom service is to be performed of their right to file a complaint with the [commission] *authority* and provide the address and telephone number of the nearest business office of the [commission.] *authority.*

6. Any other terms and conditions which the [commission] *authority* may by regulation prescribe to protect the public.

Sec. 172. NRS 706.443 is hereby amended to read as follows:

706.443 1. The provisions of NRS 706.442 apply whether or not the person providing the service has received authority to operate from the [commission.] *authority.*

2. The [commission] *authority* shall enforce the provisions of NRS 706.442 and consider complaints regarding violations of the provisions of that section pursuant to the provisions of [NRS 703.290, 703.300, 703.310 and 703.373 to 703.376, inclusive.] *this chapter.* In addition to any other

remedies, the [commission] *authority* may order the release of any household goods that are being held by the provider of service subject to the terms and conditions that the [commission] *authority* determines to be appropriate and may order the refund of overcharges.

3. The [commission] *authority* may use the remedies provided in NRS [703.195,] 706.457, 706.461, 706.756, 706.761, 706.771 and 706.779 and any other remedy available under other law.

4. The [commission] *authority* shall adopt regulations regarding the administration and enforcement of this section and NRS 706.442.

Sec. 173. NRS 706.446 is hereby amended to read as follows:

706.446 1. Any person who was engaged in the transportation of vehicles by the use of a tow car with an unladen weight of less than 9,000 pounds, on or before January 1, 1971, and who held himself out for hire for such towing, must be granted a certificate of public convenience and necessity if an application therefor:

(a) Is made within 90 days after July 1, 1971;

(b) Is accompanied by a filing fee of $25; and

(c) Contains satisfactory evidence of a lawful nature and scope of the applicant's operation existing on or before January 1, 1971.

2. Before issuing any certificate of public convenience and necessity for the transportation of vehicles by tow car, the [commission] *authority* shall set the rate levels and storage charges under which such operation may be conducted, but the [commission] *authority* is not precluded from establishing rate areas.

3. When issued, a certificate of public convenience and necessity must authorize the recipient to operate within the territory which the applicant substantiates by documentation between January 1, 1968, and January 1, 1971.

4. Any person who on July 1, 1971, holds a valid certificate of public convenience and necessity issued by the commission for the operation of a tow car with an unladen weight of 9,000 pounds or more must be granted the authority to operate a tow car with an unladen weight of less than 9,000 pounds within the territory substantiated pursuant to subsection 3, but in no event less than the territory set forth in such certificate of public convenience and necessity.

5. The provisions of this chapter do not require an operator of a tow car who provides towing for a licensed motor club regulated pursuant to chapter 696A of NRS to obtain a certificate of public convenience and necessity or to comply with the regulations or rates adopted by the [commission] *authority* to provide that towing.

Sec. 174. NRS 706.4463 is hereby amended to read as follows:

706.4463 1. In addition to the other requirements of this chapter, each operator of a tow car shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of operation from the [commission] *authority* before he provides any services other than those services which he provides as a private motor carrier of property pursuant to the provisions of this chapter;

(b) Use a tow car of sufficient size and weight which is appropriately equipped to transport safely the vehicle which is being towed; and

(c) Comply with the other requirements of NRS 706.153 and 706.4463 to 706.4479, inclusive.

2. The [commission] *authority* shall issue a certificate of operation to an operator of a tow car if it determines that the applicant:

(a) Complies with the requirements of subsection 1;

(b) Complies with the requirements of the regulations adopted by the [commission] *authority* pursuant to the provisions of this chapter; and

(c) Has provided evidence that he has filed with the [commission] *authority* a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291.

Sec. 175. NRS 706.447 is hereby amended to read as follows:

706.447 Each person who holds a certificate of public convenience and necessity for transportation of vehicles by use of a tow car and is required by regulation of the [commission] *authority* to maintain a policy of cargo insurance may, in lieu of maintaining the policy of insurance, deposit with the state treasurer, under terms which the [commission] *authority* prescribes:

1. An amount of lawful money of the United States fixed by the [commission] *authority* or bonds or other lawful negotiable instruments of the United States or of the State of Nevada of an actual market value fixed by the [commission;] *authority;* or

2. A savings certificate issued by a bank or savings and loan association in Nevada which indicates an amount at least equal to the amount fixed by the [commission] *authority* and which states that the amount is unavailable for withdrawal except on order of the [commission.] *authority.* Interest earned on the deposit accrues to the holder of the certificate.

Sec. 176. NRS 706.4473 is hereby amended to read as follows:

706.4473 The operator shall inform each owner, or agent of the owner, of a towed motor vehicle that the owner or agent may file a complaint with the [commission] *authority* regarding any violation of the provisions of this chapter.

Sec. 177. NRS 706.448 is hereby amended to read as follows:

706.448 1. Subject to the provisions of subsection 2, any person holding a certificate of public convenience and necessity for transportation of vehicles by use of a tow car on July 1, 1973, and who, within 90 days after July 1, 1973, files an application with the commission [shall] *must* be granted a certificate of public convenience and necessity for transportation of vehicles by use of:

(a) A motorcycle trailer; or

(b) Any other vehicle which is not a tow car.

2. The certificate of public convenience and necessity issued under the provisions of paragraph (b) of subsection 1 shall provide that if any vehicle is so disabled or so constructed that it cannot be towed by a tow car, the tow car operator may transport the vehicle with a vehicle other than a tow car from the point of disablement to a single destination and may make an appropriate charge, as determined by the [commission,] *authority,* for the use of such vehicle.

Sec. 178. NRS 706.4483 is hereby amended to read as follows:

706.4483 1. The [commission] *authority* shall act upon complaints regarding the failure of an operator to comply with the provisions of NRS 706.153 and 706.4463 to 706.4485, inclusive.

2. In addition to any other remedies that may be available to the [commission] *authority* to act upon complaints, the [commission] *authority* may order the release of towed motor vehicles, cargo or personal property upon such terms and conditions as the [commission] *authority* determines to be appropriate.

Sec. 179. NRS 706.4485 is hereby amended to read as follows:

706.4485 A law enforcement agency that maintains and utilizes a list of operators of tow cars which are called by that agency to provide towing shall not include an operator on the list unless he:

1. Holds a certificate to provide towing issued by the [commission.] *authority.*

2. Agrees to comply with all applicable provisions of [chapters 482, 484 and 706 of NRS.] *this chapter and chapters 482 and 484 of NRS.*

3. Agrees to respond in a timely manner to requests for towing made by the agency.

4. Maintains adequate, accessible and secure storage within the State of Nevada for any vehicle that is towed.

5. Meets such other standards as the law enforcement agency may adopt to protect the health, safety and welfare of the public.

Sec. 180. NRS 706.449 is hereby amended to read as follows:

706.449 The [commission] *authority* may impose an administrative fine pursuant to subsection 2 of NRS 706.771 on the owner or operator of a tow car who fails to pay in a timely manner any charge required to be paid by subsection 2 of NRS 484.631.

Sec. 181. NRS 706.451 is hereby amended to read as follows:

706.451 1. Each owner or operator of a tow car subject to the jurisdiction of the [commission] *authority* shall, before commencing to operate or continuing operation after July 1, 1971, and annually thereafter, pay to the [commission] *authority* for each tow car operated, a fee of not more than $36.

2. The fee provided in this section must be paid on or before January 1 of each year.

3. The initial fee must be reduced one-twelfth for each month which has elapsed since the beginning of the calendar year before July 1, 1971, for

those tow cars lawfully operating on that date or before the commencement of operation of each tow car commencing operation after July 1, 1971.

4. Any person who fails to pay any fee on or before the date provided in this section shall pay a penalty of 10 percent of the amount of the fee plus interest on the amount of the fee at the rate of 1 percent per month or fraction of a month from the date the fee is due until the date of payment.

Sec. 182. NRS 706.457 is hereby amended to read as follows:

706.457 The [commission] *authority* may by subpoena require any person believed by it to be subject to any of the provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* who has not obtained a required certificate of public convenience and necessity or a required permit issued in accordance with those sections, to appear before it with all of his relevant books, papers and records and to testify concerning the scope, nature and conduct of his business.

Sec. 183. NRS 706.458 is hereby amended to read as follows:

706.458 1. The district court in and for the county in which any investigation or hearing is being conducted by the [commission] *authority* pursuant to the provisions of this chapter may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the [commission.] *authority.*

2. If any witness refuses to attend or testify or produce any papers required by such subpoena the [commission] *authority* may report to the district court in and for the county in which the investigation or hearing is pending by petition, setting forth:

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

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena in the investigation or hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such investigation or hearing,

and asking an order of the court compelling the witness to attend and testify or produce the books or papers.

3. The court, upon petition of the [commission,] *authority,* shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the [commission.] *authority.* A certified copy of the order must be served upon the witness. If it appears to the court that the subpoena was regularly issued, the court shall thereupon enter an order that the witness appear at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness must be dealt with as for contempt of court.

Sec. 184. NRS 706.461 is hereby amended to read as follows:

706.461 When:

1. A complaint has been filed with the [commission] *authority* alleging that any vehicle is being operated without a certificate of public convenience and necessity or contract carrier's permit as required by NRS 706.011 to 706.791, inclusive [;] , *and sections 104 to 129, inclusive, of this act;* or

2. The [commission] *authority* has reason to believe that any:

(a) Person is advertising to provide the services of a fully regulated carrier in intrastate commerce without including the number of his certificate of public convenience and necessity or permit in each advertisement; or

(b) Provision of NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* is being violated,

the [commission] *authority* shall investigate the operations or advertising and may, after a hearing, order the owner or operator of the vehicle or the person advertising to cease and desist from any operation or advertising in violation of NRS 706.011 to 706.791, inclusive [. The commission] , *and sections 104 to 129, inclusive, of this act. The authority* shall enforce compliance with the order under the powers vested in the [commission] *authority* by NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* or by other law.

Sec. 185. NRS 706.471 is hereby amended to read as follows:

706.471 1. Each taxicab motor carrier shall, before commencing the operation defined in NRS 706.126 and annually thereafter, pay to the [commission] *authority* for each taxicab which it operates, including each taxicab it leases pursuant to NRS 706.473, a fee of not more than $75 as determined by a regulation of the [commission.] *authority.*

2. The fee provided in this section must be paid on or before January 1 of each year.

3. The initial fee must be reduced one-twelfth for each month which has elapsed since the beginning of the calendar year in which operation is begun.

4. Any person who fails to pay any fee on or before the date provided in this section shall pay a penalty of 10 percent of the amount of the fee plus interest on the amount of the fee at the rate of 1 percent per month or fraction of a month from the date the fee is due until the date of payment.

Sec. 186. NRS 706.473 is hereby amended to read as follows:

706.473 1. In a county whose population is less than 400,000, a person who holds a certificate of public convenience and necessity which was issued for the operation of a taxicab business may, upon approval from the [commission,] *authority,* lease a taxicab to an independent contractor who does not hold a certificate of public convenience and necessity. A person may lease only one taxicab to each independent contractor with whom he enters into a lease agreement. The taxicab may be used only in a manner authorized by the lessor's certificate of public convenience and necessity.

2. A person who enters into a lease agreement with an independent contractor pursuant to this section shall submit a copy of the agreement to the [commission] *authority* for its approval. The agreement is not effective until approved by the [commission.] *authority.*

3. A person who leases a taxicab to an independent contractor is jointly and severally liable with the independent contractor for any violation of the provisions of this chapter or the regulations adopted pursuant thereto, and shall ensure that the independent contractor complies with such provisions and regulations.

4. The [commission] *authority* or any of its employees may intervene in a civil action involving a lease agreement entered into pursuant to this section.

Sec. 187. NRS 706.475 is hereby amended to read as follows:

706.475 1. The [commission] *authority* shall adopt such regulations as are necessary to:

(a) Carry out the provisions of NRS 706.473; and

(b) Ensure that the taxicab business remains safe, adequate and reliable.

2. Such regulations must include, without limitation:

(a) The minimum qualifications for an independent contractor;

(b) Requirements related to liability insurance;

(c) Minimum safety standards; and

(d) The procedure for approving a lease agreement and the provisions that must be included in a lease agreement concerning the grounds for the revocation of such approval.

Sec. 188. NRS 706.631 is hereby amended to read as follows:

706.631 The remedies of the state provided for in NRS 706.011 to 706.861, inclusive, *and sections 104 to 129, inclusive, of this act,* are cumulative, and no action taken by the department or [commission shall] *authority may* be construed to be an election on the part of the state or any of its officers to pursue any remedy under NRS 706.011 to 706.861, inclusive, *and sections 104 to 129, inclusive, of this act,* to the exclusion of any other remedy for which provision is made in NRS 706.011 to 706.861, inclusive [.] , *and sections 104 to 129, inclusive, of this act.*

Sec. 189. NRS 706.6411 is hereby amended to read as follows:

706.6411 1. All motor carriers coming within the terms of NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* to whom the certificates, permits and licenses provided by NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* have been issued may transfer them to another carrier qualified under NRS 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* but no such transfer is valid for any purpose until a joint application to make the transfer has been made to the [commission] *authority* by the transferor and the transferee, and the [commission] *authority* has authorized the substitution of the transferee for the transferor. No transfer of stock of a corporate motor carrier under the jurisdiction of the [commission] *authority* is valid without the [commission's] prior approval *of the authority* if the effect of the transfer would be to change the corporate control of the carrier

or if a transfer of 15 percent or more of the common stock of the carrier is proposed.

2. Except as otherwise provided in subsection 3, the [commission] *authority* shall fix a time and place for a hearing to be held unless the application is made to transfer the certificate from a natural person or partners to a corporation whose controlling stockholders will be substantially the same person or partners, and may hold a hearing to consider such an application.

3. The [commission] *authority* may also dispense with the hearing on the joint application to transfer if, upon the expiration of the time fixed in the notice thereof, no protest against the transfer of the certificate or permit has been filed by or in behalf of any interested person.

4. In determining whether or not the transfer of a certificate of public convenience and necessity or a permit to act as a contract carrier should be authorized, the [commission] *authority* shall consider:

(a) The service which has been performed by the transferor and that which may be performed by the transferee.

(b) Other authorized facilities for transportation in the territory for which the transfer is sought.

(c) Whether or not the transferee is fit, willing and able to perform the services of a common or contract carrier by vehicle and whether or not the proposed operation would be consistent with the legislative policy set forth in NRS 706.151.

5. Upon such a transfer, the [commission] *authority* may make such amendments, restrictions or modifications in a certificate or permit as the public interest may require.

6. No transfer is valid beyond the life of the certificate, permit or license transferred.

Sec. 190. NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, none of the provisions of NRS [703.191, 703.310, 703.374, 703.375 and] 706.011 to 706.791, inclusive, *and sections 104 to 129, inclusive, of this act,* apply to:

(a) The transportation by a contractor licensed by the state contractors' board of his own equipment in his own vehicles from job to job.

(b) Any person engaged in transporting his own personal effects in his own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by him in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of subsection [4] *1* of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to subsection [2] *1* of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, 706.471, 706.473, 706.475 and 706.6411 which authorize the [commission] *authority* to issue certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

4. Any person who operates under a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to his actual operation as prescribed in this chapter, computed from the date when that operation began.

Sec. 191. NRS 706.745 is hereby amended to read as follows:

706.745 1. The provisions of NRS 706.386 and 706.421 do not apply to ambulances or hearses.

2. A common motor carrier who enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transit consisting of regular routes and fixed schedules. Under such an agreement, the public entity shall establish the routes and fares and provide for any required safety inspections.

3. A nonprofit carrier of elderly or physically or mentally handicapped persons is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but such a carrier is not exempt from inspection by the [commission] *authority* to determine whether its vehicles and their operation are safe.

4. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

Sec. 192. NRS 706.749 is hereby amended to read as follows:

706.749 1. The [commission] *authority* may issue a permit, valid for 1 year after the date of issuance, to an employer to transport his employees between their place of work and their homes or one or more central parking

areas if the employer files an application, on a form provided by the [commission,] *authority*, showing:

(a) The name of the employer;

(b) The places where employees will be picked up and discharged, including the location of their place of work;

(c) Identification of each vehicle to be used and certification that it is owned or the subject of a long-term lease by the employer;

(d) That each vehicle is registered to and operated by the employer; and

(e) Any charge which will be made for the service.

2. The employer must pay a fee of $10 for each vehicle which he will regularly use to transport his employees.

3. The employer must charge no fare for the use of the service, or no more than an amount required to amortize the cost of the vehicle and defray the cost of operating it.

4. The [commission] *authority* shall renew the permit upon receipt of a fee of $10 per vehicle regularly used to transport employees.

Sec. 193. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, *and sections 104 to 129, inclusive, of this act,* apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, *and sections 104 to 129, inclusive, of this act,* or by the [commission] *authority* or the department pursuant to the provisions of NRS 706.011 to 706.861, inclusive [;] , *and sections 104 to 129, inclusive, of this act;*

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive [;] , *and sections 104 to 129, inclusive, of this act;*

(d) Fails to obey any order, decision or regulation of the [commission] *authority* or the department;

(e) Procures, aids or abets any person in his failure to obey such an order, decision or regulation;

(f) Advertises, solicits, proffers bids or otherwise holds himself out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive [;] , *and sections 104 to 129, inclusive, of this act;*

(g) Advertises as providing the services of a fully regulated carrier without including the number of his certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been canceled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the [commission] *authority* or department any certificate, permit, license or identifying device which has been suspended, canceled or revoked pursuant to the provisions of this chapter,

is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. A person convicted of a misdemeanor for a violation of the provisions of NRS 706.386 or 706.421 shall be punished:

(a) For the first offense by a fine of not less than $500 nor more than $1,000;

(b) For a second offense within 12 consecutive months and each subsequent offense by a fine of $1,000; or

(c) For any offense, by imprisonment in the county jail for not more than 6 months, or by both the prescribed fine and imprisonment.

3. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

4. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 194. NRS 706.761 is hereby amended to read as follows:

706.761 1. Any agent or person in charge of the books, accounts, records, minutes or papers of any private, common or contract motor carrier of passengers or household goods or broker of any of these services who refuses or fails for a period of 30 days to furnish the [commission] *authority* or department with any report required by either or who fails or refuses to permit any person authorized by the [commission] *authority* or department to inspect such books, accounts, records, minutes or papers on behalf of the [commission] *authority* or department is liable to a penalty in a sum of not less than $300 nor more than $500. The penalty may be recovered in a civil action upon the complaint of the [commission] *authority* or department in any court of competent jurisdiction.

2. Each day's refusal or failure is a separate offense, and is subject to the penalty prescribed in this section.

Sec. 195. NRS 706.766 is hereby amended to read as follows:

706.766 1. It is unlawful for any fully regulated carrier to charge, demand, collect or receive a greater or less compensation for any service performed by it within [the] *this* state or for any service in connection therewith than is specified in its fare, rates, joint rates, charges or rules and regulations on file with the [commission,] *authority*, or to demand, collect

or receive any fare, rate or charge not specified. The rates, tolls and charges named therein are the lawful rates, tolls and charges until they are changed as provided in this chapter.

2. It is unlawful for any fully regulated carrier to grant any rebate, concession or special privilege to any person which, directly or indirectly, has or may have the effect of changing the rates, tolls, charges or payments.

3. Any violation of the provisions of this section subjects the violator to the penalty prescribed in NRS 706.761.

Sec. 196. NRS 706.771 is hereby amended to read as follows:

706.771 1. Any fully regulated carrier, broker of regulated services or other person who transports or stores household goods, or any agent or employee thereof, who violates any provision of this chapter, any lawful regulation of the [commission] *authority* or any lawful tariff on file with the [commission] *authority* or who fails, neglects or refuses to obey any lawful order of the [commission] *authority* or any court order for whose violation a civil penalty is not otherwise prescribed is liable to a penalty of not more than $10,000 for any violation. The penalty may be recovered in a civil action upon the complaint of the [commission] *authority* in any court of competent jurisdiction.

2. If the [commission] *authority* does not bring an action to recover the penalty prescribed by subsection 1, the [commission] *authority* may impose an administrative fine of not more than $10,000 for any violation of a provision of this chapter or any rule, regulation or order adopted or issued by the [commission] *authority* or department pursuant to the provisions of this chapter. A fine imposed by the [commission] *authority* may be recovered by the [commission] *authority* only after notice is given and a hearing is held pursuant to the provisions of chapter 233B of NRS.

3. All administrative fines imposed and collected by the [commission] *authority* pursuant to subsection 2 are payable to the state treasurer and must be credited to a separate account to be used by the [commission] *authority* to enforce the provisions of this chapter.

4. A penalty or fine recovered pursuant to this section is not a cost of service for purposes of rate making.

Sec. 197. NRS 706.776 is hereby amended to read as follows:

706.776 1. The owner or operator of a motor vehicle to which any provisions of NRS 706.011 to 706.861, inclusive, *and sections 104 to 129, inclusive, of this act,* apply carrying passengers or property on any highway in the State of Nevada shall not require or permit any driver of the motor vehicle to drive it in any one period longer than the time permitted for that period by the order of the [commission] *authority* or the department.

2. In addition to other persons so required, the labor commissioner shall enforce the provisions of this section.

Sec. 198. NRS 706.779 is hereby amended to read as follows:

706.779 The [commission] *authority* and its inspectors may, upon halting a person for a violation of the provisions of NRS 706.386 or 706.421, move his vehicle or cause it to be moved to the nearest garage or other place

of safekeeping until it is removed in a manner which complies with the provisions of this chapter.

Sec. 199. NRS 706.781 is hereby amended to read as follows:

706.781 In addition to all the other remedies provided by NRS 706.011 to 706.861, inclusive, *and sections 104 to 129, inclusive, of this act,* for the prevention and punishment of any violation of the provisions thereof and of all orders of the [commission] *authority* or the department, the [commission] *authority* or the department may compel compliance with the provisions of NRS 706.011 to 706.861, inclusive, *and sections 104 to 129, inclusive, of this act,* and with the orders of the [commission] *authority* or the department by proceedings in mandamus, injunction or by other civil remedies.

Sec. 200. NRS 706.881 is hereby amended to read as follows:

706.881 1. NRS 706.8811 to 706.885, inclusive, apply to any county:

(a) Whose population is 400,000 or more; or

(b) For whom regulation by the taxicab authority is not required if its board of county commissioners has enacted an ordinance approving the inclusion of the county within the jurisdiction of the taxicab authority.

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the taxicab authority is not required, the taxicab authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, within that county.

3. Within any such county, the provisions of this chapter which confer regulatory authority over taxicab motor carriers upon the [public service commission of Nevada] *transportation services authority* do not apply.

Sec. 201. NRS 706.8813 is hereby amended to read as follows:

706.8813 "Certificate holder" means a person who holds a current certificate of public convenience and necessity which was issued for the operation of a taxicab business by:

1. The public service commission of Nevada [prior to] *before* July 1, 1981, and which has not been transferred, revoked or suspended by the *transportation services authority, the* taxicab authority [,] *or* the public [service] *utilities* commission of Nevada , or by operation of law; [or]

2. The taxicab authority and which has not been transferred, revoked or suspended by the taxicab authority or by operation of law.

Sec. 202. NRS 706.8818 is hereby amended to read as follows:

706.8818 1. A taxicab authority, consisting of five members appointed by the governor, is hereby created. No member may serve for more than 6 years. No more than three members may be members of the same political party, and no elected officer of the state or any political subdivision is eligible for appointment.

2. Each member of the taxicab authority is entitled to receive a salary of not more than $80, as fixed by the authority, for each day actually employed on work of the authority.

3. While engaged in the business of the taxicab authority, each member and employee of the authority is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

4. The taxicab authority shall maintain its principal office in the county or area of the state where it performs most of its regulatory activity.

5. The taxicab authority may adopt appropriate regulations for the administration and enforcement of NRS 706.881 to 706.885, inclusive, and as it may deem necessary, for the conduct of the taxicab business and the qualifications of and the issuance of permits to taxicab drivers, not inconsistent with the provisions of NRS 706.881 to 706.885, inclusive. The regulations may include different provisions to allow for differences among the counties to which NRS 706.881 to 706.885, inclusive, apply. Local law enforcement agencies and the Nevada highway patrol, upon request of the [taxicab] authority, may assist in enforcing the provisions of NRS 706.881 to 706.885, inclusive, and regulations adopted pursuant thereto.

6. Except to the extent of any inconsistency with the provisions of NRS 706.881 to 706.885, inclusive, every regulation and order issued by the public [service] *utilities* commission of Nevada *or the transportation services authority* remains effective in a county to which those sections apply until modified or rescinded by the taxicab authority, and must be enforced by the taxicab authority.

Sec. 203. (Deleted by amendment.)

Sec. 204. NRS 706.8833 is hereby amended to read as follows:

706.8833 1. The color scheme, insigne and design of the cruising lights of each taxicab must conform to those approved for the certificate holder [by the administrator] pursuant to regulations of the [taxicab] authority.

2. The [administrator] *authority* shall approve or disapprove the color scheme, insigne and design of the cruising lights of the taxicabs of a certificate holder in any county, and shall ensure that the color scheme and insigne of one certificate holder are readily distinguishable from the color schemes and insignia of other certificate holders operating in the same county.

Sec. 205. NRS 706.88395 is hereby amended to read as follows:

706.88395 1. A vehicle used as a taxicab *, limousine or other passenger vehicle* in passenger service must be impounded by the administrator if a certificate of public convenience and necessity has not been issued authorizing its operation. A hearing must be held by the administrator no later than the conclusion of the second normal business day after impoundment, weekends and holidays excluded. As soon as practicable after impoundment, the administrator shall notify the registered owner of the vehicle [of] :

(a) That the registered owner of the vehicle must post a bond in the amount of $20,000 to ensure his presence at all proceedings held pursuant to this section;

(b) Of the time set for the hearing *;* and

(c) Of his right to be represented by counsel during all phases of the proceedings.

2. The administrator shall hold the vehicle until the registered owner of the vehicle appears and [proves:

(a) That] :

(a) Proves that he is the registered owner of the vehicle;

(b) [That] *Proves that* he holds a valid certificate of public convenience and necessity; [and

(c) That]

(c) Proves that the vehicle meets all required standards of the authority [.] *; and*

(d) Posts a bond in the amount of $20,000 with the administrator.

The administrator shall return the vehicle to its registered owner when the owner meets the requirements of this subsection and pays all costs of impoundment.

3. If the registered owner is unable to meet the requirements of *paragraphs (b) or (c) or* subsection 2, the administrator [shall give the registered owner access to the vehicle so that he can remove all taxicab paraphernalia.] *may assess an administrative fine against the registered owner for each such violation in the amount of $5,000. The maximum amount of the administrative fine that may be assessed against a registered owner for a single impoundment of his vehicle pursuant to this section is $10,000.* The administrator shall return the vehicle after [all taxicab paraphernalia is removed] *any administrative fine imposed pursuant to this subsection* and all costs of impoundment have been paid.

Sec. 206. NRS 707.360 is hereby amended to read as follows:

707.360 1. The rehabilitation division of the department of employment, training and rehabilitation shall develop and administer a program whereby:

(a) Any person who is a customer of a telephone company which provides service through a local exchange and who is certified by the division to be deaf or to have severely impaired speech or hearing may obtain a device for telecommunication capable of serving the needs of such persons at no charge to the customer beyond the rate for basic service; and

(b) Any person who is deaf or has severely impaired speech or hearing may communicate by telephone with other persons through a dual-party relay system.

The program must be approved by the public [service] *utilities* commission of Nevada.

2. A surcharge is hereby imposed on each access line of each customer to the local exchange of any telephone company providing such lines in this state which is sufficient to cover the costs of the program. The commission shall establish by regulation the amount to be charged. Those companies shall collect the surcharge from their customers and transfer the money collected to the commission pursuant to regulations adopted by the commission.

3. The account for telecommunication and relay services for persons with impaired speech or hearing is hereby created within the state general fund and must be administered by the division. Any money collected from the surcharge imposed pursuant to subsection 2 must be deposited in the

state treasury for credit to the account. The money in the account may be used only:

(a) For the purchase, maintenance, repair and distribution of the devices for telecommunication, including the distribution of devices to state agencies and nonprofit organizations;

(b) To establish and maintain the dual-party relay system;

(c) To reimburse telephone companies for the expenses incurred in collecting and transferring to the commission the surcharge imposed by the commission;

(d) For the general administration of the program; and

(e) To train persons in the use of the devices.

4. For the purposes of this section:

(a) "Device for telecommunication" means a device which has a keyboard used to send messages by telephone, which visually displays or prints messages received and which is compatible with the system of telecommunication with which it is being used.

(b) "Dual-party relay system" means a system whereby persons who have impaired speech or hearing, and who have been furnished with devices for telecommunication, may relay communications through third parties to persons who do not have access to such devices.

Sec. 207. NRS 708.010 is hereby amended to read as follows:

708.010 As used in this chapter, "commission" means the public [service] *utilities* commission of Nevada.

Sec. 208. NRS 709.145 is hereby amended to read as follows:

709.145 1. Any political subdivision of the State of Nevada which operates or controls a water company, or the board of county commissioners of any county from which a franchise has been obtained, pursuant to NRS 709.050 to 709.170, inclusive, by a water company exempt from regulation by the public [service] *utilities* commission of Nevada, may contract with the public [service] *utilities* commission of Nevada for rate determination assistance, engineering services or financing advice concerning that water company.

2. Any such contract does not divest a political subdivision or a board of county commissioners of any of its jurisdiction over that water company.

3. The public [service] *utilities* commission of Nevada may charge a reasonable fee for those services.

Sec. 209. NRS 709.146 is hereby amended to read as follows:

709.146 Any water company exempt from regulation by the public [service] *utilities* commission of Nevada and franchised pursuant to NRS 709.050 to 709.170, inclusive, shall, upon request by the board of county commissioners of the county from which such water company obtained its franchise, produce its books and records for inspection by such board of county commissioners, or the public [service] *utilities* commission.

Sec. 210. NRS 709.160 is hereby amended to read as follows:

709.160 Nothing contained in NRS 709.050 to 709.170, inclusive, [shall] *must* be so construed as to deprive the public [service] *utilities* commission of Nevada of full power to regulate and control, as prescribed by law, the service, practices, regulations and charges, subject to the maximum charges fixed by the board of county commissioners upon granting the franchise, and subject also to the provisions of NRS 709.110, of all [public] utilities receiving franchises as provided in NRS 709.050 to 709.170, inclusive.

Sec. 211. NRS 709.240 is hereby amended to read as follows:

709.240 1. All poles from which wires are suspended for electric power, light or heating purposes within the boundaries of unincorporated towns or cities and over public highways shall be subject to such rules and regulations in constructing and maintaining the same as may be prescribed by the public [service] *utilities* commission of Nevada.

2. The persons or corporations operating such electric light, heat or power lines shall provide a competent electrician, at the expense of such persons or corporations, to cut, repair and replace wires in all cases where such cutting, repairing or replacing is made necessary by the removal of buildings or other property through the public streets or highways.

Sec. 212. NRS 710.145 is hereby amended to read as follows:

710.145 1. Notwithstanding the provisions of any other statute, a telephone system which is under the control and management of a county may extend its operation across county boundaries if:

(a) The proposed operations are not within the scope of activities regulated pursuant to chapter 704 of NRS;

(b) The public [service] *utilities* commission of Nevada has, pursuant to subsection 3 of NRS 704.040, determined that the extended services are competitive or discretionary and that regulation thereof is unnecessary; or

(c) The public [service] *utilities* commission of Nevada has, in an action commenced under NRS 704.330 and after 20 days' notice to all telephone utilities providing service in the county into which the operation is to be extended, determined that no other telephone service can reasonably serve the area into which the extension is to be made and approves the extension of the system. No such extension may be permitted for a distance of more than 10 miles.

2. Except as otherwise provided in subsection 1, nothing in this section vests jurisdiction over a county telephone system in the public [service] *utilities* commission of Nevada.

Sec. 213. NRS 711.030 is hereby amended to read as follows:

711.030 "Community antenna television company" means any person or organization which owns, controls, operates or manages a community antenna television system, except that the definition does not include:

1. A telephone, telegraph or electric utility regulated by the public [service] *utilities* commission of Nevada where the utility merely leases or rents to a community antenna television company wires or cables for the redistribution of television signals to or toward subscribers of that company; or

2. A telephone or telegraph utility regulated by the public [service]

utilities commission of Nevada where the utility merely provides channels of communication under published tariffs filed with that commission to a community antenna television company for the redistribution of television signals to or toward subscribers of that company.

Sec. 214. NRS 711.240 is hereby amended to read as follows:

711.240 1. Except with respect to reasonable promotional activities, a person shall not advertise, offer to provide or provide any service to subscribers of television services at a rate, including any rebate, less than the cost to the company to provide the service which is advertised, offered or provided with the intent to:

(a) Impair fair competition or restrain trade among companies which provide services in the same area; or

(b) Create a monopoly.

2. For the purposes of this section, "cost" means the expense of doing business including, without limitation, expenses for labor, rent, depreciation, interest, maintenance, delivery of the service, franchise fees, taxes, insurance and advertising.

3. A community antenna television company may offer any telecommunication or related services which are offered in the same area by a telephone company, pursuant to chapter 704 of NRS and regulations approved by the public [service] *utilities* commission of Nevada for providers of similar services. A community antenna television company shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing telecommunication or related services which are subject to regulation by the public [service] *utilities* commission of Nevada.

4. A violation of subsection 1 constitutes a prohibited act under NRS 598A.060. The attorney general and any other person may exercise the powers conferred by that chapter to prevent, remedy or punish such a violation. The provisions of chapter 598A of NRS apply to any such violation.

Sec. 215. NRS 712.020 is hereby amended to read as follows:

712.020 The legislature hereby finds and declares that the storage of household goods and effects in warehouses affects the public interest and the public welfare, and in the exercise of its police power it is necessary to vest in the [public service commission of Nevada] *transportation services authority* the authority to set certain standards as to fitness and financial stability, and to require certain insurance as a condition for engaging in such storage business.

Sec. 216. NRS 712.040 is hereby amended to read as follows:

712.040 [No] *A* person shall *not* engage in the storage of household goods and effects without first having obtained from the [commission] *transportation services authority* a warehouse permit to conduct such service.

Sec. 217. NRS 712.050 is hereby amended to read as follows:

712.050 1. Before issuing a warehouse permit the [commission] *transportation services authority* shall:

(a) Require proof of financial ability to protect persons storing property from loss or damage, and a showing of sufficient assets, including working capital, to carry out the proposed service.

(b) Determine that the applicant has sufficient experience in and knowledge of the storage in a warehouse of household goods and effects, and the [commission's] regulations *of the transportation services authority* governing the storage of household goods and effects.

(c) Require proof that the applicant carries a legal policy of liability insurance evidencing coverage against fire, theft, loss and damage for stored property and effects in an amount not less than the base release value set forth in the tariff approved by the [commission] *transportation services authority* governing the transportation of household goods and effects for those articles not covered by private insurance. Except upon 30 days' written notice to the [commission,] *transportation services authority,* the insurance must not be canceled during the period for which any permit is issued. Failure to keep the insurance in effect is cause for revocation of any warehouse permit.

(d) Require information showing that the property to be used for storage of household goods and effects is reasonably suitable for that purpose. Failure to maintain the property in suitable condition is cause for revocation of any warehouse permit.

(e) Collect an initial fee for the permit as set by the commission according to the gross volume of business in an amount not less than $25 nor more than $50.

2. On or before January 1 of each year, the holder of a warehouse permit shall pay to the [commission] *transportation services authority* an annual fee as set by the [commission] *transportation services authority* pursuant to paragraph (e) of subsection 1.

3. Any person who fails to pay the annual fee on or before the date provided in this section shall pay a penalty of 10 percent of the amount of the fee plus interest on the amount of the fee at the rate of 1 percent per month or fraction of a month from the date the fee is due until the date of payment.

Sec. 218. NRS 712.060 is hereby amended to read as follows:

712.060 The [commission] *transportation services authority* or its agents may:

1. Inspect any property proposed to be used for storage of household goods and effects to determine its suitability.

2. Examine the premises, books and records of any permit holder.

Sec. 219. NRS 712.070 is hereby amended to read as follows:

712.070 The [commission] *transportation services authority* shall adopt such rules or regulations as may be required for the administration of this chapter.

Sec. 220. NRS 37.010 is hereby amended to read as follows:

37.010 Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public purposes:

1. Federal activities. All public purposes authorized by the Government of the United States.

2. State activities. Public buildings and grounds for the use of the state, the University and Community College System of Nevada and all other public purposes authorized by the legislature.

3. County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

4. Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

5. Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

6. Mining, smelting and related activities. Mining, smelting and related activities as follows:

(a) Mining and related activities, which are recognized as the paramount interest of this state.

(b) Roads, railroads, tramways, tunnels, ditches, flumes, pipes and dumping places to facilitate the milling, smelting or other reduction of ores, or the working of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams, pipe lines, tanks or reservoirs for natural gas or oil, an occupancy in common by the owners or possessors of different mines, mills, smelters or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.

7. Byroads. Byroads leading from highways to residences and farms.

8. Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

9. Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the state or college or university.

10. Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

11. Cemeteries, public parks. Cemeteries or public parks.

12. Pipe lines of beet sugar industry. Pipe lines to conduct any liquids connected with the manufacture of beet sugar.

13. Pipe lines for petroleum products, natural gas. Pipe lines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

14. Aviation. Airports, facilities for air navigation and aerial rights of way.

15. Monorails. Monorails and any other overhead or underground system used for public transportation.

16. Community antenna television companies. Community antenna television companies which have been granted a franchise from the governing body of the jurisdictions in which they provide services. The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

(a) It creates no substantial detriment to the service provided by the utility;

(b) It causes no irreparable injury to the utility; and

(c) The public [service] *utilities* commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

17. Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

Sec. 221. NRS 78.085 is hereby amended to read as follows:

78.085 1. Every railroad company in this state shall, within 90 days after its road [shall be] *is* finally located:

(a) Cause to be made a map and profile thereof, and of the land taken and obtained for the use thereof, and the boundaries of the several counties through which the road may run;

(b) File the same in the office of the secretary of state and a duplicate thereof with the public [service] *utilities* commission of Nevada; and

(c) Cause to be made like maps of the parts thereof located in different counties, and file the same in the office of the recorder of the county in which such parts of the road [shall be] *are* located.

2. The maps and profiles [shall] *must* be certified by the chief engineer, the acting president, and secretary of such company and copies of the same, so certified and filed as required by subsection 1, [shall] *must* be kept in the office of the company, subject to examination by all interested persons.

Sec. 222. NRS 90.520 is hereby amended to read as follows:

90.520 1. As used in this section:

(a) "Guaranteed" means guaranteed as to payment of all or substantially all of principal and interest or dividends.

(b) "Insured" means insured as to payment of all or substantially all of principal and interest or dividends.

2. Except as otherwise provided in subsections 4 and 5, the following securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit for any of the foregoing, but this exemption does not include a security payable solely from revenues to be received from an enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration under paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this state or an agency, instrumentality or political subdivision of this state; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's [Investor] *Investors* Service, Inc., or Standard and Poor's [Corporation.] *Rating Services*.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.

(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this state.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the [Interstate Commerce Commission;] *Surface Transportation Board;*

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt under this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange or other exchange designated by the administrator, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(h) A security designated or approved for designation upon issuance or notice of issuance for inclusion in the national market system by the National Association of Securities Dealers, Inc., any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so designated, or a warrant or a right to purchase or subscribe to any of the foregoing.

(i) An option issued by a clearing agency registered under the Securities Exchange Act of 1934, other than an offexchange futures contract or substantially similar arrangement, if the security, currency, commodity, or other interest underlying the option is:

(1) Registered under NRS 90.470, 90.480 or 90.490;

(2) Exempt under this section; or

(3) Not otherwise required to be registered under this chapter.

(j) A security issued by a person organized and operated not for private profit but exclusively for a religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purpose, or as a chamber of commerce or trade or professional association if at least 10 days before the sale of the security the issuer has filed with the administrator a notice setting forth the material terms of the proposed sale and copies of any sales and advertising literature to be used and the administrator by order does not disallow the exemption within the next 5 full business days.

(k) A promissory note, draft, bill of exchange or banker's acceptance that evidences an obligation to pay cash within 9 months after the date of issuance, exclusive of days of grace, is issued in denominations of at least

$50,000 and receives a rating in one of the three highest rating categories from a nationally recognized statistical rating organization, or a renewal of such an obligation that is likewise limited, or a guarantee of such an obligation or of a renewal.

(l) A security issued in connection with an employees' stock purchase, savings, option, profit-sharing, pension or similar employees' benefit plan.

(m) A membership or equity interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of any state if not traded to the public.

(n) A security issued by an issuer registered as an openend management investment company or unit investment trust under section 8 of the Investment Company Act of 1940 if:

(1) The issuer is advised by an investment adviser that is a depository institution exempt from registration under the Investment Adviser Act of 1940 or that is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or sale of a security claimed to be exempt under this paragraph, and the issuer has acted, or is affiliated with an investment adviser that has acted, as investment adviser to one or more registered investment companies or unit investment trusts for at least 3 years next preceding an offer or sale of a security claimed to be exempt under this paragraph; or

(2) The issuer has a sponsor that has at all times throughout the 3 years before an offer or sale of a security claimed to be exempt under this paragraph sponsored one or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded $100,000,000.

3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this state and pays a fee of:

(a) Two hundred and fifty dollars for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this state, in the case of an open-end management company; or

(b) One hundred and fifty dollars for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph (c), (e), (f), (i) or (k) of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the administrator and a nonrefundable fee of $150 has been paid.

Sec. 223. NRS 113.060 is hereby amended to read as follows:

113.060 1. Any person who is proposing to sell a previously unsold home or improved lot for which water or sewerage services will be provided by a public utility that:

(a) Serves or plans to serve more than 25 customers; and

(b) Presently serves fewer than 2,000 customers,

shall post in a conspicuous place on the property or at his sales office if an improved lot is being sold, a notice which states the current rates to be charged for such services or, if the public utility is not presently serving customers, the projected rates to be charged. The notice must also contain the name, address and telephone number of the public utility and the division of consumer [relations] *complaint resolution* of the public [service] *utilities* commission of Nevada.

2. Before the home or lot is sold, the seller shall give the purchaser a copy of the notice described in subsection 1.

Sec. 224. NRS 118B.140 is hereby amended to read as follows:

118B.140 The landlord or his agent or employee shall not:

1. Require a person to purchase a mobile home from him or any other person as a condition to renting a mobile home lot to the purchaser or give an adjustment of rent or fees, or provide any other incentive to induce the purchase of a mobile home from him or any other person.

2. Charge or receive:

(a) Any entrance or exit fee for assuming or leaving occupancy of a mobile home lot.

(b) Any transfer or selling fee or commission as a condition to permitting a tenant to sell his mobile home or recreational vehicle within the mobile home park even if the mobile home or recreational vehicle is to remain within the park, unless the landlord is licensed as a dealer of mobile homes pursuant to NRS 489.311 and has acted as the tenant's agent in the sale pursuant to a written contract.

(c) Any fee for the tenant's spouse or children.

(d) Any fee for pets kept by a tenant in the park. If special facilities or services are provided, the landlord may also charge a fee reasonably related to the cost of maintenance of the facility or service and the number of pets kept in the facility.

(e) Any additional service fee unless the landlord provides an additional service which is needed to protect the health and welfare of the tenants, and written notice advising each tenant of the additional fee is sent to the tenant 90 days in advance of the first payment to be made, and written notice of the additional fee is given to prospective tenants on or before commencement of their tenancy. A tenant may only be required to pay the additional service fee for the duration of the additional service.

(f) Any fee for a late monthly rental payment within 4 days of the date the rental payment is due or which exceeds $1 for each day which the payment is overdue, beginning on the day after the payment was due. Any fee for late

payment of charges for utilities must be in accordance with the requirements prescribed by the public [service] *utilities* commission of Nevada.

(g) Any fee, surcharge or rent increase to recover from his tenants the costs resulting from converting from a mastermetered water system to individual water meters for each mobile home lot.

Sec. 225. Chapter 119 of NRS is hereby amended by adding thereto a new section to read as follows:

It is unlawful for a developer to sell any lot, parcel, unit or interest in a subdivision without disclosing to the purchaser in writing, before the purchaser signs any binding agreement, the location in the subdivision, and on all land contiguous thereto, of all rights of way and easements for transmission lines of public utilities that supply electricity.

Sec. 226. NRS 119.121 is hereby amended to read as follows:

119.121 Unless the method of disposition is adopted to evade the provisions of this chapter or of the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701 to 1720, inclusive, if each lot, parcel, interest or unit being offered or disposed of in any subdivision is at least one-sixteenth of a section as described by a survey of the government land office, but not less than 35 acres, or 40 acres in area, including roadways and easements, but not more than 80 acres in size, and the developer:

1. Completes an application in such form and containing such reasonable information as the division may require;

2. Pays the fees prescribed in this chapter for a permit for partial registration;

3. Requires the purchaser or his agent to inspect the land before purchasing it; and

4. Signs an affirmation which states that the purchaser or his agent has inspected the land before purchasing it and makes that affirmation a matter of record pursuant to the regulations of the division,

the developer need only comply with the provisions of NRS 119.183, 119.184 and 119.230 [.] , *and section 225 of this act.*

Sec. 227. NRS 120A.220 is hereby amended to read as follows:

120A.220 All intangible personal property held for the owner by any court, public corporation, public authority or public officer, an appointee thereof, a federal or state governmental entity or a political subdivision thereof, that has remained unclaimed by the owner for more than 5 years after it became payable or distributable is presumed abandoned and subject to the provisions of this chapter if:

1. The last known address or residence of the owner of the property is in this state; or

2. The property is otherwise abandoned in this state.

This section does not apply to refunds held by the public [service] *utilities* commission of Nevada pursuant to NRS 703.375 [.] *or by the transportation services authority pursuant to chapter 706 of NRS.*

Sec. 228. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the central repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. The central repository shall disseminate to a prospective or current employer, upon request, information relating to sexual offenses concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information.

5. Records of criminal history must be disseminated by an agency of criminal justice upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The state gaming control board.

(d) The state board of nursing.

(e) The private investigator's licensing board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the public [service] *utilities* commission of Nevada when the information is necessary to conduct

a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) The division of child and family services of the department of human resources and any county agency that is operated pursuant to NRS 432B.325 or authorized by a court of competent jurisdiction to receive and investigate reports of abuse or neglect of children and which provides or arranges for protective services for such children.

6. Agencies of criminal justice in this state which receive information from sources outside [the] *this* state concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 229. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 230 to 233, inclusive, of this act.

Sec. 230. *1. There is hereby created a legislative committee on utilities. The committee consists of:*

(a) Three members appointed by the majority leader of the senate, in consultation with the minority leader of the senate, from the membership of the senate standing committee on commerce and labor during the immediately preceding session of the legislature.

(b) Three members appointed by the speaker of the assembly from the membership of the assembly standing committee on government affairs during the immediately preceding session of the legislature.

2. The chairmanship of the committee must alternate between the houses of the legislature as follows:

(a) The majority leader of the senate shall:

(1) Select a person from the members appointed pursuant to paragraph (a) of subsection 1 to serve as chairman for the period ending with the convening of the 70th session of the legislature; and

(2) Select a person from the members appointed pursuant to paragraph (a) of subsection 1 to serve as chairman in each subsequent period beginning with the convening of each oddnumbered regular session of the legislature and ending with the convening of each even-numbered regular session of the legislature; and

(b) The speaker of the assembly shall select a person from the members appointed pursuant to paragraph (b) of subsection 1 to serve as chairman in each period beginning with the convening of each even-numbered regular session of the legislature and ending with the convening of each oddnumbered regular session of the legislature.

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 regular session of the legislature.

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

Sec. 231. *1. The members of the legislative committee on utilities shall meet at least quarterly and at the times and places specified by a call of the chairman. The director of the legislative counsel bureau or a person he has designated shall act as the nonvoting recording secretary. Four members of the committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the committee.*

2. Except during a regular or special session of the legislature, the 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 session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the committee and while engaged in the business of the committee. The salaries and expenses of the members of the committee and other expenses incurred by the committee in carrying out its duties must be paid from assessments imposed pursuant to NRS 704.033.

Sec. 232. *The legislative committee on utilities:*

1. May review issues related to all public utilities subject to the jurisdiction of the public service commission of Nevada to:

(a) Maximize the benefits of a competitive marketplace;

(b) Ensure flexibility to providers of energy;

(c) Foster growth and innovation in the provision of services through the public service commission of Nevada;

(d) Ensure and enhance the safety and reliability of the public utilities provided in this state; and

(e) Ensure the protection of the persons who use the services provided by such public utilities.

2. May review issues related to the consumer's advocate.

3. Shall evaluate whether or the extent to which:

(a) Requirements should be established regarding the use of renewable resources and the creation of programs to improve energy efficiency; and

(b) The diversity of fuel, the diversity of generation resources or any economic or environmental factors should be considered in determining the

optimal combination of generation resources necessary to meet the requirements for electric energy in this state.

4. May conduct investigations and hold hearings in connection with carrying out its duties pursuant to this section.

5. May direct the legislative counsel bureau to assist in its research, investigations, hearings and reviews.

Sec. 233. *1. There is hereby created a Northern Nevada advisory oversight committee and a Southern Nevada advisory oversight committee for the legislative committee on utilities.*

2. The Northern Nevada advisory committee must be appointed by members of the legislature who represent a district comprises any part of the service territory of an electric utility which, on the effective date of this section, holds a certificate of public convenience and necessity on July 1, 1997, that includes Washoe County and consist of:

(a) Not more than 2 persons representing the electric utility whose service area includes Washoe County.

(b) One shareholder of that electric utility.

(c) Two residential customers of the electric utility.

(d) Two persons who represent small businesses that use not less than 800 kilowatts but not more than 5 megawatts of electricity supplied by the electric utility.

(e) Two persons who represent two different large industrial users who use 5 megawatts of electricity or more supplied by the electric utility.

(f) Two persons who represent local governments that receive electric service from the electric utility.

(g) One or two persons who represent alternative sellers and cogeneration or small power production facilities that meet the criteria of and has been certified as a qualified facility pursuant to Title 18, Code of Federal Regulations, sections 292.201 to 292.207, inclusive, as those sections existed on the effective date of this act, operating to provide electric service in the service territory of the electric utility.

(h) One or two legislators from those legislators who are eligible to appoint the committee pursuant to this subsection.

3. The Southern Nevada advisory committee must be appointed by members of the legislature who represent a district comprises any part of the service territory of an electric utility which, on the effective date of this section, holds a certificate of public convenience and necessity on July 1, 1997, that includes Clark County and consist of:

(a) Not more than 2 persons representing the electric utility whose service area includes Clark County.

(b) One shareholder of that electric utility.

(c) Two residential customers of the electric utility.

(d) Two persons who represent small businesses that use not less than 800 kilowatts but not more than 5 megawatts of electricity supplied by the electric utility.

(e) Two persons who represent two different large industrial users who use 5 megawatts of electricity or more supplied by the electric utility.

(f) Two persons who represent local governments that receive electric service from the electric utility.

(g) One or two persons who represent alternative sellers and cogeneration or small power production facilities that meet the criteria of and has been certified as a qualified facility pursuant to Title 18, Code of Federal Regulations, sections 292.201 to 292.207, inclusive, as those sections existed on the effective date of this act, operating to provide electric service in the service territory of the electric utility.

(h) One or two legislators from those legislators who are eligible to appoint the committee pursuant to this subsection.

4. Members of the advisory committees serve without compensation and are not entitled to the per diem allowance or travel expenses provided for state officers and employees generally.

5. The advisory committee shall:

(a) Discuss the rules and regulations related to the provision of competitive electric service in this state and the needs of the residents of this state related to such competition, including, but not limited to, issues relating to affiliates, aggregation of services, alternative sellers, anticompetitive conduct, resource planning, renewable energy, consumer education, potentially competitive services, recovery of stranded costs and rate caps.

(b) Monitor the progress of the public service commission of Nevada in facilitating such competition.

6. The advisory committees shall submit recommendations to the legislative committee on utilities. The Southern Nevada advisory committee shall submit its recommendations to the inaugural meeting of the legislative committee on utilities, and thereafter, unless otherwise directed by the legislative committee on utilities, the advisory committee that is designated to submit recommendations alternates between every other meeting of the legislative committee on utilities.

Sec. 234. Chapter 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 235 to 239, inclusive, of this act.

Sec. 235. *"Bureau of consumer protection" means the bureau of consumer protection in the office of the attorney general.*

Sec. 236. *"Consumer's advocate" means the consumer's advocate of the bureau of consumer protection.*

Sec. 237. *"Cooperative utility" means a cooperative association or nonprofit corporation or association which supplies utility services for the use of its own members only.*

Sec. 238. *"Public interest" means the interests or rights of the State of Nevada and of the residents of this state, or a broad class of those residents, which arise from the constitutions, court decisions and statutes of this state and of the United States and from the common law.*

Sec. 239. *1. The consumer's advocate:*

(a) May compile and maintain a data base of the types of telecommunication services that are available in this state. Such a data base must be:

(1) In a format that can be easily understood; and

(2) Updated annually.

(b) Shall perform outreach programs, identify problems and facilitate the development of solutions relating to the provision of telecommunication service to public schools, public libraries, medical facilities and local governments in rural counties.

(c) Shall act as an advocate for the public schools, public libraries, medical facilities, local governments, businesses and general public of this state before the public utilities commission of Nevada relating to the provision of universal telephone service and access to universal service.

(d) Facilitate coordination among the agencies and local governments of this state and the commission regarding issues relating to telecommunication services.

2. As used in this section:

(a) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

(b) "Public library" has the meaning ascribed to it in NRS 379.0057.

(c) "Rural county" means a county whose population is less than 100,000.

(d) "Universal service" means the availability of affordable and reliable basic telephone service to as many customers in this state as economically and operationally practicable.

Sec. 240. NRS 228.096 is hereby amended to read as follows:

228.096 1. The attorney general's special fund is hereby created as a special revenue fund.

2. [Except as otherwise provided by NRS 598A.260, all money received by the attorney general pursuant to those provisions of law relating to private investigators and to recoveries for unfair trade practices must be deposited in the state treasury for credit to the attorney general's special fund.

3.] All claims against the fund must be paid as other claims against the state are paid.

Sec. 241. NRS 228.097 is hereby amended to read as follows:

228.097 [Except as he is required by NRS 228.096 to deposit certain money in a special fund, the] *The* attorney general shall deposit in the state general fund all money collected by him which is in excess of the amount authorized for expenditure by the legislature.

Sec. 242. NRS 228.098 is hereby amended to read as follows:

228.098 [Except as provided in NRS 228.096, money] *Money* for the support of the operations of the office of attorney general from whatever source it is derived must be accounted for in the attorney general's administration budget account.

Sec. 243. NRS 228.300 is hereby amended to read as follows:

228.300 As used in NRS 228.300 to 228.390, inclusive, *and sections 235 to 239, inclusive, of this act,* unless the context otherwise requires [:

1. "Consumer's advocate" means the advocate for customers of public utilities.

2. "Cooperative utility" means a cooperative association or nonprofit corporation or association which supplies utility services for the use of its own members only.

3. "Public interest" means the interests or rights of the State of Nevada and of the citizens of the state, or a broad class of those citizens, which arise from the constitutions, court decisions and statutes of this state and of the United States and from the common law, as those interests and rights relate to the regulation of public utilities.] *, the words and terms defined in sections 235 to 238, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 244. NRS 228.310 is hereby amended to read as follows:

228.310 *1.* The [office of advocate for customers of public utilities] *bureau of consumer protection* is hereby created within the office of the attorney general. [The advocate for customers of public utilities may be known as the consumer's advocate.]

2. The executive head of the bureau of consumer protection is the consumer's advocate.

Sec. 245. NRS 228.330 is hereby amended to read as follows:

228.330 The consumer's advocate may:

1. Employ [the] *such* staff *as are* necessary to carry out his duties and the functions of his office, in accordance with the personnel practices and procedures established within the attorney general's office. [The staff must include:

(a) A person licensed to practice law in this state, who shall serve as staff counsel;

(b) A person knowledgeable in rate making and principles and policies of rate regulation;

(c) A specialist in public utilities knowledgeable in accounting, finance or economics or one or more related disciplines; and

(d) An administrative assistant,

who must be in the unclassified service of the state.] The consumer's advocate has sole discretion to employ and remove [the members] *any member* of his staff . [who are in the unclassified service.]

2. Purchase necessary equipment.

3. Lease or make other suitable arrangements for office space, but any lease which extends beyond the term of 1 year must be reviewed and approved by a majority of the members of the state board of examiners.

4. Apply for an order or subpoena for the appearance of witnesses or the production of books, papers and documents in any proceeding in which he is a party or intervener, in the same manner as any other party or intervener, and make arrangements for and pay the fees or costs of any witnesses and consultants necessary to the proceeding. If any person ordered by the public [service] *utilities* commission of Nevada to appear before it as a witness

pursuant to this subsection fails to obey the order, the commission shall apply for a subpoena commanding the attendance of the witness.

5. Perform such other functions and make such other arrangements as may be necessary to carry out his duties and the functions of his office.

Sec. 246. NRS 228.340 is hereby amended to read as follows:

228.340 1. [The account for the consumer's advocate is hereby created within the attorney general's special fund created pursuant to NRS 228.096. All money collected for the use of the consumer's advocate must be deposited in the state treasury for credit to the account.] *Except as otherwise provided by NRS 598A.260, all money collected by the bureau of consumer protection pursuant to NRS 704.033 and to those provisions relating to private investigators and unfair trade practices must be deposited with the state treasurer for credit to the account for the bureau of consumer protection.*

2. Money in the account may be used only to defray the costs of maintaining the office of the consumer's advocate and for carrying out the provisions of NRS 228.300 to 228.390, inclusive.

3. All claims against the account must be paid as other claims against the state are paid.

Sec. 247. NRS 228.360 is hereby amended to read as follows:

228.360 The consumer's advocate may, with respect to all public utilities except railroads [, common and contract motor carriers] and cooperative utilities, and except as provided in NRS 228.380:

1. Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

2. Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the public [service] *utilities* commission of Nevada in the same manner and to the same extent as authorized by law for members of the public [service] *utilities* commission of Nevada and its staff.

3. Petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the public [service] *utilities* commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the consumer's advocate may bring before or has brought before the public [service] *utilities* commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The consumer's advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.

Sec. 248. NRS 228.370 is hereby amended to read as follows:

228.370 All public utilities, except railroads [, common and contract motor carriers] and cooperative utilities, and except as provided in NRS 228.380, shall provide the consumer's advocate with copies of any proposed changes in rates or service, correspondence, legal papers and other documents which are served on or delivered or mailed to the public [service] *utilities* commission of Nevada.

Sec. 249. NRS 228.380 is hereby amended to read as follows:

228.380 *1. Except as otherwise provided in this section, the consumer's advocate may exercise the power of the attorney general in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C and 599B of NRS. The consumer's advocate may not exercise any powers to enforce any criminal statute set forth in chapters 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the public utilities commission of Nevada if the consumer's advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities.*

2. The consumer's advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.

3. The powers of the consumer's advocate do not extend to [matters] *proceedings before the public utilities commission of Nevada* directly relating to discretionary or competitive telecommunication services.

Sec. 250. NRS 228.390 is hereby amended to read as follows:

228.390 1. The consumer's advocate has sole discretion to represent or refrain from representing the public interest and any class of [utility] customers in any proceeding.

2. In exercising his discretion, the consumer's advocate shall consider the importance and extent of the public interest or the customers' interests involved and whether those interests would be adequately represented without his participation.

3. If the consumer's advocate determines that there would be a conflict between the public interest and any particular class of [utility] customers or any inconsistent interests among the classes of [utility] customers involved in a particular matter, he may choose to represent one of the interests, to represent no interest, or to represent one interest through his office and another or others through outside counsel engaged on a case basis.

Sec. 251. NRS 232.510 is hereby amended to read as follows:

232.510 1. The department of business and industry is hereby created.

2. The department consists of a director and the following:

(a) Consumer affairs division.
(b) Division of financial institutions.
(c) Housing division.
(d) Manufactured housing division.
(e) Real estate division.
(f) Division of unclaimed property.
(g) Division of agriculture.
(h) Division of minerals.
(i) Division of insurance.
(j) Division of industrial relations.

(k) Office of labor commissioner.
(l) Taxicab authority.
(m) Nevada athletic commission.
(n) Office of the Nevada attorney for injured workers.
(o) State predatory animal and rodent committee.
(p) *Transportation services authority.*
(q) Any other office, commission, board, agency or entity created or placed within the department pursuant to a specific statute, the budget approved by the legislature or an executive order, or an entity whose budget or activities have been placed within the control of the department by a specific statute.

Sec. 252. NRS 232.520 is hereby amended to read as follows:

232.520 The director:

1. Shall appoint a chief or executive director, or both of them, of each of the divisions, offices, commissions, boards, agencies or other entities of the department, unless the authority to appoint such a chief or executive director, or both of them, is expressly vested in another person, board or commission by a specific statute. In making the appointments, the director may obtain lists of qualified persons from professional organizations, associations or other groups recognized by the department, if any. The chief of the consumer affairs division is the commissioner of consumer affairs, the chief of the division of financial institutions is the commissioner of financial institutions, the chief of the housing division is the administrator of the housing division, the chief of the manufactured housing division is the administrator of the manufactured housing division, the chief of the real estate division is the real estate administrator, the chief of the division of unclaimed property is the administrator of unclaimed property, the chief of the division of agriculture is the administrator of the division of agriculture, the chief of the division of minerals is the administrator of the division of minerals, the chief of the division of insurance is the insurance commissioner, the chief of the division of industrial relations is the administrator of the division of industrial relations, the chief of the office of labor commissioner is the labor commissioner, the chief of the taxicab authority is the taxicab administrator, *the chief of the transportation services authority is the chairman of the authority* and the chief of any other entity of the department has the title specified by the director, unless a different title is specified by a specific statute.

2. Is responsible for the administration of all provisions of law relating to the jurisdiction, duties and functions of all divisions and other entities within the department. The director may, if he deems it necessary to carry out his administrative responsibilities, be considered as a member of the staff of any division or other entity of the department for the purpose of budget administration or for carrying out any duty or exercising any power necessary to fulfill the responsibilities of the director pursuant to this subsection. Nothing contained in this subsection may be construed as allowing the director to

preempt any authority or jurisdiction granted by statute to any division or other entity within the department or as allowing the director to act or take on a function that would be in contravention of a rule of court or a statute.

3. Has authority to:

(a) Establish uniform policies for the department, consistent with the policies and statutory responsibilities and duties of the divisions and other entities within the department, relating to matters concerning budgeting, accounting, planning, program development, personnel, information services, dispute resolution, travel, workplace safety, the acceptance of gifts or donations, the management of records and any other subject for which a uniform departmental policy is necessary to ensure the efficient operation of the department.

(b) Provide coordination among the divisions and other entities within the department, in a manner which does not encroach upon their statutory powers and duties, as they adopt and enforce regulations, execute agreements, purchase goods, services or equipment, prepare legislative requests and lease or utilize office space.

(c) Define the responsibilities of any person designated to carry out the duties of the director relating to financing, industrial development or business support services.

4. May, within the limits of the financial resources made available to him, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the department. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the department.

5. For any bonds which he is otherwise authorized to issue, may issue bonds the interest on which is not exempt from federal income tax or excluded from gross revenue for the purposes of federal income tax.

6. May, except as otherwise provided by specific statute, adopt by regulation a schedule of fees and deposits to be charged in connection with the programs administered by him pursuant to chapters 348A and 349 of NRS. Except as so provided, the amount of any such fee or deposit must not exceed 2 percent of the principal amount of the financing.

7. May designate any person within the department to perform any of the duties or responsibilities, or exercise any of the authority, of the director on his behalf.

8. May negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the director or the department.

9. May establish a trust account in the state treasury for the purpose of depositing and accounting for money that is held in escrow or is on deposit with the department for the payment of any direct expenses incurred by the director in connection with any bond programs administered by the director.

The interest and income earned on money in the trust account, less any amount deducted to pay for applicable charges, must be credited to the trust account. Any balance remaining in the account at the end of a fiscal year may be:

(a) Carried forward to the next fiscal year for use in covering the expense for which it was originally received; or

(b) Returned to any person entitled thereto in accordance with agreements or regulations of the director pertaining to such bond programs.

Sec. 253. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The governor.

(b) The department of prisons.

(c) The University and Community College System of Nevada.

(d) The office of the military.

(e) The state gaming control board.

(f) The Nevada gaming commission.

(g) The state board of parole commissioners.

(h) The welfare division of the department of human resources.

(i) The state board of examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the office of the state engineer.

2. Except as otherwise provided in NRS 391.323, the department of education, the committee on benefits and the commission on professional standards in education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the employment security division of the department of employment, training and rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 703 of NRS for the judicial review of decisions of the public [service] *utilities* commission of Nevada;

(d) Chapter 91 of NRS for the judicial review of decisions of the administrator of the securities division of the office of the secretary of state; and

(e) NRS 90.800 for the use of summary orders in contested cases,

prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the department of human resources in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the state board of agriculture, the state board of health, the state board of sheep commissioners or any other agency of this state in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control; or

(b) An extraordinary regulation of the state board of pharmacy adopted pursuant to NRS 453.2184.

Sec. 254. NRS 233B.060 is hereby amended to read as follows:

233B.060 1. Except as otherwise provided in subsection 2 and in NRS 233B.061, before adopting, amending or repealing any permanent or temporary regulation, the agency must give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

2. Except as otherwise provided in subsection 3, if an agency has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt, after providing a second notice and the opportunity for a hearing, a permanent regulation, but the language of the permanent regulation must first be approved or revised by the legislative counsel and the adopted regulation is subject to review by the legislative commission.

3. If the public [service] *utilities* commission of Nevada has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt a substantively equivalent permanent regulation without further notice or hearing, but the language of the permanent regulation must first be approved or revised by the legislative counsel and the adopted regulation is subject to review by the legislative commission.

Sec. 255. NRS 244.3655 is hereby amended to read as follows:

244.3655 1. If the state board of health determines that:

(a) A water system which is located in a county and was constructed on or after July 1, 1991, is not satisfactorily serving the needs of its users; and

(b) Water provided by a public utility or a municipality or other public entity is reasonably available to those users,

the board of county commissioners of that county may require all users of the system to connect into the available water system provided by a public utility or a municipality or other public entity, and may assess each lot or parcel served for its proportionate share of the costs associated with connecting into that water system. If the water system is being connected into a public utility, the public [service] *utilities* commission of Nevada shall determine the amount of the assessments for the purposes of establishing a lien pursuant to NRS 445A.905.

2. As used in this section, "water system" has the meaning ascribed to it in NRS 445A.850.

Sec. 256. NRS 244.3663 is hereby amended to read as follows:

244.3663 1. If the board of county commissioners determines that:

(a) A package plant for sewage treatment which is located in the county and is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is not satisfactorily serving the needs of its users; and

(b) Sewerage provided by a public utility or a municipality or other public entity is reasonably available to those users,

the board may require all users of the plant to connect into the available sewers provided by a public utility or a municipality or other public entity, and may assess each lot or parcel served for its proportionate share of the cost of connecting into those sewers. These assessments are not subject to the jurisdiction of the public [service] *utilities* commission of Nevada.

2. If the state department of conservation and natural resources has found that a package plant for sewage treatment which is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is violating any of the conditions of NRS 445A.465 to 445A.515, inclusive, and has notified the holder of the permit that he must bring the plant into compliance, but the holder of the permit has failed to comply within a reasonable time after the date of the notice, the board of county commissioners of the county in which the plant is located may take the following actions independently of any further action by the state department of conservation and natural resources:

(a) Give written notice, by certified mail, to the owner of the plant and the owners of the property served by the plant that if the violation is not corrected within 30 days after the date of the notice, the board of county commissioners will seek a court order authorizing it to assume control; and

(b) After the 30-day period has expired, if the plant has not been brought into compliance, apply to the district court for an order authorizing the board to assume control of the plant and assess the property for the continued operation and maintenance of the plant as provided in subsection 4.

3. If the board of county commissioners determines at any time that immediate action is necessary to protect the public health and welfare, it may assume physical control and operation of a package plant for sewage treatment which is located in the county and is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, without complying with any of the requirements set forth in subsection 2. The board may not maintain control of the plant pursuant to this subsection for a period greater than 30 days unless it obtains an order from the district court authorizing an extension.

4. Each lot and parcel served by a package plant for sewage treatment which is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is subject to assessment by the board of county commissioners of the county in which the plant is located for its proportionate share of the cost of continued operation and maintenance of the plant if there is a default or the county assumes control and operation of the plant pursuant to subsection 2 or 3.

Sec. 257. NRS 244.3665 is hereby amended to read as follows:

244.3665 The board of county commissioners may prohibit any waste of water within the unincorporated areas of the county by customers of a public water system. Any ordinance adopted under this section may:

1. Classify the conditions under which specified kinds and amounts of consumption or expenditure of water are wasteful;

2. Provide for reasonable notice to water users in any such area indicating which of such conditions, if any, exist in that area;

3. Allow any person, group of persons, partnership, corporation or other business or governmental entity which:

(a) Furnishes water to persons within such areas of the county for business, manufacturing, agricultural or household use; and

(b) Is not a public utility regulated by the public [service] *utilities* commission of Nevada,

to reduce or terminate water service to any customer who wastes water, according to reasonable standards adopted by the board; and

4. Provide other appropriate penalties for violation of the ordinance which are based upon the classification adopted under subsection 1.

Sec. 258. NRS 244A.711 is hereby amended to read as follows:

244A.711 1. Except as otherwise provided in NRS 244A.703, after holding the required public hearing, the board of county commissioners shall proceed no further unless or until it:

(a) Except as otherwise provided in subsection 2, determines by resolution the total amount of money necessary to be provided by the county for the acquisition, improvement and equipment of the project;

(b) Receives a 5-year operating history from the contemplated lessee, purchaser or other obligor, or from a parent or other enterprise which guarantees principal and interest payments on any bonds issued;

(c) Receives evidence that the contemplated lessee, purchaser, other obligor or other enterprise which guarantees principal and interest payments, has received within the 12 months preceding the date of the public hearing, or then has in effect, a rating within one of the top four rating categories of either Moody's [Investor] *Investors* Service, Inc. or Standard and Poor's [Corporation,] *Rating Services*, except that a municipal or other public supplier of electricity in this state, a public utility regulated by the public [service] *utilities* commission of Nevada, the obligor with respect to a project described in NRS 244A.6975, the owner of a historic structure, a health and care facility or a supplemental facility for a health and care facility is not required to furnish that evidence;

(d) Determines by resolution that the contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement; and

(e) If the project is for the generation and transmission of electricity, determines by resolution that the project will serve one or more of the purposes set forth in NRS 244A.695 and specifies in the resolution its findings supporting that determination.

2. If the project is for the generation and transmission of electricity, the board may estimate the total amount of money necessary for its completion, and the total amount of money which may be provided by the county in connection with the project may exceed the estimate, without the requirement for any further public hearings to be held in connection therewith, to

the extent that the excess is required to complete the project or to finance any improvements to or replacements in the project and the county has previously determined to finance the remaining costs of acquiring, improving and equipping the project.

3. The board may refuse to adopt such a resolution with respect to any project even if all the criteria of subsection 1 are satisfied. If the board desires to adopt such a resolution with respect to any project where any criterion of subsection 1 is not satisfied, it may do so only with the approval of the state board of finance. In requesting this approval, the board of county commissioners shall transmit to the state board of finance all evidence received pursuant to subsection 1.

4. If any part of the project or improvements is to be constructed by a lessee or his designee, a purchaser or his designee or an obligor or his designee, the board shall provide, or determine that there are provided, sufficient safeguards to assure that all money provided by the county will be expended solely for the purposes of the project.

Sec. 259. NRS 244A.743 is hereby amended to read as follows:

244A.743 1. A county shall not commence the construction of a project for the generation and transmission of electricity to be financed pursuant to NRS 244A.669 to 244A.763, inclusive, until the legislature approves the project in general terms and fixes the limit of the capacity of its generating facilities. After a project is originally so approved, no further legislative approval is required except the addition of generating facilities. For the purposes of this subsection, construction is commenced when excavation is begun for the foundations of a unit for the generation of electricity.

2. Approval by the legislature does not preempt the authority of any state regulatory agency, including , without limitation , the public [service] *utilities* commission of Nevada, the state environmental commission and the state department of conservation and natural resources. The county shall determine, with the concurrence of the management committee, the capacity of the project to generate electricity, within the limit fixed by the legislature. This determination must be made before the county applies to the public [service] *utilities* commission for a permit to construct any generating unit.

Sec. 260. NRS 244A.763 is hereby amended to read as follows:

244A.763 1. NRS 244A.669 to 244A.763, inclusive, without reference to other statutes of [the] *this* state, constitute full authority for the exercise of powers granted in those sections, including , but not limited to , the authorization and issuance of bonds.

2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in NRS 244A.669 to 244A.763, inclusive, to be done, applies to any proceedings taken or acts done pursuant to those sections, except for laws to which reference is expressly made in those sections or by necessary implication of those sections.

3. The provisions of no other law, either general or local, except as provided in NRS 244A.669 to 244A.763, inclusive, apply to the doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except:

(a) As otherwise provided in those sections.

(b) That a project for the generation and transmission of electricity is subject to review and approval by the state regulatory agencies which have jurisdiction of the matters involved, including , without limitation , the public [service] *utilities* commission of Nevada, the state environmental commission and the state department of conservation and natural resources.

4. No notice, consent or approval by any public body or officer thereof may be required as a prerequisite to the sale or issuance of any bonds, the making of any contract or lease, or the exercise of any other power under NRS 244A.669 to 244A.763, inclusive, except as provided in those sections.

5. A project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the counties is not applicable to any action taken pursuant to NRS 244A.669 to 244A.763, inclusive, except that the provisions of NRS 338.010 to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the county for work to be done in a project.

6. Any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 244A.669 to 244A.763, inclusive, without the necessity of associating with any other person or entity as cofiduciary except that such association is not prohibited.

7. The powers conferred by NRS 244A.669 to 244A.763, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by any other law.

8. No part of NRS 244A.669 to 244A.763, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 261. NRS 268.097 is hereby amended to read as follows:

268.097 1. Except as otherwise provided in subsections 2 and 3, notwithstanding the provisions of any local, special or general law, after July 1, 1963, the governing body of any incorporated city in this state, whether incorporated by general or special act, or otherwise, may not supervise or

regulate any taxicab motor carrier as defined in NRS 706.126 which is under the supervision and regulation of the [public service commission of Nevada] *transportation services authority* pursuant to law.

2. The governing body of any incorporated city in this state, whether incorporated by general or special act, or otherwise, may fix, impose and collect a license tax on and from a taxicab motor carrier for revenue purposes only.

3. The governing body of any incorporated city in any county in which the provisions of NRS 706.8811 to 706.885, inclusive, do not apply, whether incorporated by general or special act, or otherwise, may regulate by ordinance the qualifications required of employees or lessees of a taxicab motor carrier in a manner consistent with the regulations adopted by the [public service commission of Nevada.] *transportation services authority.*

Sec. 262. NRS 268.4102 is hereby amended to read as follows:

268.4102 1. If the state board of health determines that:

(a) A water system which is located within the boundaries of a city and was constructed on or after July 1, 1991, is not satisfactorily serving the needs of its users; and

(b) Water provided by a public utility or a municipality or other public entity is reasonably available to those users,

the governing body of that city may require all users of the system to connect into the available water system provided by a public utility or a municipality or other public entity, and may assess each lot or parcel served for its share of the costs associated with connecting into that water system. If the water system is being connected into a public utility, the public [service] *utilities* commission of Nevada shall determine the amount of the assessments for the purposes of establishing a lien pursuant to NRS 445A.900.

2. As used in this section, "water system" has the meaning ascribed to it in NRS 445A.850.

Sec. 263. NRS 268.4105 is hereby amended to read as follows:

268.4105 1. If the governing body of the city determines that:

(a) A package plant for sewage treatment which is located within the city limits and is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is not satisfactorily serving the needs of its users; and

(b) Sewerage provided by a public utility, the city or another municipality or other public entity is reasonably available to those users,

the governing body may require all users of the plant to connect into the available sewers provided by a public utility, the city or another municipality or other public entity, and may assess each lot or parcel served for its proportionate share of the cost of connecting into those sewers. These assessments are not subject to the jurisdiction of the public [service] *utilities* commission of Nevada.

2. If the state department of conservation and natural resources has found that a package plant for sewage treatment which is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is violating any of the conditions of NRS 445A.465 to 445A.515, inclusive, and has notified the

holder of the permit that he must bring the plant into compliance, but the holder of the permit has failed to comply within a reasonable time after the date of the notice, the governing body of the city in which the plant is located may take the following actions independently of any further action by the state department of conservation and natural resources:

(a) Give written notice, by certified mail, to the owner of the plant and the owners of the property served by the plant that if the violation is not corrected within 30 days after the date of the notice, the governing body of the city will seek a court order authorizing it to assume control; and

(b) After the 30-day period has expired, if the plant has not been brought into compliance, apply to the district court for an order authorizing the governing body to assume control of the plant and assess the property for the continued operation and maintenance of the plant as provided in subsection 4.

3. If the governing body of the city determines at any time that immediate action is necessary to protect the public health and welfare, it may assume physical control and operation of a package plant for sewage treatment which is located within the city limits and is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, without complying with any of the requirements set forth in subsection 2. The governing body may not maintain control of the plant pursuant to this subsection for a period greater than 30 days unless it obtains an order from the district court authorizing an extension.

4. Each lot and parcel served by a package plant for sewage treatment which is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is subject to assessment by the governing body of the city in which the plant is located for its proportionate share of the cost of continued operation and maintenance of the plant if there is a default or the city assumes control and operation of the plant pursuant to subsection 2 or 3.

Sec. 264. NRS 268.411 is hereby amended to read as follows:

268.411 The governing body of an incorporated city may prohibit by ordinance any waste of water within its jurisdiction. Any ordinance adopted under this section may:

1. Classify the conditions under which specified kinds and amounts of consumption or expenditure of water are wasteful;

2. Provide for reasonable notice of which of such conditions, if any, exist in the city;

3. Allow any person, group of persons, partnership, corporation or other business or governmental entity which:

(a) Furnishes water to persons within the city for business, manufacturing, agricultural or household use; and

(b) Is not a public utility regulated by the public [service] *utilities* commission of Nevada,

to reduce or terminate water service to any customer or user who wastes water, according to reasonable standards adopted by the board; and

4. Provide other appropriate penalties for violation of the ordinance which are based upon the classification adopted under subsection 1.

Sec. 265. NRS 268.530 is hereby amended to read as follows:

268.530 1. After holding a public hearing as provided in NRS 268.528, the governing body shall proceed no further until it:

(a) Determines by resolution the total amount of money necessary to be provided by the city for the acquisition, improvement and equipment of the project;

(b) Receives a 5-year operating history from the contemplated lessee, purchaser or other obligor, or from a parent or other enterprise which guarantees principal and interest payments on any bonds issued;

(c) Receives evidence that the contemplated lessee, purchaser, other obligor or other enterprise which guarantees principal and interest payments, has received within the 12 months preceding the date of the public hearing a rating within one of the top four rating categories of either Moody's [Investor] *Investors* Service, Inc., or Standard and Poor's [Corporation,] *Rating Services,* except that a public utility regulated by the public [service] *utilities* commission of Nevada, the obligor with respect to a project described in NRS 268.5385, a health and care facility or a supplemental facility for a health and care facility is not required to furnish that evidence;

(d) Determines by resolution that the contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement; and

(e) Finds by resolution that the project:

(1) Will provide a public benefit;

(2) Would be compatible with existing facilities in the area adjacent to the location of the project;

(3) Will encourage the creation of jobs for the residents of this state;

(4) Is compatible with the general plan of the city adopted pursuant to chapter 278 of NRS; and

(5) If not exempt from the provisions of subsection 2 of NRS 268.527, will not compete substantially with an enterprise or organization already established in the city or the county within which the city is located.

2. The governing body may refuse to proceed with any project even if all the criteria of subsection 1 are satisfied. If the governing body desires to proceed with any project where any criterion of subsection 1 is not satisfied, it may do so only with the approval of the state board of finance. In requesting the approval, the governing body shall transmit to the state board of finance all evidence received pursuant to subsection 1.

3. If any part of the project or improvements is to be constructed by a lessee or his designee, a purchaser or his designee or an obligor or his designee, the governing body shall provide, or determine that there are provided, sufficient safeguards to assure that all money provided by the city will be expended solely for the purposes of the project.

Sec. 266. NRS 278.026 is hereby amended to read as follows:

278.026 As used in NRS 278.026 to 278.029, inclusive, unless the context otherwise requires:

1. "Affected entity" means a public utility, franchise holder, local or regional agency, or any other entity having responsibility for planning or providing public facilities relating to transportation, solid waste, energy generation and transmission, conventions and the promotion of tourism, air quality or public education. The term does not include:

(a) A state agency; [or]

(b) A public utility which is subject to regulation by the public [service] *utilities* commission of Nevada [.] *; or*

(c) A common or motor carrier which is subject to regulation by the transportation services authority.

2. "Facilities plan" means a plan for the development of public facilities which will have a regional impact or which will aid in accomplishing regional goals relating to transportation, solid waste, energy generation and transmission, conventions and the promotion of tourism, air quality or public education. The term does not include a plan for the development of a specific site or regulations adopted by an affected entity to implement the comprehensive regional plan.

3. "Governing board" means the governing board for regional planning created pursuant to NRS 278.0264.

4. "Joint planning area" means an area that is the subject of common study and planning by the governing body of a county and one or more cities.

5. "Project of regional significance," with respect to a project proposed by any person other than a public utility, means a project which:

(a) Has been identified in the guidelines of the regional planning commission as a project which will result in the loss or significant degradation of a designated historic, archeological, cultural or scenic resource;

(b) Has been identified in the guidelines of the regional planning commission as a project which will result in the creation of significant new geothermal or mining operations;

(c) Has been identified in the guidelines of the regional planning commission as a project which will have a significant effect on the natural resources, public services, public facilities or the adopted regional form of the region; or

(d) Will require a change in zoning, a special use permit, an amendment to a master plan, a tentative map or other approval for the use of land which, if approved, will have an effect on the region of increasing:

(1) Employment by not less than 938 employees;

(2) Housing by not less than 625 units;

(3) Hotel accommodations by not less than 625 rooms;

(4) Sewage by not less than 187,500 gallons per day;

(5) Water usage by not less than 625 acre feet per year; or

(6) Traffic by not less than an average of 6,250 trips daily.

The term does not include any project for which a request for an amendment to a master plan, a change in zoning, a tentative map or a special use permit has been approved by the local planning commission before June 17, 1989.

6. "Project of regional significance," with respect to a project proposed by a [public] utility, includes:

(a) An electric substation;

(b) A transmission line that carries 60 kilovolts or more;

(c) A facility that generates electricity greater than 5 megawatts;

(d) Natural gas storage and peak shaving facilities; and

(e) Gas regulator stations and mains that operate over 100 pounds per square inch.

7. "Sphere of influence" means an area into which a city plans to expand as designated in the comprehensive regional plan within the time designated in the comprehensive regional plan.

Sec. 267. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water, and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must allow for a variety of uses, describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses and must be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

4. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and ground-water aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction, identify the providers of public services within the region and the area within which each must serve, including service territories set by the public [service] *utilities* commission of Nevada for public utilities, and must establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development.

5. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

6. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

7. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 268. NRS 278.0282 is hereby amended to read as follows:

278.0282 1. Before the adoption or amendment of any master plan, facilities plan or other similar plan, each governing body and any other affected entity shall submit the proposed plan or amendment to the regional planning commission, which shall review the plan or amendment at one or more public hearings held within 60 days after its receipt of that plan or amendment and determine whether the proposed plan or amendment conforms with the comprehensive regional plan. The commission shall specify those parts of the plan or amendment, if any, that are not in conformance and why they fail to conform.

2. Before the adoption or amendment of any master plan, facilities plan or other similar plan by a state agency or a public utility whose plan must be approved by the public [service] *utilities* commission of Nevada, the agency or utility shall submit the proposed plan or amendment to the regional planning commission, which shall, within 60 days after its receipt, review the plan or amendment and offer suggestions to the agency or utility regarding the conformance of the plan with the comprehensive regional plan.

3. Except as otherwise provided in NRS 278.028, a local governing body or any other affected entity shall not adopt a master plan, facilities plan or other similar plan, or any amendment to any of those plans, unless the regional planning commission has determined that the plan or amendment is in conformance with the comprehensive regional plan. A proposed plan is in conformance with the comprehensive regional plan if it is not in conflict with the comprehensive regional plan and it promotes the goals and policies of the comprehensive regional plan.

4. If the regional planning commission fails to make a determination within 60 days after its receipt from an affected entity or local governing body of a proposed plan or amendment pursuant to this section, the plan or amendment shall be deemed to be in conformance with the comprehensive regional plan.

5. An affected entity or a local governing body which has submitted a proposed plan and which disagrees with the reasons given by the regional

planning commission for making a determination of nonconformance pursuant to this section, may file an objection with the regional planning commission within 45 days after the issuance of that determination. The affected entity or local governing body shall attach its reasons why the plan is in conformance with the comprehensive regional plan. The regional planning commission shall consider the objection and issue its final determination of conformance or nonconformance within 45 days after the objection is filed. The determination may be appealed to the governing board not later than 30 days after its issuance.

6. Within 45 days after its receipt of an appeal, the governing board shall consider the appeal and issue its decision, which must be made by the affirmative votes of a simple majority of its total membership. If the board affirms the determination of the commission, the affected entity or local governing body shall, within 60 days after the issuance of the decision, propose revisions to the plan and resubmit the plan together with those proposed revisions to the commission for review in accordance with the provisions of this section.

7. Any determination of conformance made by the commission pursuant to this section must be made by the affirmative votes of not less than two-thirds of its total membership.

Sec. 269. NRS 278.335 is hereby amended to read as follows:

278.335 1. A copy of the tentative map must be forwarded by the planning commission or its designated representative, or, if there is no planning commission, the clerk or other designated representative of the governing body, to the division of water resources and the division of environmental protection of the state department of conservation and natural resources, and the health division of the department of human resources or the district board of health acting for the health division pursuant to subsection 2, for review.

2. In a county whose population is 100,000 or more, if the county and one or more incorporated cities in the county have established a district board of health, the authority of the health division to review and certify proposed subdivisions and conduct construction or installation inspections must be exercised by the district board of health.

3. A district board of health which conducts reviews and inspections under this section shall consider all the requirements of the law concerning sewage disposal, water pollution, water quality and water supply facilities. At least four times annually, the district board of health shall notify the health division of the department of human resources which subdivisions met these requirements of law and have been certified by the district board of health.

4. The state is not chargeable with any expense incurred by a district board of health acting pursuant to this section.

5. Each reviewing agency shall, within 15 days [from] *after* the receipt of the tentative map, file its written comments with the planning commission

or the governing body recommending approval, conditional approval or disapproval and stating the reasons therefor.

6. The planning commission or its designated representative, or, if there is no planning commission, the clerk or other designated representative of the governing body shall, for informational purposes only, immediately forward a copy of the tentative map to the public [service] *utilities* commission of Nevada for any subdivision which will provide water or services for the disposal of sewage and is subject to the provisions of NRS 704.679. The public [service] *utilities* commission of Nevada shall acknowledge receipt of the tentative map within 15 days after it is received.

Sec. 270. NRS 281.100 is hereby amended to read as follows:

281.100 1. Except as otherwise provided in this section and NRS 284.180, the services and employment of all persons who are employed by the State of Nevada, or by any county, city, town, township or other political subdivision thereof, are limited to not more than 8 hours in any 1 calendar day and not more than 40 hours in any 1 week.

2. The period of daily employment mentioned in this section commences from the time the employee takes charge of any equipment of the employer or acts as an assistant or helper to a person who is in charge of any equipment of the employer, or enters upon or into any conveyance of or operated by or for the employer at any camp or living quarters provided by the employer for the transportation of employees to the place of work.

3. This section does not apply to:

(a) Officials of the State of Nevada or of any county, city, town, township or other political subdivision thereof, or employees of the state whose employment is governed by NRS 284.148.

(b) Employees of the State of Nevada or of any county, city, town, township or other political subdivision thereof who:

(1) Are engaged as employees of a fire department, or to nurses in training or working in hospitals, or to police, deputy sheriffs or jailers;

(2) Chose and are approved for a variable workday or variable 80-hour work schedules within a biweekly pay period;

(3) Work more than 8 hours but not more than 10 hours in any 1 workday or 40 hours in any 1 work week;

(4) Are executive, administrative, professional or supervisory employees; or

(5) Are covered by a collective bargaining agreement which establishes hours of service.

(c) Employees of the legislative counsel bureau.

(d) Work done directly by any public utility company pursuant to an order of the public [service] *utilities* commission of Nevada or other public authority.

4. Any employee whose hours are limited by subsection 1 may be permitted, or in case of emergency where life or property is in imminent danger may be required, at the discretion of the officer responsible for his

employment, but subject to any agreement made pursuant to NRS 284.181, to work more than the number of hours limited. If so permitted or required, he is entitled to receive, at the discretion of the responsible officer:

(a) Compensatory vacation time; or

(b) Overtime pay.

5. Any officer or agent of the State of Nevada, or of any county, city, town, township, or other political subdivision thereof, whose duty it is to employ, direct or control the services of an employee covered by this section, who violates any of the provisions of this section as to the hours of employment of labor as provided in this section, is guilty of a misdemeanor.

Sec. 271. NRS 281.236 is hereby amended to read as follows:

281.236 1. A public utility or parent organization or subsidiary of a public utility shall not employ a former member of the public [service] *utilities* commission of Nevada for 1 year after the termination of his service on the commission.

2. A person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada gaming commission pursuant to chapter 463 of NRS shall not employ a former member of the state gaming control board or the Nevada gaming commission for 1 year after the termination of the member's service on the board or commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, a business or industry whose activities are governed by regulations adopted by a department, division or other agency of the executive branch of government shall not, except as otherwise provided in subsection 4, employ a former public officer or employee of the agency, except a clerical employee, for 1 year after the termination of his service or period of employment if:

(a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or

(c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.

4. A public officer or employee may request the commission on ethics to apply the relevant facts in his case to the provisions of subsection 3 and determine whether relief from the strict application of the provisions is proper. If the commission on ethics determines that relief from the strict application of the provisions of subsection 3 is not contrary to:

(a) The best interests of the public;

(b) The continued integrity of state government; and

(c) The code of ethical standards prescribed in NRS 281.481,

it may issue an order to that effect and grant such relief. The decision of the commission on ethics in such a case is subject to judicial review.

5. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.

Sec. 272. NRS 289.320 is hereby amended to read as follows:

289.320 An employee of the public [service] *utilities* commission of Nevada *or the transportation services authority* whom it designates as an inspector or as manager of transportation is a peace officer and has police power for the enforcement of the provisions of:

1. Chapters 704, 705 and 706 of NRS and all regulations of the *public utilities* commission , *the transportation services authority* or the department of motor vehicles and public safety pertaining thereto; and

2. Chapter 482 of NRS and NRS 483.230, 483.350 and 483.530 to 483.620, inclusive, for the purposes of carrying out the provisions of chapter 706 of NRS.

Sec. 273. NRS 309.415 is hereby amended to read as follows:

309.415 1. In exercising powers primarily relating to the fulfillment of water purposes or sewer purposes, or both, districts heretofore or hereafter organized under this chapter shall not be subject to regulation or supervision in any way by the public [service] *utilities* commission of Nevada.

2. Nothing contained in subsection 1 shall be construed to limit:

(a) The power of the board of county commissioners or a member thereof granted by the provisions of NRS 309.270; or

(b) The supremacy of the state board of health in health matters as declared in NRS 439.150.

Sec. 274. NRS 338.135 is hereby amended to read as follows:

338.135 [Where] a truck or truck and trailer combination is rented or leased after April 22, 1969, by a contractor or subcontractor on a public work, the hourly rate for the rental or lease of such truck or truck and trailer combination [shall,] *must*, when added to the prevailing rate of wages required by NRS 338.020 for the driver, not be less than the hourly rate for similar vehicles with a driver as such hourly rate appears in freight tariffs approved by the [public service commission of Nevada] *transportation services authority* for the area in which the public work is located.

Sec. 275. NRS 354.59881 is hereby amended to read as follows:

354.59881 As used in NRS 354.59881 to 354.59889, inclusive, unless the context otherwise requires:

1. "Customer" does not include any customer of a provider of a telecommunication service other than a retail customer.

2. "Fee" means a charge imposed upon a public utility for a business license, a franchise or a right of way over streets or other public areas, except any paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270.

3. "Jurisdiction" means:

(a) In the case of a city, the corporate limits of the city.

(b) In the case of a county, the unincorporated area of the county.

4. "Public utility" means a person or local government that provides:

(a) Electric energy or gas, whether or not the person or local government is subject to regulation by the public [service] *utilities* commission of Nevada;

(b) A telecommunication service, if the person or local government holds a certificate of public convenience and necessity issued by the public [service] *utilities* commission of Nevada and derives intrastate revenue from the provision of that service to retail customers; or

(c) A commercial mobile radio service as that term is defined in 47 C.F.R. § 20.3 on July 5, 1995.

5. "Revenue" does not include:

(a) Any proceeds from the interstate sale of natural gas to a provider of electric energy which holds a certificate of public convenience and necessity issued by the public [service] *utilities* commission of Nevada.

(b) Any revenue of a provider of a telecommunication service other than intrastate revenue.

Sec. 276. NRS 354.59883 is hereby amended to read as follows:

354.59883 A city or county shall not adopt an ordinance imposing or increasing a fee:

1. If that ordinance would alter the terms of any existing franchise agreement between the city or county and a public utility.

2. That applies to any public utility which does not derive revenue from customers located within the jurisdiction of the city or county.

3. If, after the adoption of the ordinance:

(a) Any part of a fee to which the ordinance applies will be based upon any revenue of a public utility other than its revenue from customers located within the jurisdiction of the city or county.

(b) The total *cumulative* amount of all fees the city or county imposes upon a public utility to which the ordinance applies will exceed:

(1) Except as otherwise provided in subparagraph (2), 5 percent of the utility's gross revenue from customers located within the jurisdiction of the city or county.

(2) For a public utility that provides a commercial mobile radio service, 5 percent of its gross revenue from the first $1.5 charged monthly for each line of access for each of its customers located within the jurisdiction of the city or county. For the purposes of this subparagraph, "commercial mobile radio service" has the meaning ascribed to it in Part 20 of Title 47 of the Code of Federal Regulations.

Sec. 277. NRS 354.59889 is hereby amended to read as follows:

354.59889 [Except as otherwise provided by agreement with all the affected public utilities:]

1. A city or county shall not change any of its fees except through the adoption of an ordinance which provides that the change does not become effective until at least 60 days after the effective date of the ordinance.

2. The cumulative amount of any increases in fees imposed by a city or county during any period of 24 months must not exceed 1 percent of the gross revenue of any public utility to wh' the increase applies from customers located within the jurisdiction of that city or county.

Sec. 278. NRS 361.320 is hereby amended to read as follows:

361.320 1. At the regular session of the Nevada tax commission com-

mencing on the [1st] *first* Monday in October of each year, the Nevada tax commission shall establish the valuation for assessment purposes of any property of an interstate and intercounty nature, which must in any event include the property of all interstate or intercounty railroad, sleeping car, private car, street railway, traction, telegraph, water, telephone, air transport, electric light and power companies, together with their franchises, and the property and franchises of all railway express companies operating on any common or contract carrier in this state. This valuation must not include the value of vehicles as defined in NRS 371.020.

2. Except as otherwise provided in subsection 3 and NRS 361.323, the commission shall establish and fix the valuation of the franchise, if any, and all physical property used directly in the operation of any such business of any such company in this state, as a collective unit. If the company is operating in more than one county, on establishing the unit valuation for the collective property, the commission shall then determine the total aggregate mileage operated within the state and within its several counties, and apportion the mileage upon a mile-unit valuation basis. The number of miles apportioned to any county are subject to assessment in that county according to the mile-unit valuation established by the commission.

3. After establishing the valuation, as a collective unit, of a public utility which generates, transmits or distributes electricity, the commission shall segregate the value of any project in this state for the generation of electricity which is not yet put to use. This value must be assessed in the county where the project is located and must be taxed at the same rate as other property.

4. The Nevada tax commission shall adopt formulas, and cause them to be incorporated in its records, providing the method or methods pursued in fixing and establishing the taxable value of all franchises and property assessed by it. The formulas must be adopted and may be changed from time to time upon its own motion or when made necessary by judicial decisions, but the formulas must in any event show all the elements of value considered by the commission in arriving at and fixing the value for any class of property assessed by it. These formulas must take into account, as indicators of value, the company's income, stock and debt, and the cost of its assets.

5. *If two or more persons perform separate functions that collectively are needed to deliver electric service to the final customer and the property used in performing the functions would be centrally assessed if owned by one person, the Nevada tax commission shall establish its valuation and apportion the valuation among the several counties in the same manner as the valuation of other centrally assessed property. The Nevada tax commission shall determine the proportion of the tax levied upon the property by each county according to the valuation of the contribution of each person to the aggregate valuation of the property. This subsection does not apply to qualified facilities, as defined in 18 C.F.R. § 292.101, which were constructed before July 1, 1997.*

6. As used in this section , [the word] "company" means any person, company, corporation or association engaged in the business described.

[6.] 7. All other property must be assessed by the county assessors, except as *otherwise* provided in NRS 361.321 and 362.100 and except that the valuation of land and mobile homes must be established for assessment purposes by the Nevada tax commission as provided in NRS 361.325.

[7.] 8. On or before November 1 of each year , the department shall forward a tax statement to each private car line company based on the valuation established pursuant to this section and in accordance with the tax levies of the several districts in each county. The company shall remit the ad valorem taxes due on or before December 15 to the department which shall allocate the taxes due each county on a mile-unit basis and remit the taxes to the counties no later than January 31. The portion of the taxes which is due the state must be transmitted directly to the state treasurer. A company which fails to pay the tax within the time required shall pay a penalty of 10 percent of the tax due or $5,000, whichever is greater, in addition to the tax. Any amount paid as a penalty must be deposited in the state general fund. The department may, for good cause shown, waive the payment of a penalty pursuant to this subsection. As an alternative to any other method of recovering delinquent taxes provided by this chapter, the attorney general may bring a civil action in a court of competent jurisdiction to recover delinquent taxes due [under] *pursuant to* this subsection in the manner provided in NRS 361.560.

Sec. 279. NRS 361B.170 is hereby amended to read as follows:

361B.170 1. Except as *otherwise* provided in subsections 2 and 3, the governing body, on the behalf and in the name of the municipality, may at any time designate a tax increment area comprising any specially benefited zone within the municipality designated and approved under chapter 274 of NRS, for the purpose of creating a special account for the payment of bonds or other securities issued to defray the cost of the acquisition, improvement or equipment, or any combination thereof, of a project or projects authorized in the County Bond Law or the City Bond Law, including , without limitation, the condemnation of property for any such undertaking, as supplemented by the Local Government Securities Law, except as otherwise provided in this chapter.

2. The right of way property of a railroad company which is under the jurisdiction of the [Interstate Commerce Commission] *Surface Transportation Board* must not be included in a tax increment area unless the inclusion of the property is mutually agreed upon by the governing body and the railroad company.

3. The taxable property of a tax increment area must not be included in any subsequently created tax increment area until at least 50 years after the effective date of creation of the first tax increment area in which the property was included.

Sec. 280. NRS 362.120 is hereby amended to read as follows:

362.120 1. The department shall, from the statement and from all

obtainable data, evidence and reports, compute in dollars and cents the gross yield and net proceeds of the period covered by the statement.

2. The gross yield must include the value of any mineral extracted which was:

(a) Sold;

(b) Exchanged for any thing or service;

(c) Removed from the state in a form ready for use or sale; or

(d) Used in a manufacturing process or in providing a service,

during the period covered by the statement.

3. The net proceeds are ascertained and determined by subtracting from the gross yield the following deductions for costs incurred during that period, and none other:

(a) The actual cost of extracting the mineral.

(b) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.

(c) The actual cost of reduction, refining and sale.

(d) The actual cost of marketing and delivering the mineral and the conversion of the mineral into money.

(e) The actual cost of maintenance and repairs of:

(1) All machinery, equipment, apparatus and facilities used in the mine.

(2) All milling, refining, smelting and reduction works, plants and facilities.

(3) All facilities and equipment for transportation except those that are under the jurisdiction of the public [service] *utilities* commission of Nevada [as public utilities.] *or the transportation services authority.*

(f) The actual cost of fire insurance on the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e).

(g) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e). The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada tax commission. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

(h) All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees.

(i) All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this paragraph.

(j) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit.

(k) All money paid as royalties by a lessee or sublessee of a mine or well,

or by both, in determining the net proceeds of the lessee or sublessee , or both.

4. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the department on forms provided by the department.

6. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

(a) The working of the mine;

(b) The operating of the mill, smelter or reduction works;

(c) The operating of the facilities or equipment for transportation;

(d) Superintending the management of any of those operations; or

(e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations.

Sec. 281. NRS 373.117 is hereby amended to read as follows:

373.117 1. A regional transportation commission may establish or operate a public transit system consisting of regular routes and fixed schedules to serve the public.

2. A regional transportation commission may lease vehicles to or from or enter into other contracts with a private operator for the provision of such a system.

3. In a county whose population is less than 400,000, such a system may also provide service which includes:

(a) Minor deviations from regular routes and fixed schedules on a recurring basis to serve the public transportation needs of passengers. The deviations must not exceed one-half mile from the regular routes.

(b) The transporting of persons upon request without regard to regular routes or fixed schedules, if the service is provided by a common motor carrier which has a certificate of public convenience and necessity issued by the [public service commission of Nevada] *transportation services authority* pursuant to NRS 706.386 to 706.411, inclusive, and the service is subject to the rules and regulations adopted by the [public service commission] *transportation services authority* for a fully regulated carrier.

4. As used in this section:

(a) "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the [public service commission of Nevada] *transportation services authority* a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the [commission.] *transportation services authority.*

(b) "Public transit system" means a system employing motor buses, rails

or any other means of conveyance, by whatever type of power, operated for public use in the conveyance of persons.

Sec. 282. NRS 377A.140 is hereby amended to read as follows:

377A.140 1. Except as otherwise provided in subsection 2, a public transit system in a county whose population is 400,000 or more may, in addition to providing local transportation within the county and the services described in NRS 377A.130, provide:

(a) Programs to reduce or manage motor vehicle traffic; and

(b) Any other services for public mass transportation which are requested by the general public,

if those additional services are included and described in a long-range plan adopted pursuant to 23 U.S.C. § 134 and 49 U.S.C. § 5303.

2. Before a regional transportation commission may provide for on-call public mass transportation in an area of the county, the commission must receive a determination from the [public service commission of Nevada and the taxicab] *transportation services* authority that:

(a) There are no common motor carriers of passengers who are authorized to provide on-call operations for transporting passengers in that area; or

(b) Although there are common motor carriers of passengers who are authorized to provide on-call operations for transporting passengers in the area, the common motor carriers of passengers do not wish to provide, or are not capable of providing, those operations.

3. As used in this section:

(a) "Common motor carrier of passengers" has the meaning ascribed to it in NRS 706.041.

(b) "On-call public mass transportation" means a system established to transport by vehicle passengers who request such transportation on demand.

Sec. 283. NRS 392.330 is hereby amended to read as follows:

392.330 1. In addition to the purposes authorized by NRS 392.320, a board of trustees may use transportation funds of the school district for arranging and paying for transportation by motor vehicles or otherwise, by contract or such other arrangement as the board finds most economical, expedient and feasible and for the best interests of the school district.

2. Such transportation may be arranged and contracted for by a board of trustees with:

(a) Any railroad company [, bus company, or other licensed common carrier] holding a certificate of public convenience and necessity issued by the public [service] *utilities* commission of Nevada [.] *or bus company or other licensed common carrier holding a certificate of public convenience and necessity issued by the transportation services authority.*

(b) The owners and operators of private automobiles or other private motor vehicles, including parents of pupils who attend school and are entitled to transportation. When required by the board of trustees, every such private automobile or other private motor vehicle regularly transporting pupils [shall] *must* be insured in the amount required by regulation of the state board of education against the loss and damage described in subsection 2 of NRS 392.320.

Sec. 284. NRS 405.195 is hereby amended to read as follows:

405.195 1. Five or more residents of this state may petition any board of county commissioners to open, reopen, close, relocate or abandon a public road within the county. The petition must be accompanied by proof of the petitioners' residency and adequate maps and documentation to justify a hearing on the petition. Upon receipt of such a petition and the required documentation, the board of county commissioners shall set a date to conduct a public hearing on the petition. The date selected must not be earlier than 30 days, nor later than 45 days, after the petition is submitted. In addition to any other notice required by law or ordinance, the board shall cause notice of the time, date and location of the hearing to be published at least once each week for 2 successive weeks in a newspaper of general circulation in the county.

2. Upon conclusion of the public hearing, the board shall determine whether the road in question has acquired the status of a public road because:

(a) Construction of the improvement occurred while the land was unappropriated, unreserved public land;

(b) The improvement was constructed by mechanical means which made the physical change to the natural area necessary for the customary or usual passage of traffic; and

(c) The right of way was:

(1) Accepted by the state or local government for dedication as a road for public use and thereafter the road was used by the public at large; or

(2) Accepted by use as access to a mining claim or other privately owned property.

3. If the board concludes that the road is a public road, the board may order the public road to be opened, reopened, closed, relocated or abandoned, for all or part of the year. The board's decision must be based on specific findings, including, but not limited to:

(a) The resulting benefit to the general public;

(b) Whether any significant impairment of the environment or natural resources will result; and

(c) Whether the decision will result in a significant reduction in the value of public or private property.

The order of the board must be reduced to writing, including a statement of any actions which must be taken to effectuate the decision and the person to whom each such action has been assigned. If possible, the order must be signed by any person who has agreed to take a specific action to effectuate the board's decision. The lack of such a signature does not invalidate the order.

4. If the order of the board is to close or abandon a public road, the board shall, upon the petition of five or more residents of the state, designate and provide an alternate route serving the same area. The closure or abandonment of a public road by the board does not prohibit or restrict the use of that road by a governmental agency or a public utility regulated by the

public [service] *utilities* commission of Nevada for the maintenance, construction or operation of a facility of the agency or utility.

5. Any person or governmental agency may bring and maintain an action in the district court of the county in which the public road lies to prevent any person, including a public agency, from violating an order issued pursuant to subsection 3.

6. The attorney general may bring and maintain an action in any court or before any federal agency if an agency or instrumentality of the Federal Government denies the use of a public road located on public land in this state.

7. Nothing in this section affects the right of the department of transportation to regulate freeways or highways in this state.

Sec. 285. NRS 405.201 is hereby amended to read as follows:

405.201 As used in NRS 405.201 to 405.204, inclusive, unless the context otherwise requires:

1. "Accessory road" means any way established over public lands between 1866 and 1976 pursuant to section 8 of chapter 262, 14 [Statutes 253 ([*Stats. 253 (1866)*, former 43 U.S.C. § 932 ,])] as to which general public use or enjoyment before 1976 is not established, but which provides access to privately owned land.

2. "Public utility" means any public utility, as that term is defined in NRS 704.020, that is subject to the jurisdiction of the public [service] *utilities* commission of Nevada.

Sec. 286. NRS 445A.535 is hereby amended to read as follows:

445A.535 Any public utility subject to the jurisdiction of the public [service] *utilities* commission of Nevada which is providing sewerage on June 7, 1979, is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive.

Sec. 287. NRS 445A.540 is hereby amended to read as follows:

445A.540 A permit to discharge water from a package plant for sewage treatment may not be issued unless all of the following conditions are met:

1. Neither of the following is available:

(a) Sewerage provided by a public utility; or

(b) Sewerage provided by a municipality or other public entity.

2. The applicant fully complies with all of the conditions of NRS 445A.465 to 445A.515, inclusive.

3. The local governing body assumes:

(a) Responsibility in case of default by the builder or developer for the continued operation and maintenance of the plant in accordance with all of the terms and conditions of the permit.

(b) The duty of assessing the lands served as provided in subsection 5.

4. The applicant furnishes the local governing body sufficient surety in the form of a bond, certificate of deposit, investment certificate or any other form acceptable to the governing body, to ensure the continued maintenance and operation of the plant:

(a) For 5 years following the date the plant is placed in operation; or

(b) Until 75 percent of the lots or parcels served by the plant are sold, whichever is later.

5. The owners of the lands to be served by the package plant for sewage treatment record a declaration of covenants, conditions and restrictions, which is an equitable servitude running with the land and which must provide that each lot or parcel will be assessed by the local governing body for its proportionate share of the cost of continued operation and maintenance of the plant if there is a default by the applicant or operator of the plant and a sufficient surety, as provided in subsection 4, is not available.

6. The declaration of covenants, conditions and restrictions recorded by the owners further provides that if the local governing body determines that:

(a) The plant is not satisfactorily serving the needs of its users; and

(b) Sewerage provided by a public utility or a municipality or other public entity is reasonably available,

the local governing body may require all users of a package plant for sewage treatment to connect into the available sewers provided by a [public] utility or a municipality or other public entity, and each lot or parcel will be assessed by the local governing body for its proportionate share of the cost of connecting into those sewers. These assessments are not subject to the jurisdiction of the public [service] *utilities* commission of Nevada.

7. Provision has been made for disposition of the plant and the land on which it is situated after the local governing body requires all users to connect into available sewers provided by a public utility or a municipality or other public entity.

Sec. 288. NRS 445A.860 is hereby amended to read as follows:

445A.860 In addition to the regulations required to be adopted pursuant to NRS 445A.880, the state board of health:

1. Shall adopt regulations establishing procedures for a system of permits to operate water systems which are constructed on or after July 1, 1991.

2. May adopt such other regulations as may be necessary to govern the construction, operation and maintenance of public water systems if those activities affect the quality of water, but the regulations do not supersede any regulation of the public [service] *utilities* commission of Nevada.

3. May establish by regulation a system for the issuance of operating permits for suppliers of water and set a reasonable date after which a person shall not operate a public water system constructed before July 1, 1991, without possessing a permit issued by a health authority.

Sec. 289. NRS 445A.890 is hereby amended to read as follows:

445A.890 Before making the finding specified in NRS 445A.910 and before making the determinations specified in NRS 244.3655, 268.4102 and 445A.895, the state board of health shall request comments from the:

1. Public [service] *utilities* commission of Nevada;

2. State engineer;

3. Local government within whose jurisdiction the water system is located; and

4. Owner of the water system.

Sec. 290. NRS 445A.895 is hereby amended to read as follows:

445A.895 A permit to operate a water system may not be issued pursuant to NRS 445A.885 unless all of the following conditions are met:

1. Neither water provided by a public utility nor water provided by a municipality or other public entity is available to the persons to be served by the water system.

2. The applicant fully complies with all of the conditions of NRS 445A.885 to 445A.915, inclusive.

3. The local governing body assumes:

(a) Responsibility in case of default by the builder or developer of the water system for its continued operation and maintenance in accordance with all of the terms and conditions of the permit.

(b) The duty of assessing the lands served as provided in subsection 5.

4. The applicant furnishes the local governing body sufficient surety in the form of a bond, certificate of deposit, investment certificate or any other form acceptable to the governing body, to ensure the continued maintenance and operation of the water system:

(a) For 5 years following the date the system is placed in operation; or

(b) Until 75 percent of the lots or parcels served by the system are sold, whichever is later.

5. The owners of the lands to be served by the water system record a declaration of covenants, conditions and restrictions, which is an equitable servitude running with the land and which must provide that each lot or parcel will be assessed by the local governing body for its proportionate share of the cost of continued operation and maintenance of the water system if there is a default by the applicant or operator of the water system and a sufficient surety, as provided in subsection 4, is not available.

6. If the water system uses or stores ozone, the portion of the system where ozone is used or stored must be constructed not less than 100 feet from any existing residence, unless the owner and occupant of each residence located closer than 100 feet consent to the construction of the system at a closer distance.

7. The declaration of covenants, conditions and restrictions recorded by the owners of the lands further provides that if the state board of health determines that:

(a) The water system is not satisfactorily serving the needs of its users; and

(b) Water provided by a public utility or a municipality or other public entity is reasonably available,

the local governing body may, pursuant to NRS 244.3655 or 268.4102, require all users of the water system to connect into the available water system provided by a public utility or a municipality or other public entity, and each lot or parcel will be assessed by the local governing body for its proportionate share of the costs associated with connecting into that water system. If the water system is being connected into a public utility, the public [service] *utilities* commission of Nevada shall determine the amount

of the assessments for the purposes of establishing a lien pursuant to NRS 445A.900.

8. Provision has been made for disposition of the water system and the land on which it is situated after the local governing body requires all users to connect into an available water system provided by a public utility or a municipality or other public entity.

Sec. 291. NRS 445A.900 is hereby amended to read as follows:

445A.900 No lien for the assessments provided by the covenants, conditions and restrictions described in NRS 445A.895 is binding upon the property until:

1. The local governing body, after a hearing, establishes the costs and apportions them to each lot or parcel; or

2. The public [service] *utilities* commission of Nevada determines the amount of the assessments,

and the local governing body records a notice of lien in the office of the county recorder in the county in which the property is located.

Sec. 292. NRS 445A.935 is hereby amended to read as follows:

445A.935 1. A supplier of water may apply to the state board of health for a variance or exemption from the board's regulations. The board may grant variances or exemptions after notice and public hearing.

2. A supplier of water shall notify all users of the water system as soon as the board has scheduled a time and place for the public hearing on the application for a variance or exemption.

3. The public [service] *utilities* commission of Nevada may participate in the hearing.

Sec. 293. NRS 445B.200 is hereby amended to read as follows:

445B.200 1. The state environmental commission is hereby created in the state department of conservation and natural resources. The commission consists of:

(a) The administrator of the division of wildlife of the department;

(b) The state forester firewarden;

(c) The state engineer;

(d) The administrator of the division of agriculture of the department of business and industry;

(e) The administrator of the division of minerals of the department of business and industry;

(f) A member of the state board of health to be designated by that board; and

(g) Five members appointed by the governor, one of whom is a general engineering contractor or a general building contractor licensed pursuant to chapter 624 of NRS and one of whom possesses expertise in performing mining reclamation.

2. The governor shall appoint the chairman of the commission from among the members.

3. A majority of the members constitutes a quorum and a majority of those present must concur in any decision.

4. Each member who is appointed by the governor is entitled to receive a salary of not more than $80, as fixed by the commission, for each day's attendance at a meeting of the commission.

5. While engaged in the business of the commission, each member and employee of the commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. Any person who receives or has during the previous 2 years received a significant portion of his income, as defined by any applicable state or federal law, directly or indirectly from one or more holders of or applicants for a permit required by NRS 445A.300 to 445A.730, inclusive, is disqualified from serving as a member of the commission. This subsection does not apply to any person who receives or has received during the previous 2 years, a significant portion of his income from any department or agency of state government which is a holder of or an applicant for a permit required by NRS 445A.300 to 445A.730, inclusive.

7. The state department of conservation and natural resources shall provide technical advice, support and assistance to the commission. All state officers, departments, commissions and agencies, including the department of transportation, the department of human resources, the University and Community College System of Nevada, the state public works board, the department of motor vehicles and public safety, the public [service] *utilities* commission of Nevada , *the transportation services authority* and the division of agriculture of the department of business and industry may also provide technical advice, support and assistance to the commission.

Sec. 294. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310:

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program must:

(1) Include standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation; and

(2) Provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and the federal act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the federal act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.450, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are

binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of $17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the state, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. For the purposes of this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plants include duct burners.

Sec. 295. NRS 455.160 is hereby amended to read as follows:

455.160 1. A commissioner of the public [service] *utilities* commission of Nevada or the district attorney of a county or the city attorney of a city in which there is an excavation or demolition or a proposed excavation or demolition which he believes may cause death, serious physical harm or serious property damage may file a complaint in the district court for the

county seeking to enjoin the activity or practice of an operator or a person who is responsible for the excavation or demolition.

2. Upon the filing of a complaint pursuant to subsection 1, the court may issue a temporary restraining order before holding an evidentiary hearing. A temporary restraining order may be issued for no longer than 5 days.

Sec. 296. NRS 455.170 is hereby amended to read as follows:

455.170 1. An action for the enforcement of a civil penalty pursuant to this section may be brought before the public [service] *utilities* commission of Nevada by the attorney general, a district attorney, a city attorney, legal counsel for the public [service] *utilities* commission of Nevada, the governmental agency that issued the permit to conduct an excavation or demolition, an operator or a person conducting an excavation or demolition.

2. Any person who willfully or repeatedly violates a provision of NRS 455.080 to 455.180, inclusive, is liable for a civil penalty:

(a) Not to exceed $1,000 per day for each violation; and

(b) Not to exceed $100,000 for any related series of violations within a calendar year.

3. Any person who negligently violates any such provision is liable for a civil penalty:

(a) Not to exceed $200 per day for each violation; and

(b) Not to exceed $1,000 for any related series of violations within a calendar year.

4. The amount of any civil penalty imposed pursuant to this section and the propriety of any settlement or compromise concerning a penalty must be determined by the public [service] *utilities* commission of Nevada upon receipt of a complaint by the attorney general, an employee of the public [service] *utilities* commission of Nevada who is engaged in regulatory operations, a district attorney, a city attorney, the agency that issued the permit to excavate or the operator or the person responsible for the excavation or demolition.

5. In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the public [service] *utilities* commission of Nevada shall consider:

(a) The gravity of the violation;

(b) The good faith of the person charged with the violation in attempting to comply with the provisions of NRS 455.080 to 455.180, inclusive, before and after notification of a violation; and

(c) Any history of previous violations of those provisions by the person charged with the violation.

6. A civil penalty recovered pursuant to this section must first be paid to reimburse the person who initiated the action for any cost incurred in prosecuting the matter.

7. Any person aggrieved by a determination of the public [service] *utilities* commission of Nevada pursuant to this section may seek judicial review of the determination in the manner provided by NRS 233B.130 to 233B.150, inclusive.

Sec. 297. NRS 455.250 is hereby amended to read as follows:

455.250 1. An action for the enforcement of a civil penalty pursuant to this section may be brought before the public [service] *utilities* commission of Nevada by the attorney general, a district attorney, a city attorney or legal counsel for the public [service] *utilities* commission of Nevada.

2. Any person who violates a provision of NRS 455.200 to 455.240, inclusive, is liable for a civil penalty not to exceed $1,000 per day for each violation.

3. The amount of any civil penalty imposed pursuant to this section and the propriety of any settlement or compromise concerning a penalty must be determined by the public [service] *utilities* commission of Nevada upon receipt of a complaint by the attorney general, an employee of the public [service] *utilities* commission of Nevada who is engaged in regulatory operations, a district attorney or a city attorney.

4. In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the public [service] *utilities* commission of Nevada shall consider:

(a) The gravity of the violation;

(b) The good faith of the person charged with the violation in attempting to comply with the provisions of NRS 455.200 to 455.240, inclusive, before and after notification of a violation; and

(c) Any history of previous violations of those provisions by the person charged with the violation.

5. A civil penalty recovered pursuant to this section must first be paid to reimburse the person who initiated the action for any cost incurred in prosecuting the matter. Any amount remaining after such reimbursement must be deposited in the state general fund.

6. Any person aggrieved by a determination of the public [service] *utilities* commission of Nevada pursuant to this section may seek judicial review of the determination in the manner provided by NRS 233B.130 to 233B.150, inclusive.

Sec. 298. NRS 459.250 is hereby amended to read as follows:

459.250 1. Peace officers of the [public service commission of Nevada and the] Nevada highway patrol shall enforce those provisions of NRS 459.221, 459.707 and 459.708 which govern the transport and handling of radioactive waste as they affect the safety of drivers or vehicles, the leakage or spill of radioactive waste from its package or the emission of ionizing radiation in an unsafe amount as established by the regulations of the state board of health.

2. The peace officer may:

(a) Impound a vehicle with unsafe equipment; or

(b) Detain a vehicle, if any waste has leaked or spilled from its package or if he has detected the emission of ionizing radiation in an unsafe amount, and order the driver of the vehicle to park it in a safe place, as determined by an officer designated by the health division of the department of human resources, pending remedial action by that division.

3. After a vehicle has been so detained, an officer designated by the health division of the department of human resources may order:

(a) The vehicle to be impounded;

(b) The leaked or spilled waste to be cleaned up;

(c) The contents of any unsafe or leaking package to be repackaged; or

(d) Any other appropriate precaution or remedy,

at the expense of the shipper or broker, carrier or other person who is responsible as determined by the health division of the department of human resources.

Sec. 299. NRS 459.500 is hereby amended to read as follows:

459.500 1. Except as otherwise provided in NRS 459.700 to 459.780, inclusive, or 459.800 to 459.856, inclusive:

(a) Regulations of the commission must provide:

(1) For safety in packaging, handling, transportation and disposal of hazardous waste, including safety of vehicles and drivers;

(2) For the certification of consultants involved in consultation regarding the response to and the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks, the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance, or the management of hazardous waste; and

(3) That a person employed full time by a business to act as such a consultant is exempt from the requirements of certification:

(I) If he is certified by the federal Occupational Safety and Health Administration to manage such waste, materials or substances; and

(II) While acting in the course of that full-time employment.

(b) Regulations of the commission may:

(1) Provide for the licensing and other necessary regulation of generators, including shippers, brokers and carriers, both intrastate and interstate, who cause that waste to be transported into or through Nevada or for disposal in Nevada;

(2) Require that the person responsible for a spill, leak or accident involving hazardous waste, hazardous material or a regulated substance, obtain advice on the proper handling of the spill, leak or accident from a consultant certified under the regulations adopted pursuant to subsection 1; and

(3) Establish standards relating to the education, experience, performance and financial responsibility required for the certification of consultants.

2. The regulations may include provisions for:

(a) Fees to pay the cost of inspection, certification and other regulation; and

(b) Administrative penalties of not more than $2,500 per violation or $10,000 per shipment for violations by persons licensed by the department, and the criminal prosecution of violations of its regulations by persons who are not licensed by the department.

3. Designated employees of the department [, the public service commission of Nevada] and the Nevada highway patrol shall enforce the regula-

tions of the commission relating to the transport and handling of hazardous waste, as they affect the safety of drivers and vehicles and the leakage or spill of that waste from packages.

Sec. 300. NRS 459.512 is hereby amended to read as follows:

459.512 1. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay to the department to offset partially the cost incurred by the state fire marshal for training emergency personnel who respond to the scene of accidents involving hazardous materials a fee of $4.50 per ton of the volume received for the disposal of hazardous waste by the facility.

2. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay to the department to offset partially the cost incurred by the public [service] *utilities* commission of Nevada for inspecting and otherwise ensuring the safety of any shipment of hazardous materials transported by rail car through or within this state a fee of $1.50 per ton of the volume received for the disposal of hazardous waste by the facility.

3. The operator of such a facility shall pay the fees provided in this section, based upon the volume of hazardous waste received by the facility during each quarter of the calendar year, within 30 days after the end of each quarter. The department may assess and collect a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that the fee remains due.

Sec. 301. NRS 459.535 is hereby amended to read as follows:

459.535 1. Except as otherwise provided in NRS 459.537 and subsection 2 of this section, the money in the account for the management of hazardous waste may be expended only to pay the costs of:

(a) The continuing observation or other management of hazardous waste;

(b) Establishing and maintaining a program of certification of consultants involved in the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks or the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance;

(c) Training persons to respond to accidents or other emergencies related to hazardous materials, including any basic training by the state fire marshal which is necessary to prepare personnel for advanced training related to hazardous materials;

(d) Establishing and maintaining a program by the public [service] *utilities* commission of Nevada to inspect and otherwise ensure the safety of any shipment of hazardous materials transported by rail car through or within the state; and

(e) Financial incentives and grants made in furtherance of the program developed pursuant to paragraph (c) of subsection 2 of NRS 459.485 for the minimization, recycling and reuse of hazardous waste.

2. Money in the account for the management of hazardous waste may be expended to provide matching money required as a condition of any federal grant for the purposes of NRS 459.800 to 459.856, inclusive.

Sec. 302. NRS 459.707 is hereby amended to read as follows:

459.707 1. The division shall not issue to any common, contract or private motor carrier of property who is seeking to transport radioactive waste upon the highways of this state a permit required pursuant to NRS 459.705 without first obtaining the approval of the [public service commission of Nevada.] *department.*

2. The [public service commission of Nevada] *department* shall not approve the issuance of such a permit unless it determines that the carrier transporting the waste complies and will continue to comply with all laws and regulations of this state and the Federal Government respecting the handling and transport of radioactive waste and the safety of drivers and vehicles.

3. The division shall revoke a permit to transport radioactive waste issued pursuant to NRS 459.705 if it finds that, while transporting radioactive waste, the carrier has failed to comply with any laws or regulations of this state or the Federal Government respecting the handling or transport of radioactive waste and the safety of drivers or vehicles.

4. The division shall notify the [public service commission of Nevada] *transportation services authority* upon receiving information that, while transporting radioactive waste, a carrier has failed to comply with any laws or regulations of this state or the Federal Government respecting the handling or transport of radioactive waste and the safety of drivers or vehicles. Upon being notified, the [public service commission of Nevada] *transportation services authority* may:

(a) Revoke a certificate issued pursuant to chapter 706 of NRS; or

(b) In the case of a carrier whose certificate is issued by the [Interstate Commerce Commission,] *Surface Transportation Board,* file a complaint with that commission.

Sec. 303. NRS 459A.010 is hereby amended to read as follows:

459A.010 As used in this chapter, "public utility" means any person who furnishes electricity to other persons. The term includes municipal utilities but does not include persons who furnish electricity only in emergencies or persons described in subsection [6] *4* of NRS 704.030.

Sec. 304. NRS 481.051 is hereby amended to read as follows:

481.051 1. The director shall direct and supervise all administrative and technical activities of the department. He shall devote his entire time to the duties of his office, and shall not follow other gainful employment or occupation.

2. The director may organize the department into various divisions, alter the organization and reassign responsibilities and duties as he deems appropriate.

3. The director shall:

(a) Formulate the policy of the department and the various divisions thereof.

(b) Coordinate the activities of the various divisions of the department.

(c) Adopt such regulations consistent with law as he deems necessary for the operation of the department and the enforcement of all laws administered by the department.

4. The director may appoint vendors to serve as agents of the department to sell temporary permits. The vendor shall collect the fees for the permits issued pursuant to chapter 706 of NRS, and pay them to the department. The vendor shall guarantee payment by giving a bond in an amount not less than $25,000, executed by the vendor as principal, and by a corporation qualified pursuant to the laws of this state as surety, payable to the State of Nevada. In lieu of a bond, the vendor may deposit with the state treasurer a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is not available for withdrawal except upon order of the director. The director may appoint inspectors of the [public service commission of Nevada] *transportation services authority* and personnel of the Nevada highway patrol to serve without remuneration as vendors for the purposes of this subsection.

5. The director may delegate to the officers and employees of the department such authorities and responsibilities not otherwise delegated by law as he deems necessary for the efficient conduct of the business of the department.

Sec. 305. NRS 481.053 is hereby amended to read as follows:

481.053 1. The governor shall appoint the peace officers' standards and training committee.

2. The committee consists of seven members, one appointed from Clark County, one from Washoe County, three from any other counties, one from category II peace officers and one from category III peace officers. Members serve terms of 2 years from the date of appointment. Members serve without compensation but are entitled to the per diem allowance and travel expenses provided by law for state officers and employees generally.

3. The governor shall make the appointments from recommendations submitted by Clark County, Washoe County, professional organizations of sheriffs and police chiefs of this state, category II peace officers and category III peace officers.

4. The committee shall:

(a) Meet at the call of the chairman, who must be elected by the members of the committee.

(b) Provide for and encourage the training and education of peace officers in order to improve the system of criminal justice.

(c) Adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers.

(d) Make necessary inquiries to determine whether agencies of the state and of local governments are complying with standards set forth in its regulations.

(e) Carry out the duties required of the committee pursuant to NRS 432B.610 and 432B.620.

5. Regulations adopted by the committee:

(a) Apply to all agencies of the state and of local governments which employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children; and

(c) May require that training be carried on at institutions which it approves in those regulations.

6. The director may adopt regulations necessary for the operation of the committee and the enforcement of laws administered by the committee.

7. As used in this section:

(a) "Category II peace officer" means:

(1) The bailiff of the supreme court;

(2) The bailiffs of the district courts, justices' courts and municipal courts whose duties require them to carry weapons and make arrests;

(3) Constables and their deputies whose official duties require them to carry weapons and make arrests;

(4) Inspectors employed by the public [service] *utilities* commission of Nevada *and the transportation services authority* who exercise those powers of enforcement conferred by chapters 704, 705 and 706 of NRS;

(5) Parole and probation officers;

(6) Special investigators who are employed full time by the office of any district attorney or the attorney general;

(7) Investigators of arson for fire departments who are specially designated by the appointing authority;

(8) The assistant and deputies of the state fire marshal;

(9) The brand inspectors of the division of agriculture of the department of business and industry who exercise the powers of enforcement conferred in chapter 565 of NRS;

(10) Investigators for the state forester firewarden who are specially designated by him and whose primary duties are the investigation of arson;

(11) School police officers employed by the board of trustees of any county school district;

(12) Agents of the state gaming control board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;

(13) Investigators and administrators of the bureau of enforcement of the registration division of the department of motor vehicles and public safety who perform the duties specified in subsection 3 of NRS 481.048;

(14) Officers and investigators of the section for the control of emissions from vehicles of the registration division of the department of motor vehicles and public safety who perform the duties specified in subsection 3 of NRS 481.0481;

(15) Legislative police officers of the State of Nevada;

(16) The personnel of the capitol police division of the department of motor vehicles and public safety appointed pursuant to subsection 2 of NRS 331.140;

(17) Parole counselors of the division of child and family services of the department of human resources;

(18) Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in Nevada or by a department of family, youth and juvenile services established pursuant to NRS 62.1264 whose official duties require them to enforce court orders on juvenile offenders and make arrests;

(19) Field investigators of the taxicab authority;

(20) Security officers employed full time by a city or county whose official duties require them to carry weapons and make arrests; and

(21) The chief of a department of alternative sentencing created pursuant to NRS 211A.080 and the assistant alternative sentencing officers employed by that department.

(b) "Category III peace officer" means peace officers whose authority is limited to correctional services, and includes the superintendents and correctional officers of the department of prisons.

Sec. 306. NRS 483.160 is hereby amended to read as follows:

483.160 1. "School bus" means every motor vehicle owned by or under the control of a public or governmental agency or a private school and regularly operated for the transportation of children to or from school or a school activity or privately owned and regularly operated for compensation for the transportation of children to or from school or a school activity.

2. "School bus" does not include a passenger car operated under a contract to transport children to and from school, a common carrier or commercial vehicle under the jurisdiction of the [Interstate Commerce Commission] *Surface Transportation Board* or the [public service commission of Nevada] *transportation services authority* when such vehicle is operated in the regular conduct of its business in interstate or intrastate commerce within the State of Nevada.

Sec. 307. NRS 484.148 is hereby amended to read as follows:

484.148 1. "School bus" means every motor vehicle owned by or under the control of a public or governmental agency or a private school and regularly operated for the transportation of children to or from school or a school activity or privately owned and regularly operated for compensation for the transportation of children to or from school or a school activity.

2. "School bus" does not include a passenger car operated under a contract to transport children to and from school, a common carrier or commercial vehicle under the jurisdiction of the [Interstate Commerce Commission] *Surface Transportation Board* or the [public service commission of Nevada] *transportation services authority* when such vehicle is operated in the regular conduct of its business in interstate or intrastate commerce within the State of Nevada.

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Sec. 308. NRS 484.229 is hereby amended to read as follows:

484.229 1. Except as otherwise provided in subsections 2, 3 and 4, the driver of a vehicle which is in any manner involved in an accident on a highway or on premises to which the public has access, if the accident results in bodily injury to or the death of any person or total damage to any vehicle or item of property to an apparent extent of $750 or more, shall, within 10 days after the accident, forward a written report of the accident to the department. Whenever damage occurs to a motor vehicle, the operator shall attach to the accident report an estimate of repairs or a statement of the total loss from an established repair garage, an insurance adjuster employed by an insurer licensed to do business in this state, an adjuster licensed pursuant to chapter 684A of NRS or an appraiser licensed pursuant to chapter 684B of NRS. The department may require the driver or owner of the vehicle to file supplemental written reports whenever the original report is insufficient in the opinion of the department.

2. A report is not required from any person if the accident was investigated by a law enforcement agency and the report of the investigating officer contains:

(a) The name and address of the insurance company providing coverage to each person involved in the accident;

(b) The number of each policy; and

(c) The dates on which the coverage begins and ends.

3. The driver of a vehicle subject to the jurisdiction of the [Interstate Commerce Commission] *Surface Transportation Board* or the [public service commission of Nevada] *transportation services authority* need not submit in his report the information requested pursuant to subsection 3 of NRS 484.247 until the 10th day of the month following the month in which the accident occurred.

4. A written accident report is not required pursuant to this chapter from any person who is physically incapable of making a report, during the period of his incapacity. Whenever the driver is physically incapable of making a written report of an accident as required in this section and he is not the owner of the vehicle, the owner shall within 10 days after knowledge of the accident make the report not made by the driver.

5. All written reports required in this section to be forwarded to the department by drivers or owners of vehicles involved in accidents are without prejudice to the person so reporting and are for the confidential use of the department or other state agencies having use of the records for accident prevention, except that the department may disclose to a person involved in an accident or to his insurer the identity of another person involved in the accident when his identity is not otherwise known or when he denies his presence at the accident. The department may also disclose the name of his insurer and the number of his policy.

6. No written report forwarded pursuant to the provisions of this section may be used as evidence in any trial, civil or criminal, arising out of an accident except that the department shall furnish upon demand of any party

to such a trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department in compliance with law, and, if the report has been made, the date, time and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved and the investigating officers. The report may be used as evidence when necessary to prosecute charges filed in connection with a violation of NRS 484.236.

Sec. 309. NRS 484.631 is hereby amended to read as follows:

484.631 1. Tow cars must be equipped with:

(a) One or more brooms, and the driver of the tow car engaged to remove a disabled vehicle from the scene of an accident shall remove all glass and debris deposited upon the roadway by the disabled vehicle which is to be towed.

(b) A shovel, and whenever practical the driver of the tow car engaged to remove any disabled vehicle shall spread dirt upon any portion of the roadway where oil or grease has been deposited by the disabled vehicle.

(c) At least one fire extinguisher of the dry chemical or carbon dioxide type, with minimum effective chemicals of no less than 5 pounds, with an aggregate rating of at least 10-B, C units, which must bear the approval of a laboratory nationally recognized as properly equipped to grant such approval.

2. A citation may be issued to any driver of a tow car who violates any provision of paragraph (a) of subsection 1. The peace officer who issues the citation shall report the violation to the Nevada highway patrol or the sheriff of the county or the chief of police of the city in which the roadway is located. If necessary, the Nevada highway patrol, sheriff or chief of police shall cause the roadway to be cleaned and shall bill the owner or operator of the tow car for the costs of the cleaning. If the owner or operator does not pay those costs within 30 days after receiving the bill therefor, the Nevada highway patrol, sheriff or chief of police shall report such information to the [public service commission of Nevada,] *transportation services authority*, which may take disciplinary action in accordance with the provisions of NRS 706.449.

Sec. 310. NRS 487.038 is hereby amended to read as follows:

487.038 1. Except as otherwise provided in subsections 3 and 4, the owner or person in lawful possession of any real property may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the [public service commission of Nevada] *transportation services authority* to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard if:

(a) A sign is displayed in plain view on the property declaring public parking to be prohibited or restricted in a certain manner; and

(b) The sign shows the telephone number of the police department or sheriff's office.

2. Oral notice must be given to the police department or sheriff's office whichever is appropriate, indicating:

(a) The time the vehicle was removed;

(b) The location from which the vehicle was removed; and

(c) The location to which the vehicle was taken.

3. Any vehicle which is parked in a space designated for the handicapped and is not properly marked for such parking may be removed if notice is given to the police department or sheriff's office pursuant to subsection 2, whether or not a sign is displayed pursuant to subsection 1.

4. The owner or person in lawful possession of residential real property upon which a single-family dwelling is located may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the [public service commission of Nevada] *transportation services authority* to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard, whether or not a sign is displayed pursuant to subsection 1.

5. All costs incurred, under the provisions of this section, for towing and storage must be borne by the owner of the vehicle, as that term is defined in NRS 484.091.

6. The provisions of this section do not limit or affect any rights or remedies which the owner or person in lawful possession of real property may have by virtue of other provisions of the law authorizing the removal of a vehicle parked on that property.

Sec. 311. NRS 523.161 is hereby amended to read as follows:

523.161 1. Except for those energy resources for whose priorities of use are established by the public [service] *utilities* commission of Nevada, the director may recommend to state agencies, local governments and appropriate private persons and entities, standards for conservation of energy and its sources and for carrying out the state plan for the conservation of energy.

2. In recommending such standards the director shall consider the usage of energy and its sources in the state and the methods available for conservation of those sources.

Sec. 312. NRS 534.180 is hereby amended to read as follows:

534.180 1. Except as *otherwise* provided in subsection 2 and as to the furnishing of any information required by the state engineer, this chapter does not apply in the matter of obtaining permits for the development and use of underground water from a well for domestic purposes where the draught does not exceed a daily maximum of 1,800 gallons.

2. The state engineer may designate any ground water basin or portion thereof as a basin in which the registration of a well is required if the well is drilled for the development and use of underground water for domestic purposes. A driller who drills such a well shall register the information required by the state engineer within 10 days after the completion of the well. The state engineer shall make available forms for the registration of such wells and shall maintain a register of those wells.

3. The state engineer may require the plugging of such a well which is drilled on or after July 1, 1981, at any time not sooner than 1 year after water can be furnished to the site by:

(a) A political subdivision of this state; or

(b) A public utility whose rates and service are regulated by the public [service] *utilities* commission of Nevada,

but only if the charge for making the connection to the service is less than $200.

Sec. 313. NRS 538.181 is hereby amended to read as follows:

538.181 1. The commission shall hold and administer all rights and benefits pertaining to the distribution of the power and water mentioned in NRS 538.041 to 538.251, inclusive, for the State of Nevada, and, except as otherwise provided in NRS 538.186, may enter into contracts relating to that power and water, including the transmission and other distribution services, on such terms as the commission determines.

2. Every applicant, except a federal or state agency or political subdivision, for power or water to be used within the State of Nevada must, before the application is approved, provide an indemnifying bond by a corporation qualified pursuant to the laws of this state, or other collateral, approved by the state board of examiners, payable to the State of Nevada in such sum and in such manner as the commission may require, conditioned for the full and faithful performance of the lease, sublease, contract or other agreement.

3. The power and water must not be sold for less than the actual cost to the State of Nevada.

4. Except as otherwise provided in subsection 5, before any such sale or lease is made, a notice of it must be advertised in two papers of general circulation published in the State of Nevada at least once a week for 2 weeks. The commission shall require any person desiring to make objection thereto to file the objection with the commission within 10 days after the date of the last publication of the notice. If any objection is filed, the commission shall set a time and place for a hearing of the objection not more than 30 days after the date of the last publication of the notice.

5. The provisions of subsection 4 do not apply to:

(a) Any contract by the commission to sell supplemental power to a holder of a long-term firm contract with the state for power if the supplemental power is procured by the commission from a prearranged source and is secured by the holder for his own use; or

(b) Any agreement by the commission to sell short-term or interruptible power on short notice for immediate acceptance to a holder of a long-term firm contract with the state for power who can take delivery of the short-term or interruptible power when it is available.

6. Except as otherwise provided in subsection 2 of NRS 538.251, any such lease, sublease, contract or sale of the water or power is not binding upon the State of Nevada until ratified and approved by the governor and, where required by federal law, until approved by the United States.

7. The commission shall, upon the expiration of a contract for the sale of

power which is in effect on July 1, 1993, offer to the purchaser the right to renew the contract. If the commission is unable to supply the amount of power set forth in the contract because of a shortage of power available for sale, it shall reduce, on a pro rata basis, the amount of power it is required to sell pursuant to the renewed contract.

8. [Notwithstanding] *Except as otherwise provided in section 50 of this act, notwithstanding* any provision of chapter 704 of NRS, any purchase of:

(a) Power or water for distribution or exchange, and any subsequent distribution or exchange of power or water by the commission; or

(b) Water for distribution or exchange, and any subsequent distribution or exchange of water by any entity to which or with which the commission has contracted the water,

is not subject to regulation by the public [service] *utilities* commission of Nevada.

Sec. 314. NRS 540A.300 is hereby amended to read as follows:

540A.300 1. The board of county commissioners and the largest supplier of water within the region which is a public utility shall enter into an agreement which defines the respective areas within the region where the public utility and all systems for the supply of water which are controlled or operated by the board will provide retail water services. The agreement must resolve all issues related to service territories of the public utility and all systems for the supply of water which are controlled or operated by the board. An agreement executed pursuant to this subsection does not become effective until the public [service] *utilities* commission of Nevada approves the terms of the agreement.

2. The agreement entered into pursuant to subsection 1 governs the provision of retail water services by the public utility and the board, unless the agreement is amended by the mutual agreement of the board and the public utility.

3. The public utility must comply with any applicable regulations of the public [service] *utilities* commission of Nevada when providing water services within the region.

4. The public utility may withhold from the board at any time before an agreement is finalized pursuant to subsection 1 any information which is confidential, proprietary or which may cause a competitive disadvantage to the public utility if the information is disseminated.

Sec. 315. NRS 540A.310 is hereby amended to read as follows:

540A.310 1. The largest supplier of water within the region which is a public utility shall provide wholesale water services in a manner consistent with its water resource plan as approved by the public [service] *utilities* commission of Nevada.

2. The largest supplier of water within the region which is a public utility shall provide all wholesale water services to any system of water supply operated or controlled by the board of county commissioners from water resources recognized in its water resource plan as approved by the public [service] *utilities* commission of Nevada, except to the extent that:

(a) There is an existing system or a system under construction for the provision of wholesale water services;

(b) The public utility enters into an agreement with the board on or before June 15, 1995;

(c) A subdivision map has been approved on or before June 15, 1995, in an unincorporated area of the region; or

(d) The public utility and the board agree that it is more economical for the board to provide such services.

Sec. 316. NRS 565.040 is hereby amended to read as follows:

565.040 1. The administrator may declare any part of this state a brand inspection district.

2. After the creation of any brand inspection district as authorized by this chapter all animals within any such district are subject to brand inspection in accord with the terms of this chapter before:

(a) Consignment for slaughter within any district;

(b) Any transfer of ownership by sale or otherwise; or

(c) Removal from the district if the removal is not authorized pursuant to a livestock movement permit issued by the division.

3. Whenever a brand inspection district is created by the division pursuant to the provisions of this chapter, the administrator shall adopt and issue regulations defining the boundaries of the district, the fees to be collected for brand inspection, and prescribing such other rules or methods of procedure not inconsistent with the provisions of this chapter as he deems wise.

4. Any regulations issued pursuant to the provisions of this section must be published at least twice in some newspaper having a general circulation in the brand inspection district created by the regulations, and copies of the regulations must be mailed to all common carriers of record with the public [service] *utilities* commission of Nevada operating in the brand inspection district, which publication and notification constitutes legal notice of the creation of the brand inspection district. The expense of advertising and notification must be paid from the livestock inspection account.

Sec. 317. NRS 581.103 is hereby amended to read as follows:

581.103 1. Any person who wishes to make any repair or adjustment, for hire, to a weighing or measuring device must submit to the state sealer of weights and measures:

(a) An application for a certificate of registration on a form provided by the state sealer of weights and measures;

(b) The annual fee prescribed by regulation pursuant to NRS 581.075; and

(c) The equipment the person will use to repair or adjust weighing or measuring devices. The state sealer of weights and measures shall inspect the equipment to ensure that the equipment complies with the standards set forth in the regulations adopted pursuant to NRS 581.050.

2. The state sealer of weights and measures shall issue to any person who complies with the requirements of subsection 1 a certificate of registration. The certificate must include a unique registration number.

3. A certificate of registration is effective for the calendar year in which it is issued, and may be renewed upon application on or before January 15 of the succeeding year. Any person who, for hire, makes a repair or adjustment to a weighing or measuring device without being registered pursuant to this section shall be punished as provided in NRS 581.450.

4. Except as otherwise provided in NRS 581.104, any person who sells or installs or makes any repair or adjustment to a commercially used weighing or measuring device shall within 24 hours notify the state sealer of weights and measures, on a form provided by the state sealer of weights and measures, of that repair, adjustment, sale or installation. If a person who has been issued a certificate of registration pursuant to subsection 2 fails to notify the state sealer of weights and measures as required by this subsection, the state sealer of weights and measures may suspend the certificate of registration of that person for not more than 10 days and may, after a hearing, revoke his certificate of registration.

5. The form required pursuant to subsection 4 must include:

(a) The registration number and signature of the person who sold, installed, repaired or adjusted the device; and

(b) A statement requesting that the state sealer of weights and measures inspect the weighing or measuring device and seal or mark it if it complies with the standards set forth in the regulations adopted pursuant to NRS 581.050.

6. Any person required to register pursuant to subsection 1 who employs any other person to make any repair or adjustment to a weighing or measuring device is responsible for the registration of that employee in the manner required by subsection 1.

7. The provisions of this section do not apply to a public utility subject to the jurisdiction of the public [service] *utilities* commission of Nevada [.] *or a common or contract motor carrier subject to the jurisdiction of the transportation services authority.*

Sec. 318. NRS 581.405 is hereby amended to read as follows:

581.405 1. As used in this section, "liquefied petroleum gas" means and includes any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: Propane, propylene, butanes, either normal butane or isobutane, and butylenes.

2. Liquefied petroleum gas sold as a liquid and by meter liquid measurement shall be sold at the rate of 231 cubic inches per gallon at 60° F.

3. When liquefied petroleum gas is sold by use of a temperature compensating meter, suitably sealed or marked by the state sealer of weights and measures pursuant to the provisions of NRS 581.080, the sales ticket shall:

(a) Show the number of compensated gallons delivered; and

(b) State that a temperature correction was made to 60° F.

4. When liquefied petroleum gas is sold by use of a volume correction factor table approved by the state sealer of weights and measures, the sales ticket shall:

(a) Show the number of metered gallons delivered;

(b) Show the temperature of the liquefied petroleum gas when delivered;

(c) Before final invoicing, show the number of compensated gallons delivered; and

(d) State that a temperature correction was made to 60° F.

5. The temperature compensating requirements of this section shall not apply to:

(a) Sales of liquefied petroleum gas from fixed liquefied petroleum gas dispensing systems when delivery is made directly to fuel tanks of motor vehicles or to portable containers.

(b) Interstate tank car and transport truck deliveries to bulk storage, or to public utility systems using pipes or other fixtures in the public highways or streets for the transmission of liquefied petroleum gas and operating under the jurisdiction of the public [service] *utilities* commission of Nevada, or to any public service company whose operations are subject to the jurisdiction of the public [service] *utilities* commission of Nevada.

6. Pursuant to the provisions of NRS 581.050, the state sealer of weights and measures is authorized to establish and promulgate rules and regulations found necessary by him to carry out the provisions of this section, including without limitation rules and regulations authorizing tolerances in excess or deficiency for temperature compensating meters.

7. Any person who violates any of the provisions of this section or of the rules and regulations of the state sealer of weights and measures established and [promulgated] *adopted* by him pursuant to the provisions of subsection 6 of this section shall be punished as provided in NRS 581.450.

Sec. 319. NRS 584.472 is hereby amended to read as follows:

584.472 1. Written notice of any hearing held by the commission must be mailed to the [consumer affairs division of the department of business and industry.] *bureau of consumer protection in the office of the attorney general.*

2. The division may file with the commission any statement concerning the proposed action and may appear at the hearing to give evidence concerning the proposed action.

Sec. 320. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 321 to 325, inclusive, of this act.

Sec. 321. *As used in NRS 597.440 and sections 321 to 325, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 322 and 323 of this act, have the meanings ascribed to them in those sections.*

Sec. 322. *"Contract dealer" means a retailer who operates a service station pursuant to a franchise agreement if the service station is not leased to the retailer by the refiner with whom the retailer has entered into the franchise agreement.*

Sec. 323. *"Lessee dealer" means a retailer who operates a service station pursuant to a franchise agreement if the service station is leased to the retailer by the refiner with whom the retailer has entered into the franchise agreement.*

Sec. 324. On or after July 1, 1997, a refiner shall not commence the direct operation of a service station with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee, if that service station is leased by the refiner to a lessee dealer on or before July 1, 1997.

Sec. 325. *1. A contract dealer shall not, on or before July 1, 1998, sell a service station which he operates to the refiner with whom he has entered into a franchise agreement.*

2. Except as otherwise provided in subsection 3, if a contract dealer sells a service station to a refiner in compliance with subsection 1, the refiner may not engage in the direct operation of that service station with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee.

3. On or after July 1, 1998, a contract dealer may authorize a refiner to whom he has sold a service station to engage in the operation of that service station directly with his own employees or through a subsidiary or commissioned agent or person on a fee basis, by sending a notice to the refiner to engage in the refiner, by certified mail, return receipt requested, offering the refiner to engage in the operation of the service station in such a manner. The contract dealer may, at any time before the refiner accepts such an offer, rescind the offer by sending a notice of recession to the refiner by certified mail, return receipt requested.

4. The provisions of this section do not apply to a contract dealer who operates or has previously operated more than three service stations.

Sec. 326. NRS 597.440 is hereby amended to read as follows:

597.440 1. [On] *Except as otherwise provided in this section and sections 324 and 325 of this act, on* or after July 1, [1987, except as provided in subsection 3,] *1997,* a refiner [shall not commence the:

(a) Direct operation of a service station,] *may commence,* with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee [; or

(b) Sale of motor vehicle fuel at a service station.] *, the direct operation of the following number of additional service stations during the calendar years so indicated:*

(a) By the end of calendar year 1997, a total of two service stations in addition to the number of services stations directly operated by the refiner on July 1, 1997.

(b) By the end of calendar year 1998, a total of six additional service stations in addition to the number of services stations directly operated by the refiner on July 1, 1997.

(c) By the end of calendar year 1999, a total of 10 additional service stations in addition to the number of services stations directly operated by the refiner on July 1, 1997.

(d) After the end of calendar year 1999, a total of 15 additional service stations in addition to the number of services stations directly operated by the refiner on July 1, 1997.

2. On or after [July 1, 1988, except as provided in subsection 3, a refiner shall not engage in the direct operation of more than 15 service stations in this state, with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee.] *January 1, 2001, a refiner who engages in the direct operation of:*

(a) Less than 30 service stations in this state, with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee, may commence the direct operation of not more than five additional services stations per calendar year, but in no case may he commence the direct operation of more than 30 service stations without complying with the provisions of paragraph (b).

(b) At least 30 service stations in this state, with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee, may commence the direct operation of additional service stations per year, with his own employees or through a subsidiary or commissioned agent or person on the basis of a fee, only if, during the year in which the service stations are added, he leases at least one additional service station to a lessee dealer for every two directly operated service stations added. For the purposes of this paragraph, a service station leased by the refiner to a lessee dealer before the refiner engages in the direct operation of at least 30 service stations shall be deemed to be one service station leased to a lessee dealer during any year following the year in which the refiner engages in the direct operation of at least 30 service stations.

3. A refiner may operate a service station for not more than 90 days if the:

(a) Retailer voluntarily terminates or agrees not to renew the franchise; or

(b) Franchise is terminated by the refiner pursuant to NRS 597.270 to 597.470, inclusive.

Sec. 327. NRS 598.180 is hereby amended to read as follows:

598.180 "Door-to-door sale" means any sale, purchase, lease or rental of any consumer goods or services with a purchase price of $25 or more which is the result of any door-to-door solicitation or personal solicitation by the seller or his representative, whether at the specific invitation of the buyer or not, and which is made at a place other than the place of business of the seller. The term "door-to-door sale" does not include a transaction:

1. Made pursuant to a preexisting retail charge agreement or pursuant to prior negotiations between the parties at or from a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis.

2. In which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act (15 U.S.C. § 1635) or regulations issued pursuant thereto.

3. In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within 3 business days.

4. Conducted and consummated entirely by mail or telephone, and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the service.

5. In which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's personal property. If in the course of the visit, the seller sells the buyer the right to receive additional services and goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion.

6. Pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker-dealer registered with the Securities Exchange Commission.

7. Pertaining to the sale or rental of vehicles as defined in NRS 482.135.

8. Pertaining to the sale or rental of mobile homes.

9. Pertaining to the provision of facilities and services furnished by utilities under the jurisdiction of the public [service] *utilities* commission of Nevada.

Sec. 328. NRS 598A.040 is hereby amended to read as follows:

598A.040 The provisions of this chapter do not apply to:

1. Any labor, agricultural or horticultural organizations organized for the purpose of self-help and not for profit to itself nor to individual members thereof, while lawfully carrying out its legitimate objects.

2. Bona fide religious and charitable activities of any nonprofit corporation, trust or organization established exclusively for religious or charitable purposes.

3. Conduct which is expressly authorized, regulated or approved by:

(a) A statute of this state or of the United States;

(b) An ordinance of any city or county of this state, except for ordinances relating to community antenna television companies; or

(c) An administrative agency of this state or of the United States or of a city or county of this state, having jurisdiction of the subject matter.

4. Conduct or agreements relating to rates, fares, classifications, divisions, allowances or charges , [(] including charges between carriers and compensation paid or received for the use of facilities and equipment [)] , *that are* authorized, regulated or approved by the [public service commission of Nevada] *transportation services authority* pursuant to chapter 706 of NRS.

5. Restrictive covenants:

(a) Which are part of a contract of sale for a business and which bar the seller of the business from competing with the purchaser of the business sold within a reasonable market area for a reasonable period of time; or

(b) Which are part of a commercial shopping center lease and which bar the parties from permitting or engaging in the furnishing of certain services

or the sale of certain commodities within the commercial shopping center where such leased premises are located.

Sec. 329. NRS 599B.015 is hereby amended to read as follows:

599B.015 1. The [commissioner may request and the] attorney general shall provide opinions for the [division] *bureau* on all questions of law relating to the construction, interpretation or administration of this chapter.

2. The attorney general shall make the legal determination of whether a person is required to register pursuant to the provisions of this chapter. In making this determination, the attorney general shall consider the definitions, intent, findings and declarations set forth in this chapter.

Sec. 330. NRS 624.330 is hereby amended to read as follows:

624.330 This chapter does not apply to:

1. Work done exclusively by an authorized representative of the United States Government, the State of Nevada, or any incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state.

2. An officer of a court when acting within the scope of his office.

3. Work done exclusively by a public utility operating under the regulations of the public [service] *utilities* commission of Nevada on construction, maintenance and development work incidental to its own business.

4. An owner of property who is building or improving a residential structure on the property for his own occupancy and not intended for sale. The sale or offering for sale of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with intent to sell.

5. The sale or installation of any finished product, material or article of merchandise which is not actually fabricated into and does not become a permanent fixed part of the structure.

6. Any construction, alteration, improvement or repair of personal property.

7. Any construction, alteration, improvement or repair financed in whole or in part by the Federal Government and carried on within the limits and boundaries of any site or reservation, the title of which rests in the Federal Government.

8. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his own use or occupancy and not intended for sale or lease.

9. An owner of property who builds or improves a structure upon his property and who contracts solely with a managing contractor licensed pursuant to the provisions of this chapter for the building or improvement, if the owner is and remains financially responsible for the building or improving of all buildings and structures built by the owner upon his property pursuant to the exemption of this subsection.

Sec. 331. Section 71 of this act is hereby amended to read as follows:

Sec. 71. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 or as otherwise provided by the commission pursuant to NRS 704.095 or 704.097:

1. Whenever there is filed with the commission any schedule stating a new or revised individual or joint rate, fare or charge, or any new or revised individual or joint regulation or practice affecting any rate, fare or charge, or any schedule resulting in a discontinuance, modification or restriction of service, the commission may, upon complaint or upon its own motion without complaint, at once, without answer or formal pleading by the interested utility, investigate or, upon reasonable notice, conduct a hearing concerning the propriety of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice.

2. Pending the investigation or hearing and the decision thereon, the commission, upon delivering to the utility affected thereby a statement in writing of its reasons for the suspension, may suspend the operation of the schedule and defer the use of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice, but not for more than 150 days beyond the time when the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.

3. Whenever there is filed with the commission any schedule stating an increased individual or joint rate, fare or charge for service or equipment, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. During any hearing concerning the increased rates, fares or charges determined by the commission to be necessary, the commission shall consider evidence in support of the increased rates, fares or charges based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but no new rates, fares or charges may be placed into effect until the changes have been experienced and certified by the utility to the commission. The commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the filing with the commission of the certification required in this subsection, or before the expiration of any period of suspension ordered pursuant to subsection 2, whichever time is longer, the commission

shall make such order in reference to those rates, fares or charges as is required by this chapter.

4. After full investigation or hearing, whether completed before or after the date upon which the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice is to go into effect, the commission may make such order in reference to the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice has become effective.

5. Whenever an application is filed by a public utility for an increase in any rate, fare or charge based upon increased costs in the purchase of fuel or power, and the public utility has elected to use deferred accounting for costs of the purchase of fuel or power in accordance with the commission's regulations, the commission, by appropriate order after a public hearing, shall allow the public utility to clear the deferred account not more often than every 6 months by refunding any credit balance or recovering any debit balance over a period not to exceed 1 year as determined by the commission. The commission shall not allow a recovery of a debit balance or any portion thereof in an amount which would result in a rate of return in excess of the rate of return most recently granted the public utility.

6. Except as otherwise provided in subsection 7 or in NRS 707.350, whenever a general rate application for an increased rate, fare or charge for, or classification, regulation, discontinuance, modification, restriction or practice involving service or equipment has been filed with the commission, a public utility shall not submit another general rate application until all pending general rate applications for increases in rates submitted by that public utility have been decided unless, after application and hearing, the commission determines that a substantial financial emergency would exist if the other application is not permitted to be submitted sooner.

7. A public utility may not file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale more often than once every 30 days.

8. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility. As used in this subsection, "utility facility" has the meaning ascribed to it in subsections 1 and 2 of NRS 704.860.

Sec. 332. Section 232 of this act is hereby amended to read as follows:

Sec. 232. The legislative committee on utilities:

1. May review issues related to all public utilities subject to the jurisdiction of the public [service] *utilities* commission of Nevada to:

(a) Maximize the benefits of a competitive marketplace;

(b) Ensure flexibility to providers of energy;

(c) Foster growth and innovation in the provision of services through the public [service] *utilities* commission of Nevada;

(d) Ensure and enhance the safety and reliability of the public utilities provided in this state; and

(e) Ensure the protection of the persons who use the services provided by such public utilities.

2. May review issues related to the consumer's advocate.

3. *May review issues related to the transportation services authority and the entities regulated by the transportation services authority.*

4. Shall evaluate whether or the extent to which:

(a) Requirements should be established regarding the use of renewable resources and the creation of programs to improve energy efficiency; and

(b) The diversity of fuel, the diversity of generation resources or any economic or environmental factors should be considered in determining the optimal combination of generation resources necessary to meet the requirements for electric energy in this state.

[4.] *5.* May conduct investigations and hold hearings in connection with carrying out its duties pursuant to this section.

[5.] *6.* May direct the legislative counsel bureau to assist in its research, investigations, hearings and reviews.

Sec. 333. Section 233 of this act is hereby amended to read as follows:

Sec. 233. 1. There is hereby created a Northern Nevada advisory oversight committee and a Southern Nevada advisory oversight committee for the legislative committee on utilities.

2. The Northern Nevada advisory committee must be appointed by members of the legislature who represent a district comprises any part of the service territory of an electric utility which, on the effective date of this section, holds a certificate of public convenience and necessity on July 1, 1997, that includes Washoe County and consist of:

(a) Not more than 2 persons representing the electric utility whose service area includes Washoe County.

(b) One shareholder of that electric utility.

(c) Two residential customers of the electric utility.

(d) Two persons who represent small businesses that use not less than 800 kilowatts but not more than 5 megawatts of electricity supplied by the electric utility.

(e) Two persons who represent two different large industrial users who use 5 megawatts of electricity or more supplied by the electric utility.

(f) Two persons who represent local governments that receive electric service from the electric utility.

(g) One or two persons who represent alternative sellers and cogeneration or small power production facilities that meet the criteria

of and has been certified as a qualified facility pursuant to Title 18, Code of Federal Regulations, sections 292.201 to 292.207, inclusive, as those sections existed on the effective date of this act, operating to provide electric service in the service territory of the electric utility.

(h) One or two legislators from those legislators who are eligible to appoint the committee pursuant to this subsection.

3. The Southern Nevada advisory committee must be appointed by members of the legislature who represent a district comprises any part of the service territory of an electric utility which, on the effective date of this section, holds a certificate of public convenience and necessity on July 1, 1997, that includes Clark County and consist of:

(a) Not more than 2 persons representing the electric utility whose service area includes Clark County.

(b) One shareholder of that electric utility.

(c) Two residential customers of the electric utility.

(d) Two persons who represent small businesses that use not less than 800 kilowatts but not more than 5 megawatts of electricity supplied by the electric utility.

(e) Two persons who represent two different large industrial users who use 5 megawatts of electricity or more supplied by the electric utility.

(f) Two persons who represent local governments that receive electric service from the electric utility.

(g) One or two persons who represent alternative sellers and cogeneration or small power production facilities that meet the criteria of and has been certified as a qualified facility pursuant to Title 18, Code of Federal Regulations, sections 292.201 to 292.207, inclusive, as those sections existed on the effective date of this act, operating to provide electric service in the service territory of the electric utility.

(h) One or two legislators from those legislators who are eligible to appoint the committee pursuant to this subsection.

4. Members of the advisory committees serve without compensation and are not entitled to the per diem allowance or travel expenses provided for state officers and employees generally.

5. The advisory committee shall:

(a) Discuss the rules and regulations related to the provision of competitive electric service in this state and the needs of the residents of this state related to such competition, including, but limited to, issues relating to affiliates, aggregation of services, alternative sellers, anti-competitive conduct, resource planning, renewable energy, consumer education, potentially competitive services, recovery of stranded costs and rate caps.

(b) Monitor the progress of the public [service] *utilities* commission of Nevada in facilitating such competition.

6. The advisory committees shall submit recommendations to the legislative committee on utilities. The Southern Nevada advisory committee shall submit its recommendations to the inaugural meeting of the legislative committee on utilities, and thereafter, unless otherwise directed by the legislative committee on utilities, the advisory committee that is designated to submit recommendations alternates between every other meeting of the legislative committee on utilities.

Sec. 334. NRS 597.700 is hereby repealed.

Sec. 335. The executive director of the department of taxation shall, not later than January 1, 1999, submit to the director of the legislative counsel bureau for distribution to the legislature a report including, but not limited to:

1. An analysis of the effect of the tax policies of this state on:

(a) The potential for effective competition in providing electric services to customers; and

(b) The effect of competition in providing electric services to customers on the revenue from taxes and franchise fees of this state and local governments.

2. Recommendations for legislation that would advance the purposes of sections 28 to 53, inclusive, of this act and ensure a minimal effect on the tax revenue of this state and local governments.

Sec. 336. In the quarterly report for the first quarter of 1999, which must be submitted by the public utilities commission of Nevada pursuant to section 53 of this act, the commission shall provide a comprehensive evaluation of the development of the markets for potentially competitive services since July 1, 1997.

Sec. 337. The public service commission of Nevada shall adopt regulations to carry out the provisions of sections 28 to 53, inclusive, of this act not later than July 1, 1999.

Sec. 338. The public service commission of Nevada shall adopt the regulations required by section 48 of this act not later than November 1, 1997.

Sec. 339. 1. Not later than January 1, 1999, the public utilities commission of Nevada shall establish a plan of organization for the public utilities commission of Nevada. The plan of organization must be submitted to:

(a) The director of the legislative counsel bureau for transmittal to the legislative committee on utilities and the interim finance committee; and

(b) The director of the department of administration.

2. The plan of organization of the public utilities commission of Nevada must:

(a) Be consistent with the provisions of section 3 of this act; and

(b) Include a proposed budget for the revenue, personnel and expenditures of the public utilities commission of Nevada.

Sec. 340. The public service commission of Nevada shall, on or before:

1. July 1, 1998, adopt the regulations required by sections 58 to 63, inclusive, of this act.

2. February 1, 1999, submit a written report concerning the alternative

plan of regulation adopted pursuant to sections 58 to 63, inclusive of this act, including the names of the public utilities which supply natural gas that have elected to operate under the alternative plan, to the director of the legislative counsel bureau for transmittal to the 70th session of the legislature.

3. February 1, 2001, submit a written report concerning the alternative plan and any recommendations for legislation to the director of the legislative counsel bureau for transmittal to the 71st session of the legislature.

Sec. 341. 1. The terms of office of all members appointed to the public service commission of Nevada who are incumbent on September 30, 1997, expire on that date.

2. Not later than October 1, 1997, the governor shall appoint three persons as commissioners of the public utilities commission of Nevada, whose terms commence on October 1, 1997. For the initial term of the members of the public utilities commission, the governor shall appoint:

(a) One member to a 2-year term;

(b) One member to 3-year term; and

(c) One member to a 4-year term.

3. Not later than October 1, 1997, the governor shall appoint three persons as members of the transportation services authority, whose terms commence on October 1, 1997. For the initial term of the members of the transportation services authority, the governor shall appoint:

(a) One member to a 2-year term;

(b) One member to a 3-year term; and

(c) One member to a 4-year term.

Sec. 342. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 343. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 344. The amendatory provisions section 225 of this act do not apply to offenses that are committed before October 1, 1997.

Sec. 345. 1. This section and sections 28 to 54, inclusive, 230 to 233, inclusive, and 321 to 325, inclusive, 334 to 344, inclusive, 346 and 347 of this act, become effective upon passage and approval.

2. Sections 55, 56, 71, 82 to 84, inclusive, 86, 87, 90 and 91 of this act becomes effective on July 1, 1997.

3. Sections 85, 88 and 89 of this act become effective at 12:01 a.m. on July 1, 1997.

4. Sections 1 to 27, inclusive, 57 to 70, inclusive, 72 to 81, inclusive, 92 to 172, inclusive, 174, 176, 178 to 221, inclusive, 223 to 229, inclusive, 234 to 320, inclusive, 326 to 333, inclusive, of this act become effective on October 1, 1997.

5. Section 222 of this act becomes effective at 12:01 a.m. on October 1, 1997.

6. Sections 173, 175 and 177 of this act become effective on the date that the provisions of 49 U.S.C. § 11501 are repealed or judicially declared to be invalid.

Sec. 346. 1. Sections 134, 174, 176, 178 and 179 of this act expire by limitation on the date that the provisions of 49 U.S.C. § 11501 are repealed or judicially declared to be invalid.

2. Section 239 of this act expires by limitation on June 30, 2003.

Sec. 347. 1. The legislative counsel shall:

(a) In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

(b) In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

2. Any reference in a bill or resolution passed by the 69th session of the Nevada legislature to an officer or an agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency shall be deemed to refer to the officer or agency to which the responsibility is transferred.

TEXT OF REPEALED SECTION

597.700 Games and contests operated by service stations prohibited.

1. Any dealer or seller of gasoline or other motor vehicle fuel who engages in, promotes or in any manner operates, in connection with the sale of goods or services, any contest or game by which a person may, as determined by chance, receive gifts, prizes or gratuities is guilty of a misdemeanor.

2. The provisions of subsection 1 apply whether or not a purchase is required in order to participate in such contest or game.".

Amend the title of the bill to read as follows:

"An Act relating to governmental administration; reorganizing the public service commission of Nevada into the public utilities commission of Nevada and defining its duties; creating the transportation services authority and defining its duties; transferring the regulation of certain transportation carriers from the public service commission to the transportation services authority; creating the bureau of consumer protection in the office of the attorney general and defining its duties; transferring the duties of the office of the advocate for customers of public utilities in the office of the attorney general to the bureau of consumer protection; revising provisions governing the regulation of electric services and gas services; requiring the central assessment of certain property; requiring the executive director of the department of taxation to submit a report to the legislature; revising the restrictions on refiner's operation of service stations; revising the Utility Environmental Protection Act; making technical changes; providing penalties; and providing other matters properly relating thereto.".

Amend the summary of the bill to read as follows:

"Summary—Reorganizes public service commission of Nevada and makes various changes concerning regulation of utilities and governmental administration. (BDR 58-1390)".

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend, James and Raggio.

Conflict of interest declared by Senators James and Raggio.

Amendment adopted.

Senator Townsend moved that Assembly Bill No. 366 be re-referred to the Committee on Commerce and Labor upon return from reprint.

Remarks by Senator Townsend.

Motion carried.

Bill ordered reprinted, re-engrossed and to the Committee on Commerce and Labor.

Senator Raggio moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 1:45 p.m.

SENATE IN SESSION

At 1:47 p.m.

Mr. President pro Tempore presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 30.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 817.

Amend section 1, page 1, line 4, by deleting "and micrographics".

Amend section 1, page 1, line 13, by deleting "and micrographics".

Amend section 1, page 1, lines 14 and 15, by deleting "and micrographics".

Amend section 1, page 2, line 6, by deleting "and micrographics".

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 86.

Bill read third time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 890.

Amend sec. 2, page 2, line 4, by deleting: "in advance of " and inserting "before".

Amend sec. 2, page 2, line 6, after the period by inserting: "In addition to the notice provided to a tenant pursuant to this paragraph, if the landlord or his agent or employee knows or reasonably should know that the tenant receives assistance from the fund created pursuant to NRS 118B.215, the landlord or his agent or employee shall provide to the administrator written notice of the increase 90 days before the first payment to be increased.".

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 150.

Bill read third time.

Roll call on Senate Bill No. 150:

YEAS—21.

NAYS—None.

Senate Bill No. 150 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 325.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 775.

Amend sec. 51, page 14, line 27, by deleting the comma.

Amend sec. 56, page 18, line 39, after "the" by inserting "sex".

Amend the bill as a whole by adding a new section designated sec. 90.05, following sec. 90, to read as follows:

"Sec. 90.05. NRS 40.770 is hereby amended to read as follows:

THIS BILL IS 173 PAGES LONG.
CONTACT THE RESEARCH LIBRARY
FOR A COPY OF THE COMPLETE BILL.

(REPRINTED WITH ADOPTED AMENDMENTS)
THIRD REPRINT **A.B. 366**

ASSEMBLY BILL NO. 366–COMMITTEE ON GOVERNMENT AFFAIRS

APRIL 15, 1997

Referred to Committee on Government Affairs

SUMMARY—Reorganizes public service commission of Nevada and makes various changes concerning regulation of utilities and governmental administration. BDR 58-1390)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

EXPLANATION – Matter in italics is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to governmental administration; reorganizing the public service commission of Nevada into the public utilities commission of Nevada and defining its duties; creating the transportation services authority and defining its duties; transferring the regulation of certain transportation carriers from the public service commission to the transportation services authority; creating the bureau of consumer protection in the office of the attorney general and defining its duties; transferring the duties of the office of the advocate for customers of public utilities in the office of the attorney general to the bureau of consumer protection; revising provisions governing the regulation of electric services and gas services; requiring the central assessment of certain property; requiring the executive director of the department of taxation to submit a report to the legislature; revising the restrictions on refiner's operation of service stations; revising the Utility Environmental Protection Act; making technical changes; providing penalties; and providing other matters properly relating thereto.

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

Section 1. Chapter 703 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *In adopting regulations pursuant to this Title, the commission shall ensure that the regulations:*

1. Maximize the benefits of a competitive marketplace for the provision of services by utilities;

2. Maintain, to the extent possible, even and fair competition among utilities;

3. Ensure the flexibility necessary for existing utilities that provide energy to enter into a deregulated market;

4. Foster innovation in the provision of services by utilities;

MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR

Sixty-ninth Session
June 28, 1997

The Senate Committee on Commerce and Labor was called to order by Chairman Randolph J. Townsend, at 7:10 a.m., on Saturday, June 28, 1997, in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chairman
Senator Ann O'Connell, Vice Chairman
Senator Kathy Augustine
Senator Dean A. Rhoads
Senator Joseph M. Neal, Jr.
Senator Raymond C. Shaffer
Senator Michael A. (Mike) Schneider

GUEST LEGISLATORS PRESENT:

Senator Ernest (Ernie) E. Adler, Capital Senatorial District
Assemblyman John J. Lee, Clark County Assembly, District No. 3

STAFF MEMBERS PRESENT:

Vance Hughey, Committee Policy Analyst
Scott Young, Committee Policy Analyst
Susan Gardner, Senior Deputy Legislative Counsel
Kathy Wilcox, Committee Secretary

OTHERS PRESENT:

Frederick Schmidt, Consumer's Advocate, Office of Advocate for Customers of Public Utilities, Office of the Attorney General
Jack W. Greco, Lobbyist, Chairman, Nevada Gasoline Retailers
Robert A. Ostrovsky, Lobbyist, Nevada Petroleum Marketers, and Nevada Resort Association
Judy Sheldrew, Commissioner, Public Service Commission of Nevada
Douglas R. Ponn, Lobbyist, Sierra Pacific Power Company

Rose McKinney-James, Lobbyist, President and Chief Executive Officer, Corporation for Solar Technology and Renewable Research (CSTRR)
Frank A. McRae, Lobbyist, Director, Governmental and Regulatory Affairs, Nevada Power Company
Sharen Weaver, Supervisor, Life and Health, Division of Insurance, Department of Business and Industry
Alice A. Molasky-Arman, Commissioner, Division of Insurance, Department of Business and Industry
Glenn D. Shippey, Actuary, Division of Insurance, Department of Business and Industry
Morgan Baumgartner, Lobbyist, Attorney, Health Insurance Association of America
Robert R. Barengo, Lobbyist, Attorney, Council for Affordable Health Insurance
Margi Grein, Lobbyist, Director of Finance/Public Relations, State Contractors' Board
Ronald L. Lynn, Assistant Director, Department of Building Inspections Division, Clark County
Paula Berkley, Lobbyist, Nevada Spa and Pool Institute
Alfredo Alonso, Lobbyist, State Contractors' Board

Chairman Townsend opened the meeting with Assembly Bill (A.B.) 366.

ASSEMBLY BILL 366: Reorganizes public service commission of Nevada and makes various changes concerning regulation of utilities and governmental administration. (BDR 58-1390)

A general discussion ensued among Chairman Townsend and various audience members regarding rural telecommunications although no formal testimony was given. Senator O'Connell asked Senator Ernest (Ernie) E. Adler, Capital Senatorial District, "Ernie, does that add three more people to the consumer advocate?"

Senator Adler responded:

> What that does is it provides access, by the consumer advocate, for rural people, and its low-income people too, for urban counties, so that they can access these telecommunication services, libraries, hospitals, schools .... It really does not add a lot of cost to the consumer advocate's office. I think, I tried to calculate, I think it's

> under a nickel a year per consumer. But it provides all these neighborhoods that wouldn't have access to assistance to access telecommunication services, someone they could go to with their problems. It's kind of a neutral party, but Fred [Frederick Schmidt, Consumer's Advocate, Office of Advocate for Customers of Public Utilities, Office of the Attorney General] can tell you what the staffing is. I have no idea.

Mr. Schmidt explained:

> There is a bill that has the language ... Senator O'Connell, there is a bill, [Assembly Bill] A.B. 483, that has virtually identical language to the language that you put in the amendment that Senator Adler requested in A.B. 366. A.B. 483 was reported out of government affairs [committee] and I attached a fiscal note to it because it required me to do some new things. That went to Assembly [Committee on] Ways and Means and was heard by ways and means 2 days ago or 3 days ago. And, the request that I put in the fiscal note was to add a telecommunications engineer and a program assistant in order to do the outreach function to the rural areas like Senator Rhoads' areas and to provide the assistance that the bill requires in terms of a database and clearinghouse for telecommunications information.

ASSEMBLY BILL 483: Requires advocate for customers of public utilities to perform certain duties concerning telecommunication services in this state. (BDR 18-1467)

Mr. Schmidt continued:

> My understanding of the basic intent of it is that it will enable people in the outlying areas to work together to access the same type of modern telecommunications technology that will be available in the urban areas and to have me develop programs to make sure that universal service is available in terms of telecommunication services for low-income people in the urban areas.

Senator O'Connell asked, "Would you agree with Senator Adler's assessment that you're talking about a nickel, what did you say, per household?" Senator

Adler responded, "I couldn't really ... somewhere around a nickel a year per consumer, maybe lower than that ...."

Mr. Schmidt pointed out:

> Actually, the funding for the first year is totally out of my reserve, because I've already set my mill assessment for '98 [1998]. For the second year, I indicated that the full cost of it could be accomplished within about a tenth of a mill in my assessment. The original bill that was introduced, 483 [A.B. 483], had a nickel surcharge which was more than adequate to fund it. I oppose that concept because I thought adding a new tax was not necessary and that I could fund it within my office.

Senator O'Connell inquired, "So what was the bottom line on the fiscal note?" Mr. Schmidt responded, "The fiscal note was approximately $200,000 one year and $180,000 the second year."

Senator Adler stated, "I think the reason it's over here is that we brought it over here because, since you were discussing all this stuff anyway it made sense to have this committee work on it. I think it makes no sense to be running another bill through." Chairman Townsend said, "Especially when they tend to sidetrack things to ways and means [Assembly Committee on Ways and Means] anyway."

Chairman Townsend invited the members of the Public Service Commission of Nevada (PSC) to come forward.

Jack W. Greco, Lobbyist, Chairman, Nevada Gasoline Retailers, said:

> We have made up a one-page [list, 'Amendments related to Divorcement AB366'] [Exhibit C], because we've had previous, numerous submissions, and we found an error in one of those. So we have a one pager here that we would like this to supersede all previous submissions. Basically, as far as the small technical changes which actually have big ramifications, we have numbers such as ... that are the sections ....

Chairman Townsend interjected, "You tell us what we missed. You don't have to give me the sections. Those are irrelevant right now. That's what we pay all

this overtime to staff for, isn't it?" Mr. Greco responded, "Okay, because I guess we kept being referenced, but we're actually in [sections] 320 through 326." Chairman Townsend asked, "What is it that we missed that you've all come to agreement on?"

Mr. Greco answered:

> We have some words that are wrong. Would you like me to put that into the record? For example, on page 312, section 325 number [subsection] 3, line 7 [seventh line] they said that we would send a letter of 'recession' which of course that won't happen till after this bill is put into place. It should be 'rescission.' Then we had a correction for the wholesales, section 325 number [subsection] 4, line 2 [second line] should read, '... has previously operated 3 or more service stations.' Section 326, basically in there just change all the references of 'services stations' to 'service stations.' And then, a very critical one, section 326, number [subsection] 2, parens [paragraph] (b), line 5, [fifth line] should read, '... he leases at least one additional service station to a lessee dealer in addition to the number of service stations leased to lessee dealers by the refiner on July 1, 1997, for every two directly operated service stations added. For the purposes of this paragraph, an additional service station leased ...' and it goes on after that. Basically [it] does not, this was in the original language that this committee voted on, was [as] part of the agreed upon language. Basically, the critical part of that is that it puts back into effect that we're counting a net gain in lessee sites just as we are counting a net gain in the company operations. Then section 345, at the end on page 333, that the references of [sections] 321 to 325, that's on line 1 [first line], should be [sections] 320 to 326. And section 345, number [subsection] 4, should be sections inclusive. For some reason, [it] included [section] 320. It should not. It included [section] 326 and should not. And then lastly, section 320, line 1 [first line], where it begins, ... 'Chapter 597 [of NRS] ... set forth as sections 321 through 326,' not [section] 325.

Mr. Robert A. Ostrovsky, Lobbyist, Nevada Petroleum Marketers, stated:

> We believe these changes reflect the agreement of the parties and we believe it also reflects what you voted on. There're really

> drafting questions in terms of how to get into the statute exactly what the agreement was. I don't know if the other parties are here today, but I don't believe there's any question about them. We will and have given to the secretary these amendments. They are all available in writing.

Mr. Greco remarked, "There is, Mr. Chairman, the previous ones that were given before this morning, there is a couple of changes. That's why I wanted to be sure that the ...." Chairman Townsend confirmed that was the updated version and Mr. Greco confirmed that Exhibit C was the updated version.

Chairman Townsend said:

> Commission, I have a handout [Exhibit D] here to us dated June 27 called 'Memorandum.' Is that, Fred [Schmidt] ... and we have yours, June 27, '97 [1997] [Exhibit E] technical [corrections] consistent with the voting procedure and that is this one-page document .... Are these the technical changes? Has the commission seen your proposals?

Mr. Schmidt answered, "Yes, they have and we've discussed them with them. The first one which I thought was technical evidentially is not, because there was a hearing I missed." Chairman Townsend asked, "Am I the only one with this?" Mr. Schmidt replied, "I turned it into your staff in your office. I know Scott [Scott Young, Committee Policy Analyst, Research Division, Legislative Counsel Bureau] and Susan [Susan Gardner, Senior Deputy Legislative Counsel Legal Division, Legislative Counsel Bureau] have it, but I have other copies if you want." Chairman Townsend affirmed the committee would need it and said, "Let's go to yours [Exhibit D], Judy [Sheldrew, Commissioner, Public Service Commission of Nevada] on ....

Ms. Sheldrew said:

> The document that starts out with the heading 'Memorandum' and is addressed to Senator Townsend [Exhibit D] includes the recommendations largely pertaining to transportation. We have other changes that I want to walk you through that we don't have typed up. The first page has got the non-transportation observations from staff, and then the rest of it really directly relates

> to all the transportation changes. And I didn't know if you really wanted to go through that in detail this morning.

Chairman Townsend replied:

> It would be appropriate. When Scott [Young] gets back, this needs to be disseminated to the parties who are interested so that they can double check that the transportation stuff in which they're interested is covered. Susan [Gardner], there is a reference on page 5 of this document [Exhibit D] that you'll have to advise us on. It refers to 'All references to "commission" should be changed to [the] "utilities commission of Nevada" and [the] references in [to] Chapter 705 and 712 [of Nevada Revised Statutes (NRS)] should be deleted as these functions are being transferred to a [the] new authority.'

Ms. Gardner answered, "Senator Townsend, [chapter] 705 [of NRS] is railroads and it was my understanding they were staying with the public service or public utilities commission and [chapter] 712 [of NRS], I thought I caught all those, but I'll certainly go back and check." Chairman Townsend inquired, "On the railroad issue, are you familiar with anything that's going on around this, so to speak? Are they moving them or not moving them, what are they doing?" Ms. Sheldrew expressed, "My understanding, Senator, is the decision has been made to leave them with the Public Utilities Commission [of Nevada]." Chairman Townsend asked, "At least for this session?" and Ms. Sheldrew confirmed that to be true. Chairman Townsend remarked, "So if and when we move the tracks, we can move them, is that what we're working on?"

Ms. Sheldrew mentioned:

> It's my understanding that Senator Raggio [Senator William J. Raggio, Washoe County Senatorial District No. 3] has graciously, I think, quadrupled our complement of inspectors, so we'll be on all those issues. What I would like to do, Mr. Chairman, is just walk through, briefly, the technical changes that we caught that pertain, really, to the body of 366 [A.B. 366] and, like I say, perhaps, touch on some of the issues that are included on the first page of this memorandum [Exhibit D] and really not talk any further about any of the other memorandum material since, like I say, ...

Chairman Townsend asked, "Is the remaining, the memorandum what we're going to deal with other than the laundry list? Because you have stuff on gas and you have stuff on TSA [Transportation Services Authority] and you have stuff on hazardous ...."

Ms. Sheldrew answered:

> Everything ... generally speaking, everything that starts on page 2 is directly related to the Transportation Services Authority, so, like I said, I didn't think you probably wanted to go through all of that .... And we did bring some extra copies of this if people are interested, so if that's okay with you, Mr. Chairman, I just would touch quickly on some of the issues that I wanted to bring to your attention that we found in looking through the draft.
>
> The first issue is in section 15 [of 'Amendment No. 850 to A.B. 366,' dated 6/26/97. Exhibit F. Original is on file in the Research Library as Exhibit C of the Senate Committee on Commerce and Labor Meeting dated June 27, 1997.] which is on page 9 of the draft. We just want to reconfirm with you. In section 15, 'alternative seller' were [was] added to that section and our recollection and our collective notes in reviewing it with Mr. Young [Scott Young] and Ms. Gardner [Susan Gardner] and Mr. Schmidt [Frederick Schmidt, Consumer's Advocate, Office of Advocate for Customers of Public Utilities, Attorney General] was that the committee decided simply to add the reference to alternative sellers to sections 21 and 22 only and any other references to alternative sellers as it relates to 703 [chapter 703 of NRS] were not to be included.

Chairman Townsend asked, "What do we accomplish if we do that or what are we changing?"

Ms. Sheldrew remarked:

> 703 [chapter 703 of NRS] ... when the amendment to 366 [A.B. 366] went through and attempted to do the comprehensive division between the two, the authority and the commission, you necessarily had to put [chapter] 703 [of NRS] in there which is our rules of operation, etc., etc. If you put alternative sellers ...

> alternative sellers are not going to be defined as a public utility and, I think, you just reach a little bit more broadly than you really wanted to do that.

Mr. Schmidt said, "This is the books and records issue we discussed and we argued that you should not put them on the same par and access as utilities, fully integrated utilities."

Ms. Sheldrew continued:

> The next one is ... section 39, sub [subsection] 5.... Section 39, sub [subsection] 5 still has language, I think, that was put in there when we were going to deal with the deemed competitive as opposed to the potentially competitive and so, that language, that in sub [subsection] 5 on the third line that reads 'This section that a service is not a competitive service or that the market for a service does not have effective competition' should be replaced to read, 'A market for a service previously found not to have effective competition has become effectively competitive' and then subs [paragraphs] (a) and (b) can be deleted and then it continues on.

Chairman Townsend asked if that was the original. Ms. Sheldrew concurred that it was. Senator Neal asked, "Why would you want to change that when the next sentence seems to do the same thing?"

Ms. Sheldrew explained:

> Actually, if you either delete that language and drop to sub [paragraph] (b) or just replace that language and drop (a) and (b), you get to the same end. The language that's in there now is left over from the deemed competitive, and it just needs to be returned to the process we were going to use when the committee voted to go back to the potentially competitive, Senator. I don't care, I'm just trying to get to the same bottom line here.
>
> The next section is section 40, sub [subsection] 7. This is language that was submitted by, I believe, Newmont [Newmont Gold Company] to clarify that if a co-op was requested to wheel power across its lines but not to a customer in its service territory, that it would not, inadvertently, get deemed to be an alternative

> seller. And that language was fine, but what we also added there was language that also said that co-op has to have open access to its lines to all alternative sellers too. Because the co-ops are not jurisdictional, they're not subject to the open access requirements. In that case, we wanted to be sure that they couldn't just close their lines to alternative sellers, and the language is fine except we'd like to add at the very end of the sentence there on sub [subsection] 7, 'for this subsection.'
>
> We want to be very restrictive there. We don't want anyone thinking the commission has any more authority than it does, but it simply, in a case where there's a customer sitting on the other side of the co-op that is taking power either now from Sierra [Pacific Power Company] or, in the future, from an alternative ... now from Sierra is a specific example, but from an incumbent utility and in the future from an alternative seller that they've got to open their lines.

Senator Rhoads inquired, "Does that mean just the one transmission line that goes to this island or do they open up all their lines?" Ms. Sheldrew answered, "It would only apply to the transmission lines that need to get to that unique situation of that customer and that island, that's correct." Senator Rhoads confirmed it was not all the lines and Ms. Sheldrew answered no.

Ms. Sheldrew added:

> That's why I want it really restrictive here so that nobody thinks that we're trying to exert jurisdiction over the co-ops. The next section is in section 42, sub [subsection] 3. We simply, in that subsection, I believe, need to add the term 'an electric distribution utility as well as requiring alternative sellers, vertically integrated electric utilities and electric distribution utilities to provide information' ... and then down below the same phrase needs to be added. Otherwise, with the differentiation between vertically integrated electric utility and electric distribution utility, you need to be sure you're making all of these entities give the information that may be necessary to the commission. The next section is section 44, sub [subsection] 4. In the second line where it says, 'A facility that provides access to a competitive service' you simply need to insert 'potentially competitive.'

> Mr. Chairman, we went over with Susan [Gardner] yesterday just some grammatic [grammatical] changes. You don't want to hear about those do you, or do you? We can go through them. There aren't a lot, but I just didn't know if you really wanted to take the time this morning to go over those.

Chairman Townsend responded, "We'll wait to see the trailer bill to review that because I think that probably is of substantial importance to all the parties, but I'd rather go ahead and get it printed in the trailer amendment to let them take a look at it."

Ms. Sheldrew continued.

> Okay. The next area is section 45, sub [subsection] 6, about the fourth line, 'to ensure the recovery by the' and it says 'electric utility.' And you just need to insert 'vertically integrated electric utility.' The next area is section 46, sub [section] 3 .... Sub [subsection] 3, we believe, was inadvertently included. We checked all of our notes and all of our notes indicated that was Mr. Hilbrecht's [Norman Ty Hilbrecht, Lobbyist, Attorney, Las Vegas Cogeneration-LP] amendment and I think you didn't ....

Chairman Townsend noted, "I have 'delete' in there ... because I thought that was Mr. Hilbrecht's, and we did not vote to include that so somehow it got in there."

Ms. Sheldrew said:

> I just had a technical change relative to the middle of the page 'where the commission shall pursuant to section 46 of this act....' We believe that the cost being talked about here and not stranded cost, they would be regular cost captured in rate base, not stranded. So, that was our suggestion. I think the consumer advocate had some other comments.

Mr. Schmidt clarified:

> This is one that I listed as a technical correction. I understand from discussing with several people now it's not really a technical correction, it's one of those mornings when I was supposed to be

> here but I was in another hearing and I missed the vote, so I didn't realize you had voted to include this [section 47]. So, I guess, I never got my two cents in on this and ....

Chairman Townsend explained:

> Let me lay it out and then you can put your two cents in. The majority of the committee voted to include the issue if individuals were laid off as a result of competitive market, they would be considered, with regard to their new position as those unemployed, to be part of the cost. But it was not supposed to be, at least I even think the proponents of it were not looking for rates to be increased to cover that cost. So ....

Mr. Schmidt stated:

> I certainly support the committee having some sympathy to employees who would lose their jobs in a competitive market or, more likely, through mergers and takeovers which we've already begun to experience. But, I read the last sentence to mandate because it says 'The commission shall ....' It mandates the increase of cost associated with that. And just to give you an example, when Sierra Pacific [Power Company] was merging with Washington Water [and] Power, there were probably in the range of 400 to 500 employees laid off as a result of the merger. There was substantial ... offered early retirement, is a better way to describe it.

Douglas R. Ponn, Lobbyist, Sierra Pacific Power Company, asserted, "There were no employees laid off as a result of that merger." Mr. Schmidt restated, "There were [was] a reduction in the work force." Mr. Ponn pointed out it was all voluntary and Mr. Schmidt agreed.

Mr. Schmidt added:

> Because early retirement was offered. I don't want to have to argue that the millions of dollars associated with that cost is not an increased cost that Sierra [Pacific Power Company] has to be entitled to because of the competitive market, as a result of this section. The reason for those voluntary terminations or severances

> of work with the employee and the company were [was] to make the company more efficient and to keep costs lower and, presumably, the ratepayers benefit from that as well as the company in a competitive market, so I have a real heartburn with the second sentence.

Chairman Townsend remarked:

> First of all, let me defend the company for a minute just on a personal note. There were three individuals I chatted with in the gym one morning who were part of those who chose early retirement packages who were more than excited about that because they didn't have to get up so early anymore to go to the gym. So, I can tell you there are those who voluntarily took early retirement with whom I spoke, which is a very limited amount, were very satisfied with their, whatever package was offered.
>
> Second of all, committee, we have to decide how we want to do this. I do know that I'm extremely sensitive to mandating something in this process because of the very technical issues involved here. In taking anything away from the commission that would allow parties to argue, I think, flies in the face of what we're attempting to do here with regard to certain things. I think we're all sympathetic.
>
> SENATOR NEAL MOVED TO DO PASS AS AMENDED A.B. 366.

Senator Neal said, "... make it very simple for you by making a motion that we eliminate the language [section 47] beginning 'The commission shall...' ...'to an early retirement' on page, at the end of the sentence." Chairman Townsend asked, "Commissioner, you and the advocate, do you have, do we have a second on that, by the way, so that I can get to the discussion?"

> SENATOR AUGUSTINE SECONDED THE MOTION.

Chairman Townsend continued, "Okay, now we can discuss how we would manage that from a wordsmith point of view and to make sure that we have ...." Mr. Schmidt commented, "Eliminating the whole sentence to me makes the most sense. The first sentence is a statement of policy supporting the

efforts to minimize layoffs. It's the second sentence where early retirement becomes a rate-hike potential."

Chairman Townsend asked Senator Augustine if she had any discussion on that. Senator Augustine commented, "Only because our technical correction said to strike the whole section, so we're not striking the whole section?" Mr. Schmidt replied, "I didn't realize that had been voted on because I missed part of that hearing, I guess when I was in another hearing. So, the correction that I'm suggesting would be just to eliminate the second sentence, not the first."

Chairman Townsend asked, "Can you live with that, Commissioner?" Ms. Sheldrew responded, "Clearly, this is a policy decision that the Legislature has to make ...." Chairman Townsend said, "We're going to decide the policy, but I mean, if we strike this sentence, does that give you the flexibility you think the commission needs in these hearings?" Ms. Sheldrew answered yes, it was fine.

THE MOTION CARRIED UNANIMOUSLY.

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Ms. Sheldrew said:

> The next section is section 49, sub [subsection] 1, [paragraph] (a), [subparagraphs] 1 and 2. And again, in front of the word 'utility,' I think you want to insert the words 'vertically integrated electric utility.' Section 52, and I'm sure the consumer advocate ... we had, simply, grammar changes ....

Chairman Townsend asked:

> Can I stop you and go back to [section] 51? Under [section] 51, committee, it says, 'The commission shall develop regular forecasts of electric energy based on the information submitted to the commission.' Let me just ask a technical issue. Is that something ... I think should be done, I believe it should be done. I didn't know, there's probably nobody here, those poor people sat here forever and we never talked to them so they probably gave up. Is that something the energy office, perhaps, should be doing?

Ms. Sheldrew voiced, "No, the energy office doesn't have the information, nor the personnel to do that." Chairman Townsend stated, "Okay, I just want to make sure because, as long as we're redoing everything, I want to make sure everything's in the right place." Ms. Sheldrew pointed out, "Right. I'm glad you took me back there, Mr. Chairman, because I overlooked .... We need to insert in the first line, 'electric capacity and energy.' Senator Neal inquired, "What's the difference?" Mr. Schmidt responded, "Kilowatt, kilowatt hour."

Ms. Sheldrew added:

> What we were attempting to do there is understand that your committee wanted to relieve the commission of the burden, the statutory burden, of doing a report relative to resource diversity, etc. Of course, we will be participating with the legislative interim committee on those issues, so I have your intent correct. Correct? Okay, I just wanted to be sure.

Chairman Townsend stated:

> I think the committee was very mindful, one being with your judicious concerns and Mr. Schmidt's intense concerns, that we're burdening you with substantial issues here. We want to make sure we don't overwhelm that burden by adding lots of unnecessary things to do. And that was, I think, a concern because part of it is, I know, what it takes for regulatory bodies to have to get ready to come and talk to us for an entire day. That does eat a lot of ... everybody thinks, 'Well, you just drop what you're doing, run over and talk to us for a while.' You don't. You get prepared. You have to do certain things, and we want to make sure that we're not killing you with kindness here, if you know what I mean. On [section] 52, I had a question with regard to the date. Did we miss that date?

Ms. Sheldrew replied:

> I think Mr. Schmidt needs to talk substantively with you about what this does, because there are some substantive changes that, I think, are being worked on and then I have some just grammar changes. You have a date in there as of January 1, 2001 ....

Chairman Townsend asked, "Did we just miss that based on our [year] 1999 or is that a whole separate concept?" Ms. Sheldrew responded, "No, in fact I, I think that's the date that Ms. McKinney-James [Lobbyist, President and Chief Executive Officer, Corporation for Solar Technology and Renewable Research CSTRR] wanted to begin to impose these standards." Mr. Schmidt explained, "That gives them 4 years to get the first new solar unit built, and then it goes into your increments after that."

Chairman Townsend stated, "I think the committee's concern was one, and I don't know whether this has been agreed to yet or not, but the large utility in the north already has a portfolio of approximately 12 percent in renewables." Mr. Schmidt remarked, "That's a different issue, but I can discuss that if you want to do that." Chairman Townsend inquired, "Which area do you want to go through now?"

Mr. Schmidt responded:

> Why don't we just start at the beginning and list all the changes I see because there are a number of changes I want to suggest to this section to conform it to what the motion was, I thought that we dealt with. First, in subsection ... in the first section, where the word 'portfolio' first appears, it's the 'portfolio' that's the 'standard.' ... We think 'standard' should be added there and then stricken after 'domestic energy.' It's not actually 'domestic energy standard.' And then 'standard' would also be included on the third line after 'portfolio.'
>
> In sub [paragraph] (a), the second line there reads a little awkward and our suggestion is you strike 'be derived from renewable energy sources ...,' because that's the description in sub [subsection] 1 of all these subsections. So it's not necessary there. The date is a date for beginning of compliance, so it relates to your question, 'Do you get credit for things that you've done in the past?' If you've got them now and they're still operating by that, that date doesn't affect you. It's where you have to meet a new obligation that the date begins to impose a requirement. It's in [paragraphs] (c) and (d) that the requirements become evident and we did not originally ....

Chairman Townsend said, "Let me understand what you just said. If [a] utility currently has X and the standard is not available, I mean is not mandated until [year] 2001, then have they already met it by 2001 that ... start from that date?"

Mr. Schmidt responded:

> We have to get to [paragraphs] (c) and (d) to explain that. They don't have any obligation the way this is written. No utility or alternative seller has an obligation that has to be met until [year] 2001. Now when we get to [year] 2001, the test is, have you met it? If we go down to [paragraphs] (c) and (d), I can explain how that works. In the original version of the motion that was distributed [Exhibit F], there was not a '50 percent' phrase there. We have an alternative suggestion that we think makes it less language and read cleaner. If you strike [paragraph] (c) in its entirety, and in [paragraph] (d), you change the reference to 'solar energy resources' to 'solar renewable energy systems' which has a different definition, the effect of that is, the 50 percent requirement for solar energy of the two-tenths, growing to 1 percent.
>
> In other words, half of that, which must be met by solar, must come from systems which commenced operation after July 1, '97 [1997]. That is logical because there are no solar systems today. So, if it's going to be a solar requirement, it will be a new system. Now, because we have not included the 'derived entirely from renewable energy systems' phrase, then those utilities that additionally have an obligation for a nonsolar requirement which would be the other 50 percent, the whole requirement could be met by solar. But if you've already got something that fits the definition of renewable on the next page [Exhibit F] like geothermal, then that 50 percent, particularly if it's cheaper than building new solar, could meet the obligation.
>
> This gives Sierra [Pacific Power Company] recognition of the geothermal that they have done for the nonsolar obligation. It also puts them in a position where they can market that to alternative sellers or others who would have to meet an obligation other than solar. If that change is made by striking [paragraph] (c) and in

> [paragraph] (d) changing the reference to 'energy resources' to 'renewable energy systems,' it accomplishes that purpose.
>
> Now I will tell you the other alternative, policy wise, is to take the 'not less that 50 percent' phrase out of [paragraph] (c). If you did that, so that it would be derived entirely from 'renewable energy systems,' then all of the requirement would have to be new resources; and Sierra [Pacific Power Company] would not get credit for what it has already done in terms of geothermal development. And nonsolar or other renewables, to meet the full 100 percent requirement, would be required. Those are the two options as I see it. We have asked Sierra [Pacific Power Company] for support on this section of the provision. We have told them, for their support, we would live with the striking of [paragraph] (c).

Chairman Townsend noted, "Before Ms. McKinney-James jumps in here, I want to make sure the committee understands that, if Sierra [Pacific Power Company] currently has the largest percentage of their load in renewables in the country, and I think that statement was made here ...." Mr. Sheldrew interjected, "That's not true." Chairman Townsend continued, "Okay, well it was made here. Whether it's true or not, it was made here. And if it's not true and they're simply one of the largest, should they be penalized for that? I guess that's the question." Mr. Schmidt asserted, "Let me explain this. By striking [paragraph] (c), we not only are not penalizing them, we are putting them in better shape than where they are today. Let me explain that, though, because I think it's important to understand, if I may." Chairman Townsend suggested, "I know but, why don't we let them tell us their version for a second."

Douglas R. Ponn, Lobbyist, Sierra Pacific Power Company, stated:

> Sierra's [Pacific Power Company] not previously taken a position on this issue on any of the records. We've been attempting to reach a resolution with Ms. McKinney-James for several days now. We had not seen this particular proposal until just now. It was generally our position that since Sierra [Pacific Power Company] does have approximately 11 percent of its resource mix in renewables based upon our history with geothermal development, that whenever we're entering a competitive market, and we're going to compete with alternative sellers who would not have that requirement to meet, that adding an incremental requirement to

Sierra Pacific [Power Company], even though it may be even to all sellers, for instance, this requirement being proposed here for the portfolio standard, would place us in a less competitive position vis-a-vis those sellers than we should be.

Stated very simply, we think we've already done a lot in this area and to add an incremental 1 percent to our current 10 to 11 percent, we think is not fair. And our goal has been to be exempted from this. We think that the solar development project being proposed since southern Nevada and Nevada Power [Company] has agreed to do this and, again, we're trying to reach a resolution to accomplish that, but hadn't to date.

Rose McKinney-James, Lobbyist, President and Chief Executive Officer, Corporation for Solar Technology and Renewable Research (CSTRR), testified:

As Mr. Ponn has indicated, we have over the last couple of days attempted to arrive at some ability to recognize the concerns that Sierra [Pacific Power Company] has indicated. And, indeed, part of that is a recognition of the geothermal that they currently have in the system. Just two points of clarification. One is that the portfolio standard is an attempt to deploy solar throughout the state. It isn't simply an effort to devote solar in the southern part of the state, but we do have our major project at the Nevada Test Site.

Secondly, one of the points that we are attempting to make with Sierra [Pacific Power Company] is that even though they have this embedded cost, at the point in time in which a portfolio standard becomes effective, all alternative sellers will be looking to deploy these resources. Sierra [Pacific Power Company], therefore, is probably better positioned than most to want to take advantage of the new language that Mr. Schmidt has identified in terms of a recognition of half of the standard for the existing geothermal.

The excess would be available to any alternative seller coming to the state who'd be required to meet the standard. Therefore, they would be in a position to take advantage of anyone coming in. Everybody likes to talk about Enron and others. But, they'd be looking to someone, either to sell, excuse me, to purchase or

> generate or to contract with, to meet that standard. The obvious opportunity, and one of the reasons we included language for the tradeable credits, is to establish relationships, then, between Nevada Power [Company] and Sierra [Pacific Power Company] as the two incumbents for trading either geothermal or the solar that Nevada Power's [Company] indicated a willingness to construct.
>
> Again, these are ongoing discussions, delicate to some degree, but certainly there has, at least, been a willing[ness] to engage in this dialogue, and we'd like to have the opportunity to bring it to some resolution.

Chairman Townsend expressed, "I guess our concern would be mandating Sierra [Pacific Power Company] to take solar if they've already made an effort. At the same time, are we going to mandate Nevada Power [Company] to take geothermal if that doesn't work for them?" Mr. Schmidt said, "Mr. Chairman, if I could respond and explain to you [and] the committee members in a little detail why this is better for Sierra [Pacific Power Company] than the alternative."

Chairman Townsend stressed:

> Let me do this, because we're opening up a whole thing here and that's not the point of this hearing. I'm going to give you guys until tomorrow to come to resolution on this. You'll do it, you're all going to come back here, otherwise, we're going to do it. Is that fair? Because I want to help you, but I don't want to sit here for 2 hours over one issue in this bill. This committee has voted on a concept that is the committee's concept, whether I voted for it or not is irrelevant, but if we're going to spend an hour over one word, it's not productive time for the committee. So, if that's fair, I'd like to move on to the next issue.

Senator Neal commented:

> Mr. Chairman, before you move on, I'd just like to have a comment in ... to this. This proposal has been floating around here for the last 3 or 4 months. And so we finally come to some resolution by putting it in this particular document and I'm wondering what happened to Sierra [Pacific Power Company] during that particular

> period of time. Did she not think that CSTRR would get the proposal included?

Mr. Ponn responded, "Senator, I think this is, perhaps, a bigger issue than it appears here. It's a policy question." Senator Neal maintained, "But the point is ... we did not hear from you in relationship to this." Mr. Ponn explained, "We were trying not to take a position in opposition to this so that we could have an opportunity to negotiate something agreeable to us, CSTRR, [and the] consumer advocate."

Senator Neal insisted:

> Yeah, but it was only after the motion was made to include the document now that we hear from you. If it's going to affect you, I know that you guys, you know, you don't wait and see things just happening. You have vision to see it coming and, you know, you try to correct it before it get[s] to the point where some type of decision or resolution is being made.

Mr. Ponn responded, "We've been talking to Ms. McKinney-James on this during that entire time. Had we testified, we think it might have been less productive toward a resolution." Chairman Townsend said, "Let me go back to sub [subsection] 4 because I need to be on the record so that when you negotiate this we understand. Sub [subsection] 4, I don't believe ...." Mr. Schmidt mentioned, "There are a number of other changes if I can walk through those which ...." Chairman Townsend commented, "You'll walk through those with everybody during those negotiations." Mr. Schmidt pointed out, "Sub [subsection] 4 is out, though. That was never part of the original proposal." Chairman Townsend replied, "Okay. So we can agree to that ... is that fair to say you have enough to do without that?" Ms. Sheldrew explained, "We snuck that in thinking, of course, we'd like to get involved in this debate." Chairman Townsend said, "Let's move on. Commissioner and advocate ...."

Ms. Sheldrew stated:

> The next section is section 54, [Exhibit F] sub [subsection] 2, [paragraph] (a). We believe you need to insert before the word 'providers,' 'nonprofit.' I think that was in the draft and then it got dropped. Also on section ... also in section 54 in sub [subsection] 5, the definition of 'public library' that's referenced there as the

> same as NRS 379.0057 is narrower than the definition that's reflected in 47 C.F.R. [Code of Federal Regulations] section 54. So, I think that's an internal conflict. And you want to go with the federal definition in order to comport with what the federal telecommunications act is telling us to do for the libraries as they define them ... I think the problem is if you don't use their definitions, then there's probably going to be a problem of accessing the federal money to match the discounts for interstate and intrastate. So, I think you have to be real careful you're staying within their definitions.

Mr. Schmidt added, "And [subsection] 1 [paragraph] (b) says that that's what we're going to do, so this just makes section [subsection] 5 consistent with [subsection] 1 [paragraph] (b)."

Ms. Sheldrew continued:

> The next section is section 55. ... It was my understanding that the way that we were going to address, and I hesitate to even get into this, so, Mr. Chairman, if you don't want to talk about this, just tell me to move on. I thought we were going to address the exemption for the large counties in [NRS] 704.860, which was the definition of utility facilities instead of here. And, I think, Susan [Susan Gardner, Senior Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau] had a reason for wanting to do it this way as opposed to in the utility facilities, which certainly I would defer to her. ... We talked about this yesterday. I don't know whether I persuaded her. We want to do it the other way or whether you prefer to keep it here, Susan [Gardner].

Chairman Townsend asked, "Fred [Schmidt], is this the one with which you had a concern about the date, the effective date?" Mr. Schmidt answered, "Yes, but my cure for that, which I think a number of us have talked about and agreed to, is in the effective date section, which is late in the document." Chairman Townsend queried, "That would be October 1, is that the ...." Mr. Schmidt responded, "Yes. That's reflected in the change at the bottom of my one-page handout [Exhibit E]."

Ms. Sheldrew queried, "So do you want me to just kind of work this out with Susan [Gardner] and see whatever on that one, Mr. Chairman? Because it's not

a matter of arguing about just where the most appropriate place to put it is." Chairman Townsend expressed, "We want to make sure that it goes in that section where it is clear and gives you the jurisdiction, the appropriate location, so that we don't have some kind of overlap or problem." Ms. Sheldrew replied, "Okay, that's really the only concern that I had on that section." Chairman Townsend commented, "Some people sit around and read this stuff really technically and I want to make sure this is not, this doesn't end up where what we've done is lower the railroad tracks in El Dorado Valley, if we get it in the wrong section."

Ms. Sheldrew noted:

> The next section is section 60. ... section 58 begins to be the gas part of this bill, and section 60 has the definition of 'potentially competitive service' as it applies to alternative sellers of gas, but we don't have a definition of 'alternative sellers,' so we just need to go back and pick up the definition for 'alternative sellers' and put it in here too. In section 61, sub [subsection] 1, the last line where we have 'after notice and a hearing,' we would suggest you insert the words 'opportunity for a hearing' so that we're not obligated to have a hearing if we .... And then in section 61, sub [subsection] 2, sub [paragraph] (c), we need to replace the word[s] 'commercially viable' with 'potentially competitive.' 'Commercially viable' was a term that was originally submitted and had since been worked out with Southwest Gas [Corporation].

Chairman Townsend confirmed, "So it should say, 'Provide for flexibility of pricing for services that are discretionary or potentially competitive?'"

Ms. Sheldrew answered:

> 'Discretionary competitive' or 'potentially competitive.' Then in sub [subsection] 4, we have a significant problem and this is, also, referenced on the memorandum [Exhibit D] that you have before you that indicates it's 'not workable as drafted.' And the reason that [sub] section 4 is not workable is because we currently have alternative sellers selling gas to large customers; and if you now direct us to license, make it unlawful for them to provide service without a license, we are retroactively going to have to go license people. ... I think it would cause a real problem. So, we think we

> can solve that problem by simply inserting in sub [subsection] 4 behind 'a customer' or making that plural, just say 'customers,' insert 'purchasing less than 1,000 therms per day.'

Mr. Schmidt expressed:

> This is a substantive change, in my view, that you probably should vote on. Let me indicate my position. We have not licensed those who market natural gas and there's a substantial amount of that occurring, but only for really large customers, what we generally call transportation customers.

Chairman Townsend inquired, "Let me ask this. Is there a need to license those people?"

Mr. Schmidt replied:

> If we were starting from scratch with the notion or the idea that we have with electrics, I would say yes, in order to be consistent. I am not advocating, though, that we go back and put a system on those people that they didn't meet or didn't have to meet to get into the market in Nevada. So, somehow, I agree we should grandfather those people in. On the other hand, I want it clear on the record, that it's not a precedent, that if you're making large sales, you don't have to get a license, because I don't want this same type of amendment, because we put it here, being applied on the electric side. I think we probably should have licensed alternative sellers when we started with the natural gas business. We just didn't think of doing it.

Ms. Sheldrew concurred:

> Mr. Chairman, I would agree with that. I think we're, as you know, in each one of the utilities, competition is kind of coming about in different ways, and I think we have to deal with the circumstances as they're presented. And, I think, if we had an absolute requirement to go back and retroactively try and catch up with all the folks that are selling to large customers, it would be difficult, if not impossible and administratively burdensome and probably challengable. So this is the way that we think we can deal with it,