

SUMMARY BULLETIN
OF
REPORTS OF THE LEGISLATIVE COMMISSION
TO THE 59TH SESSION OF THE
NEVADA LEGISLATURE



Bulletin No. 77-22

LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

December 1976

INTRODUCTION

The 1975 session of the legislature directed a record number of studies by the legislative commission. There were 22 such studies. The commission combined two studies and asked one subcommittee to do two reports. The end result is that 15 studies were completed by interim study subcommittees and another six by the staff. The 21 reports with appended legislation represent about 2,000 typewritten pages.

These reports were completed and made available to legislators prior to the session earlier than at any time in the past decade. Nevertheless, the sheer volume of the material, representing the product of numerous hearings, much research, legal analysis and deliberation, argues against every legislator becoming well informed on every study. This volume has been prepared with two purposes in mind. The first is to provide a brief summary, in one place, of all the studies for the biennium so that every legislator can know, in general terms, what the studies were, how they were carried out and what they recommended. The second purpose is to provide a reference tool that will facilitate and encourage the use and consequent understanding of the full report.

For most study reports, the principal staff member or chairman has written an abstract that extracts from the report the purpose of the study, the way it was conducted, major participants in addition to the subcommittee members and the general conclusions of the study. Some reports are so brief in their narrative portions as to not warrant abstracting. In addition to the abstract where provided, the summary of recommendations as it appears in the report, the resolution directing the study and a personnel listing indicating the subcommittee membership are provided. The personnel listing is designed to assist legislators or other interested citizens to contact people qualified to explain reports or provide additional information.

LEGISLATIVE COMMISSION

Senator Richard H. Bryan
Senator Melvin D. Close, Jr.
Senator Carl F. Dodge
Senator James I. Gibson
Senator Lee E. Walker
Senator Thomas R. C. Wilson

Assemblyman Keith Ashworth
Assemblyman Joseph E. Dini, Jr.
Assemblyman Lawrence E. Jacobsen
Assemblyman Paul W. May
Assemblyman Donald R. Mello
Assemblyman Sue Wagner

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Senate Concurrent Resolution No. 21—Committee on Judiciary

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the problems of medical malpractice insurance.

WHEREAS, There is a nationwide problem of doctors and health care providers obtaining malpractice insurance with many of the insurance carriers getting out of malpractice coverage and others increasing premiums by several hundred percent; and

WHEREAS, A major insurer of Nevada doctors has elected to leave the malpractice field this year; and

WHEREAS, The problems related to obtaining malpractice insurance have been studied by a special committee of the 58th session and that committee has made recommendations to ameliorate some of the problems; and

WHEREAS, The malpractice problem in Nevada is presently in a state of transition with the exact dimensions of a number of the problems unclear; and

WHEREAS, The several legislative proposals concerning medical malpractice insurance should be watched closely over the next 2 years in order to gauge their adequacy and to determine what other solutions might be necessary so as to avoid another crisis situation for the legislature; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission study the ongoing problem of medical malpractice insurance, in particular assessing the effectiveness of legislation enacted on the subject by the 58th session of the legislature and recommending other changes deemed necessary to ensure high quality health care in Nevada; and be it further

Resolved, That the committee appointed to make such study shall include those members of the legislature most involved in the study of malpractice during the 58th session of the legislature and the insurance commissioner of the State of Nevada as well as members of the medical, legal and insurance professions at the discretion of the commission; and be it further

Resolved, That the legislative commission report the results of such study to the 59th session of the legislature and recommend appropriate legislation.

ABSTRACT

MEDICAL MALPRACTICE INSURANCE

The development of a nationwide medical malpractice insurance crisis began in the early 1970's. By 1975, Nevada, along with most states, was faced with the twin problems of high cost and decreasing availability of medical malpractice insurance. The 1975 session of the legislature responded to this situation by appointing a select committee on the subject and then passing, on the recommendation of that committee, nine bills dealing with the various aspects of the medical malpractice problem.

The 1975 session also recognized the fluid and dynamic nature of the entire medical malpractice field and, therefore, directed an interim study of the ongoing problem of medical malpractice in Nevada. The interim subcommittee held four public hearings, two in Las Vegas and two in Reno, and two work sessions in Carson City. The first public hearing was held in July 1975 and the subcommittee concluded its work in July 1976.

The subcommittee set two goals for the study: (1) to stay informed of developments in medical malpractice nationally, but especially in Nevada, and (2) to solicit input from citizens around the state to determine the effect of the crisis in medical malpractice insurance on the medical care consumer. The first goal was accomplished by establishing contacts with people across the country involved in the study of medical malpractice or in the implementation of innovative programs. The subcommittee also brought in experts from other states and the chairman and principal staff attended a national seminar on medical malpractice. The second goal was achieved by making the hearings accessible to most citizens in the state and by inviting participation by a broad range of people from the affected professions of medicine, law and insurance as well as from consumer groups. Turnout and participation were quite good and the record of the hearings is extensive and diverse. Especially valuable to the work

of the subcommittee was the participation and cooperation of the Nevada State Medical Association, the Nevada Association of Trial Lawyers and Dr. Dick L. Rottman, Insurance Commissioner of Nevada.

The subcommittee recognized the necessity for suggested legislation in two areas: (1) modification and refinement of some of the 1975 legislation and (2) additional new legislation intended to hold down the costs of medical malpractice insurance and assure its availability.

When the public hearings were concluded, the subcommittee considered every suggestion made in those hearings as well as any other suggestions or ideas developed in other parts of the country of which it was aware. A basic conclusion reached was that the traditional tort system is a sound and tested means of compensation for injury that has been built up over several hundred years and should not be rejected except for compelling reasons. Further, the alternative to the tort system most often proposed is a "no fault" system of compensation. The subcommittee concluded that there was no evidence that such a system would cost any less and there was fear that such a system would be detrimental to maintaining high standards of health care. As a result, the recommendations that follow are an attempt to make improvements in the workings of the tort system of compensation rather than embark upon a new or unproven approach to compensation for iatrogenic injuries.

SUMMARY OF RECOMMENDATIONS

This summary represents the major conclusions reached by the subcommittee. These conclusions are based upon suggestions that came from four public hearings, written communications to the subcommittee, testimony from experts from other states, staff research and the experience of the subcommittee's members.

The subcommittee recommends that:

1. No medical malpractice claim filed be acted upon by the district court until an affidavit is filed with the clerk stating that a copy of the claim has been sent to the Insurance Commissioner. (BDR 2-9)
2. All medical malpractice claims made or closed be reported to the Insurance Commissioner by insurance companies. (BDR 54-10)
3. All medical malpractice claims made or closed be reported by the Insurance Commissioner to the Board of Medical Examiners. (BDR 54-10)
4. The membership of the Board of Medical Examiners be expanded by the addition of two lay members. (BDR 54-7)
A general recommendation for which legislation is not appended is that all professional licensing boards should include lay members.
5. In all hospitals with 200 or more beds, an internal risk management program be mandatory. (BDR 40-8)
6. All closed medical malpractice claims be investigated by the Board of Medical Examiners with all results reported to the Insurance Commissioner and unfavorable reports transmitted to the Attorney General for possible licensure action. (BDR 54-10)
7. The immunity shield for any person or group having power over licensing or insurability of doctors be increased. (BDR 54-10)

8. Chapter 630 of NRS be amended to clarify which categories of medical deficiencies or conduct are subject to administrative or judicial remedies. (BDR 54-77)
9. The legislature memorialize the Joint Commission on Accreditation of Hospitals to include a risk management capability in its hospital accreditation criteria. (BDR 17)
10. The Nevada Medical Liability Insurance Association or any joint underwriting association be required to offer the option to its insureds of being assessable for the association's losses for a particular year or paying a lump sum in addition to the premium up to the amount of the premium to insure that they will not be so assessed. (BDR 57-15)
11. Legal guarantees of access to patients' health care records by patients or investigatory entities be provided, such records to be maintained for 5 years and copies provided at reasonable costs. (BDR 54-12)
12. All medical malpractice settlements or awards in excess of \$50,000 be subject to payment on a periodic basis with any portions unspent at time of death to revert to the insurer. (BDR 3-11)
13. All medical malpractice awards be reduced by the amount of public, nondiscretionary collateral sources to which the judgment creditor would be entitled. (BDR 3-14)
14. The composition and procedures for the medical-legal screening panels established in 1975 be amended as follows:
 - a. Increase the number of doctors and attorneys from which the six-member panels are chosen.
 - b. Extend the time limit for peremptory challenges of panel members from 5 days to 10 days.
 - c. Require that a request for a hearing before a panel include the time of the incident and names of all the parties involved.

- d. Exempt screening panel procedures from the doctor-patient privilege.
- e. Exempt screening panels from the open meeting law.

(BDR 3-13)

- 15. The provisions under which a doctor may treat a minor without obtaining parental consent be broadened and clarified. (BDR 11-19)
- 16. Those legal guardians responsible for filing actions on behalf of prisoners, mental incompetents or minors be responsible only if they knew, or with reasonable diligence could have known, that the legally disabled person has a cause of action. (BDR 2-20)
- 17. The 59th session establish a select committee on medical malpractice insurance and that the legislative commission be directed to continue the study of this subject in the next interim. (BDR 18)

S. C. R. 21 - 1975 Session
MEDICAL MALPRACTICE INSURANCE

Interim Subcommittee

Senator Norman Ty Hilbrecht, Chairman
Assemblyman Robert E. Heaney, Vice Chairman
Senator Richard E. Blakemore
Senator C. Clifton Young
Assemblyman Karen W. Hayes
Assemblyman Zelvin D. Lowman

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directs the legislative commission to study electric utility companies, gas utility companies and the public service commission of Nevada.

WHEREAS, Public utilities affect the lives of Nevadans every day and are absolutely essential to the maintenance of a modern society; and

WHEREAS, Utilities are regulated by government because they enjoy the benefits of monopolies allowed by the government; and

WHEREAS, The effectiveness of the regulation of utilities is dependent upon the expertise, ability, policies and resources of regulatory agencies; and

WHEREAS, The public service commission of Nevada was created by the legislature and operates under the authority of the legislature but the legislature has never conducted a formal study of the important work of the public service commission of Nevada; and

WHEREAS, The energy crisis and increasing inflation has painfully alerted all Nevadans to the increased costs of public utility services and to the ways in which they are regulated; and

WHEREAS, Public utilities regulation is one of the most involved and complex of all operations of government, not readily understood by many and certainly not by the general public; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission study the public service commission of Nevada and utility companies regulated by such public service commission; and be it further

Resolved, That the committee shall undertake an evaluation study of electric and gas utility companies under the regulatory authority of the public service commission of Nevada including:

1. The statutory provisions applicable to the utility companies;
2. The alternate sources of fuel and electric energy and the cost and availability of such energy purchased by the utility companies for resale within the state;
3. The relationship of fuel and electric energy purchased by the utility companies to the total cost of providing service to all customers within the state;
4. The frequency and the nature of applications by the utility companies to the public service commission of Nevada;
5. The financing requirements of the utility companies and the effect of such financing requirements on utility rates;
6. The statutory changes needed to make additional funds available for capital improvements at a lower cost to the utility companies;
7. The effect of environmental laws on the utility companies and the relationship of such laws to the rates charged by the utility companies; and
8. The ability of the utility companies to communicate to their customers reasons for rate increases; and be it further

Resolved, That the committee shall examine the composition and staffing policies of the public service commission of Nevada to determine:

1. The adequacy of salaries;
2. The availability of qualified personnel;
3. The availability of adequate funding; and
4. The ability of the public service commission of Nevada to effectively evaluate frequent utility company applications; and be it further

Resolved, That the committee may request technical assistance from the executive agencies of the state, the University of Nevada System and the legislative counsel bureau for the committee's conduct of the study and preparation of a report; and be it further

Resolved, That the legislative commission shall provide for contracts with independent expert consultants for assistance to the committee; and be it further

Resolved, That a report of the findings and recommendations be submitted to the 59th session of the legislature.

ABSTRACT

STUDY OF ELECTRIC AND GAS UTILITIES AND THE PUBLIC SERVICE COMMISSION OF NEVADA

The energy crisis that followed the Arab oil embargo of 1973 affected Nevada as it did the entire country. Subsequent increases in the cost of utilities were a severe shock to most citizens of the state. One effect of the crisis was to draw attention to what the state might do to encourage alternate energy sources and to the state's regulation of utilities through the Public Service Commission of Nevada (PSCN). The 1975 legislature began an examination in both these areas and continued the effort by directing an interim study.

Hearings were held in Carson City, Reno and Las Vegas. In addition to hearing from many citizens of Nevada, the subcommittee heard from a number of experts from throughout the country who provided scientific and management information to the subcommittee. The subcommittee also engaged four consultants in the areas of environment, ratemaking, regulatory staffing and rate application procedures and utility financing.

The subcommittee had the politically delicate task of weighing the needs of consumers, environmentalists, businesses, the utilities and the PSCN when, in fact, the needs of these various groups in most instances are in opposition to one another.

The subcommittee came to recognize certain facts: (1) It is a fact that the energy crisis was originally caused by the Arab oil embargo, and subsequent dramatic price increases in foreign oil and natural gas have caused increases in the consumers' electric and gas rates; (2) Traditional fossil fuels are becoming scarce. Arabian oil prices have tripled in the past 3 years, and American dependence on foreign oil supplies is increasing every year; (3) Because the utility industry is the most capital intensive of all industries, it requires large amounts of borrowed money in order to grow. In the past years,

the inability of the utility industry and regulatory agencies to keep up with the crisis' rapid pace has caused private investment markets to contract to a point where borrowing money is extremely difficult and costly; (4) Action by Congress in the Energy Independence Act has emphasized nuclear energy. This emphasis minimizes the development of solar and geothermal energy, forms with great potential in Nevada. Also, a great scientific debate rages over the safety of nuclear powerplants; (5) Environmental goals such as pollution abatement have added to utility costs which are passed on to consumers.

The PSCN is required by statute to regulate Nevada's utilities. A public utility is required to furnish adequate, efficient and reasonable service to all members of the public within its service area, without discrimination, and is entitled to adequate compensation or just and reasonable rates for its services. On the one hand, there is criticism of the PSCN when it sits as an opponent of rate hike requests. On the other, there is criticism from consumers if the PSCN does not act in their interests in ratemaking. In order to better assess the role and procedures of the PSCN, the subcommittee engaged a management consultant and the recommendations concerning the PSCN are based on his findings.

The subcommittee concluded that the utility crisis in Nevada is not going to disappear in the near future. The situation is critical and, if not properly addressed by the 59th session of the Nevada legislature, could lead to grave economic consequences for the state. The ultimate answer to the problem is obviously the rapid development and implementation of alternative energy sources. This development must come from the federal level for two reasons. First, the federal government has the financial resources to develop properly these sources along with federal lawmaking powers. Secondly, the cost of development of these alternative energy sources is going to be extremely high and the federal government can subsidize these research and development efforts to offer the net result, namely energy, at a reasonable cost to the consumers.

SUMMARY OF RECOMMENDATIONS

1. The legislature should pass a resolution memorializing the Congress of the United States to grant tax depletion allowances to private firms engaged in geothermal well production. (BDR 87)
2. Geothermal space heating should be encouraged in the Known Geothermal Resource Areas.
3. Legislation should be enacted authorizing the State Public Works Board, when it determines costs are feasible, to initiate plans for utilization of alternative sources of energy in future state and local government facilities, and make such information available to the public. (BDR 28-26)
4. Legislation should be enacted to provide authority for the Consumer Affairs Division of the State Department of Commerce to review all solar energy devices offered for sale in Nevada, rate such devices and make such ratings available to the public. (BDR 28-26)
5. The legislature should pass a resolution memorializing the Congress of the United States to expand hydroelectric power production at Hoover Dam. (BDR 88)
6. A full-time experienced oil geologist or engineer should be added to the staff of the Nevada Bureau of Mines and Geology.
7. The utility companies and the Public Service Commission should study the concept of conservation oriented rate structures for all classes of consumers.
8. A thorough investigation should be made concerning the feasibility of implementing a lifeline rate structure, now considered in the form of an inverted rate structure, and should be considered separate from a general rate case proceeding.

9. Ambient air quality that is defined by the Federal Environmental Protection Agency (EPA), Class II increment plus background be taken as the criterion upon which to base emission regulations in the non-urban areas of Nevada.
10. The current emission regulations within Nevada should be replaced with the Federal New Source Performance Standards (NSPS), promulgated by the EPA, as the upper limit of emissions permitted from fossil-fueled powerplants. The actual emissions permitted in a given powerplant impact area would be determined on a case by case basis.
11. Continue, and to the extent possible expedite, the development of a Public Service Commission staff training program with emphasis on qualifying previously inexperienced people as part of an auditing team.
12. Continue the practice of having auditors sit in on the financial portions of rate cases to increase their understanding of their role and the value of their work.
13. Legislation should be enacted to establish the purpose and function of the Public Service Commission:
 - (a) To assure efficient management of the companies under its jurisdiction so that operating costs and capital investment per unit of service are minimized.
 - (b) To allow an adequate rate of return to protect the financial integrity of the companies and minimize capital costs.
 - (c) To determine that rates are based on efficient and economical operations and financing so that total costs to all consumers are minimized.
(BDR 58-25)
14. Legislation be enacted:
 - (a) To give the Public Service Commission authority to require management audits.

- (b) To allow the utility company to select the firm subject to approval of the Public Service Commission.
 - (c) To include the cost of the management audit as an allowable expense of the utility company.
(BDR 58-25)
15. Commissioners' salaries should be established at the same level to eliminate the problem of salary compression, except the chairman should receive an additional flat differential for administrative duties in the sum of \$500 to \$1,000 per year.
 16. The position of Executive Director in the Public Service Commission should be rearranged in the organizational structure and made reportable directly to the commissioners to eliminate another salary compression problem.
 17. The Public Service Commission should encourage professional development in the field of public utility auditing to improve the career paths available to those people who choose to stay in government service.
 18. Legislation should be enacted which would require the Public Service Commission to furnish information to the public concerning rates charged and how customers could benefit by conservation measures. (BDR 58-25)
 19. A governmental agency and the utility companies should continue communication with the general public through public meetings to provide an understanding of the energy crisis and attempt to develop and implement solutions.
 20. The legislature should pass a resolution proposing an amendment to section 1 of article 10 of the constitution of the State of Nevada relating to taxation by permitting a property tax exemption to encourage the conservation of energy. (BDR C-78)
 21. Legislation should be enacted which would require the Energy Management Division of the Public Service Commission to exercise the duties provided for in NRS 703.260. (BDR 58-79)

A. C. R. 38 - 1975 Session

ELECTRIC AND GAS UTILITIES AND THE
PUBLIC SERVICE COMMISSION

Interim Subcommittee

Assemblyman Daniel J. Demers, Chairman
Assemblyman Keith Ashworth, Vice Chairman
Senator Warren L. Monroe
Senator Lee E. Walker
Assemblyman Joseph E. Dini, Jr.
Assemblyman Harley L. Harmon
Assemblyman Robert L. Weise

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study training, qualifications, workloads and leave policies of supreme court justices, district court judges, justices of the peace, municipal court judges and district attorneys.

WHEREAS, The right to a speedy trial in criminal cases is an axiom of the American system of jurisprudence which is embodied in the Sixth Amendment to the Constitution of the United States of America; and

WHEREAS, In order to insure fair and just adjudication in courts of law, high standards of professionalism and adequate training in the law must be encouraged at all levels of the judicial system in Nevada; and

WHEREAS, Rapid population growth, expanding wealth and economic activity, increasing mobility and use of automobiles, as well as rising crime rates, all contribute to overburdened courts and concomitant delays in judicial decisionmaking; and

WHEREAS, Increasing workloads for judicial personnel in Nevada may affect the quality of justice in our state; and

WHEREAS, At the present time, Nevada lacks comprehensive judicial statistics which are essential to the process of evaluating and improving our present court system; and

WHEREAS, A 1973 survey by the American Judicature Society disclosed that Nevada, among a number of other states, has no continuing system for providing evaluation and prediction of needs for increases in the judiciary; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission study the training, qualifications, workloads and leave policies of supreme court justices, district court judges, justices of the peace, municipal court judges and district attorneys; and be it further

Resolved, That the legislative commission report the results of such study to the 59th session of the legislature, together with recommendations for any necessary and appropriate legislation.

SUMMARY OF RECOMMENDATIONS

(The report as approved by the subcommittee did not contain a summary of recommendations. The following summary was extracted from the report and has not been reviewed by the subcommittee.)

The subcommittee recommends that:

1. For the better collection of statistics:
 - (a) The senate standing committee on finance and the assembly standing committee on ways and means consider carefully the duties required of the court administrator by law, and provide a sufficient appropriation for his salary and staff to discharge those duties without reliance upon support from the federal government.
 - (b) District attorneys and public defenders be required to keep records and make statistical reports to the legislative commission. (BDR 17-54)
2. For the training of judges:
 - (a) Responsibility for arranging instruction for justices of the peace and police judges be transferred from the clerk of the supreme court to the court administrator. (BDR 1-55)
 - (b) Appropriate continuing education in the performance of judicial duties be encouraged for district court judges and for justices of the supreme court.
3. The creation of an intermediate appellate court. (BDR C-56)
4. The election of the chief justice of the supreme court by the justices (instead of selection by seniority) and the beginning of his term with the even-numbered year. (BDR C-57)
5. The approval and ratification of the pending constitutional amendment (S.J.R. 23 of the 59th session) to provide for chief judges in judicial districts.

6. More extensive use of masters in the district courts.
(BDR 1-58)
7. Separation of the offices of clerk of courts and county clerk in larger counties. (BDR C-59)
8. Extended use of sound recording as a supplement to or substitute for shorthand reporting, and limitation of the right to trial de novo in the district court of an appeal from a justice's or municipal court to situations where justice so requires. (BDR 1-60)
9. Enlarging both the civil and criminal jurisdiction of the justices' courts, but deferring legislative action until the people vote in 1978 on A.J.R. 36 of the 59th session.
10. Consolidation of municipal into justices' courts without disturbing the present allocation of fines. (BDR 1-61)
11. Addition of a second judge in the First Judicial District, because of state business. (BDR 1-69)
12. Permitting application for writ of habeas corpus after the entry of a plea. (BDR 3-62)
13. Adding the municipal courts to those entitled to free distribution of supreme court reports and session laws, and requiring local governments to purchase Nevada Revised Statutes for all courts. (BDR 1-63)
14. Further study of what agency should be responsible for juvenile probation.
15. Extending the authority of district attorneys to recover a civil penalty to all consumer protection statutes.
(BDR 52-64)
16. For the recoupment of money expended for the defense of a person who is not really indigent:

- (a) The establishment of a lien in favor of the state, county or city. (BDR 14-65)
 - (b) That each county strengthen the investigative staff of the public defender and that an investigator for this purpose be provided in the budget of the state public defender.
17. The supreme court exercise its authority as head of the court system to establish uniform rules for annual, sick and disability leave for the judiciary consistent with those established for public officers generally.

A. C. R. 49 - 1975 Session

TRAINING, QUALIFICATIONS, WORKLOADS AND
LEAVE POLICIES OF THE JUDICIARY AND
DISTRICT ATTORNEYS

Interim Subcommittee

Assemblyman Robert R. Barengo, Chairman
Senator Lee E. Walker, Vice Chairman
Senator Carl F. Dodge
Assemblyman Thomas J. Hickey
Assemblyman Lloyd W. Mann
Assemblyman James W. Schofield
Assemblyman Sue Wagner

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study the funding of the courts of the state.

WHEREAS, The American system of government is founded on the doctrine of the separation of powers in which no branch is preeminent over the others; and

WHEREAS, There are two aspects to this doctrine, one being the ability of any branch to prevent or obstruct the other two from acting and the other being that the system works only with the cooperation of all three branches; and

WHEREAS, The doctrine of the separation of powers is clearly established and understood at the federal and state levels but is far less clear at the local level; and

WHEREAS, There is a continuing problem in this state at the local level between governing boards responsible for raising and expending public funds and judicial officers charged with conducting the courts; and

WHEREAS, This problem, leading in some cases to confrontations and appeals to higher courts, is in large part a result of a dearth of guidance either in the constitution or the statutes on the proper delineation of powers at the local level; and

WHEREAS, Local governing bodies cannot discharge their constitutional and statutory responsibilities unless they can control local budgets; and

WHEREAS, By the same token, the courts cannot discharge their responsibilities unless they have adequate funding; and

WHEREAS, Whatever solution is decided upon to clarify proper roles, such solution will involve at least the legislature, the courts and local governing bodies; and

WHEREAS, The complexity and sensitivity of this issue demand that before taking any action, the legislature should be assured that it has examined all alternatives; and

WHEREAS, The proper functioning of local government and the courts depends upon a clear understanding of roles and responsibilities, such understanding to be mutually arrived at by the parties involved; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission is hereby directed to study the problem of funding the courts of the state; and be it further

Resolved, That such study shall be conducted by a subcommittee composed of legislators, judges or other court personnel from all court levels affected and members of local governing bodies responsible for providing funding for courts; and be it further

Resolved, That the study shall examine and report on all alternatives for systems of court funding and disposition of court revenues to include suggestions for legislation that will facilitate such funding at the local level or that would provide state funding and state receipt of all court revenues; and be it further

Resolved, That the study should also include methods of increasing understanding of the judicial system by local governments and the citizens through the use of judicial councils or similar bodies; and be it further

Resolved, That the results of the study and any recommendations for legislation be reported to the 59th session of the legislature.

SUMMARY OF RECOMMENDATIONS

The legislative commission's subcommittee on funding of the courts of the state recommends for the consideration of the 59th session of the Nevada legislature:

1. That the office of state court administrator be funded by legislative appropriations.
2. That the salary of the state court administrator be set within the limits of legislative appropriations rather than specified by law. (BDR 1-3)
3. That the statutory duties of the state court administrator include responsibilities relating to data processing and fiscal and personnel administration. (BDR 1-3)
4. That if A.J.R. 18 of the 57th session, which would establish a unified court system, is ratified by the people:
 - (a) The expenses of the state court system be funded out of the state treasury beginning fiscal year 1979-1980; (BDR 4)
 - (b) The legislature suggest that the Nevada supreme court create and budget for a judicial council or other appropriate agency to develop a comprehensive plan to carry out full state funding with unitary budgeting for the entire court system; and (BDR 4)
 - (c) The state court administrator be directed to prepare and submit to the 60th session of the legislature a single budget for the state court system which carries out the comprehensive plan. (BDR 4)
5. That fees charged for court-related services be increased. (BDR 1-2)
6. That drivers' licenses not be reinstated or reissued to Nevada residents who violate their promise to appear in court on a citation for a moving traffic violation. (BDR 43-5)
7. That fee retention by justices of the peace be eliminated and the legislature set a schedule of minimum salaries for the justices of the peace and the police judges. (BDR 1-6)

A. C. R. 84 - 1975 Session

FUNDING NEVADA'S COURTS

Interim Subcommittee

Senator Margie Foote, Chairman
Assemblyman Alan H. Glover, Vice Chairman
Assemblyman Zelvin D. Lowman
Assemblyman Paul W. May
Assemblyman Virgil M. Getto

Assembly Concurrent Resolution No. 9—Assemblymen Mello, Howard Dreyer, Robinson, Bremner, Glover, Wittenberg, Brookman, Weise, Dini and Ashworth

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study the budget formulas and budget format used for the University of Nevada System.

WHEREAS, Appropriations made for the support of the University of Nevada System constitute a significant proportion of the total state appropriations; and

WHEREAS, The appropriations made to the University of Nevada System result from the development and application of complex budgetary formulas; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission is hereby directed to study the budget formulas used for the University of Nevada System, including component parts of the formulas, comparisons with formulas of similar institutions, the relationship of budget formulas to actual expenditure patterns and presentation in an appropriate format for review by the legislature; and be it further

Resolved, That the legislative commission be assisted in this study by the budget division of the department of administration and the various divisions of the University of Nevada System; and be it further

Resolved, That the legislative commission report the results of its study and make appropriate recommendations to the 59th session of the legislature.

19  75

ABSTRACT

BUDGET FORMULAS AND FORMATS FOR THE UNIVERSITY OF NEVADA SYSTEM

The University of Nevada System is among 33 state supported higher education systems that use a formula approach for budgeting teaching appropriation areas. Each of these states has a higher education system characterized by multiple institutions or campus locations. The objective budget formula approach was adopted as the basis for requesting state appropriations as the alternative to political competition among the multiple institutions. In an examination of the advantages and disadvantages of the formula approach, equity in the distribution of available resources among comparable intrastate institutions emerges as the primary objective to be served by the adoption of the formula approach to budgeting for higher education.

There are six teaching appropriation areas in the University of Nevada System--UNR, medical school, UNLV, CCCC, NNCC and WNCC. These six areas account for 80 percent of the system's operating budgets, nearly \$38 million in fiscal 1976. The system has used a formula approach for the past 4 bienniums with the formulas modified each biennium as new data became available and as experience is gained with formula budgeting.

The general formula approach is similar for all of the teaching appropriation areas; however, different ratios, unit costs and other elements are used for UNR and UNLV, the medical school and the community colleges.

Over these 4 bienniums, the system request used formulas for nearly all functional groupings in the teaching appropriation areas, that is, for general administration, general expense, student services, instruction and departmental research (I & DR), library (book acquisitions and staffing) and operation and maintenance of the physical plant. While the system

request in the teaching appropriation areas has used a formula for all functional groupings, the governor and the legislature have historically recommended and appropriated on a formula basis only for the I & DR function. I & DR is the single largest and most important functional grouping. For fiscal 1976, system-wide I & DR is work programmed for \$21 million or 44 percent of the total system work program. In the Nevada formula, I & DR also serves as the base to calculate general administration and general expense.

In the public hearings the subcommittee held in Las Vegas and Reno, system administrators, division presidents and faculty representatives universally endorsed the formula approach as the most logical basis for requesting appropriations from the governor and the legislature. The Nevada formula is one of 12 formulas judged "acceptable" by a 1973 comparative analysis of the budget formulas in 25 public institutions utilizing the formula approach. The nationally prominent panel making this assessment found the Nevada formula met six of the eight criteria used to assess the formulas. The two deficiencies noted have been eliminated in the Nevada formula with the incorporation of a differentiated student-faculty ratio.

As budgets serve multiple functions, so too the budget formats that are used to display budget data. Summary information is useful for one purpose while basic detail necessary for another. In an attempt to satisfy all users, a request format was designed by the chancellor's office in cooperation with the budget division and the legislative counsel bureau. This format will produce a bulky document, but one which should serve the various levels of review in developing appropriations and authorizations.

SUMMARY OF RECOMMENDATIONS

1. The subcommittee endorses the concept of objective formula budgeting for the instruction and departmental research (I & DR) functional grouping in the teaching appropriation areas of the university of Nevada system. I & DR is the largest functional grouping in the system and formula budgeting will thus apply to nearly 50 percent of the total system operating budget.
2. Since historically, the governor and the legislature have not recognized a formula approach for functional groupings other than I & DR, the subcommittee recommends that the budgets for each cost center in these functional groupings be separately justified. This approach can be compared to budgets generated by formula and, over time, the formula approach for these functional groupings may gain credibility.
3. Formulas, once devised and generally accepted, must not be taken for granted as satisfactory for all time. The subcommittee recommends that the university system, the budget division in the department of administration and the legislature continually monitor accepted formulas for equity and adequacy in meeting the objectives of the system.
4. The subcommittee endorses the system budget request format presented at the October 22, 1975, subcommittee hearing and shown in Appendix D of the report.
5. The subcommittee recommends that actual historical costs be displayed in the request format, especially in the nonformula appropriation areas and in the justified functional groupings of the formula appropriation areas.

A. C. R. 9 - 1975 Session

BUDGET FORMULAS AND FORMATS FOR THE
UNIVERSITY OF NEVADA SYSTEM

Interim Subcommittee

Assemblyman Donald R. Mello, Chairman
Senator B. Mahlon Brown, Vice Chairman
Assemblyman Roger Bremner
Assemblyman Melvin B. (Bode) Howard

Senate Concurrent Resolution No. 35—Senators Blakemore,
Gibson, Dodge and Herr

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the various possible means whereby the citizens of Nevada may derive greater benefit from the public lands within the state retained by the Federal Government.

WHEREAS, The State of Nevada has a strong moral claim upon the public land within its borders retained by the Federal Government, because:

1. On October 31, 1864, the Territory of Nevada was admitted to statehood on the condition that it forever disclaimed all right and title to unappropriated public land within its boundaries;

2. From 1850 to 1894, newly admitted states received 2 sections of each township for the benefit of common schools, which in Nevada amounted to 3.9 million acres;

3. In 1880 Nevada agreed to exchange its 3.9 million acre school grant for 2 million acres of its own selection from public land in Nevada held by the Federal Government;

4. At the time the exchange was deemed necessary because of an immediate need for public school revenues and because the majority of the original federal land grant for common schools remained unsurveyed and unsold;

5. Unlike certain other states, such as New Mexico, Nevada received no land grants from the Federal Government when it occupied the status of a territory;

6. Nevada received no land grants for insane asylums, schools of mines, schools for the blind and deaf and dumb, normal schools, miners' hospitals or a governor's residence as did states such as New Mexico; and

7. Nevada thus received the least amount of land, 2,572,478 acres, and the smallest percentage of its total area, 3.9 percent, of the far west land grant states admitted after 1864, while states of comparable location and soil condition, namely, Arizona, New Mexico and Utah, received approximately 11 percent of their total area in federal land grants; and

WHEREAS, The State of Nevada has a legal claim to the public land within its borders retained by the Federal Government because:

1. In the case of the State of Alabama, a renunciation of claim to unappropriated lands similar to that contained in the ordinance adopted by the Nevada constitutional convention was held by the Supreme Court of the United States to be "void and inoperative" because it denied to Alabama "an equal footing with the original states" in *Pollard v. Hagan*, 44 U.S. (3 How.) 212 (1845);

2. The State of Texas, when admitted to the Union in 1845, retained ownership of all unappropriated land within its borders, setting a further precedent which inured to the benefit of all states admitted later "on an equal footing"; and

3. The Northwest Ordinance of 1787, adopted into the Constitution by the reference of Article VI to prior engagements of the Confederation, first proclaimed the "equal footing" doctrine, and the Treaty of Guadalupe Hidalgo by which the territory including Nevada was acquired from

Mexico, which is "the supreme law of the land" by virtue of Article VI, affirms it expressly as to the new states to be organized therein; and

WHEREAS, The exercise of broader control by the State of Nevada over the public lands within its borders would be of great public benefit because:

1. Federal holdings in the State of Nevada constitute 86.7 percent of the area of the state, and in Esmeralda, Lincoln, Mineral, Nye and White Pine counties the Federal Government owns from 97 to 99 percent of the land;

2. Federal jurisdiction over the public domain is shared among 17 federal agencies or departments which adds to problems of proper management of land and disrupts the normal relationship between a state, its residents and its property;

3. None of the federal lands in Nevada are taxable and Federal Government activities are extensive and create a tax burden for the private property owners of Nevada who must meet the needs of children of Federal Government employees, as well as provide other public services;

4. Under general land laws only 2.1 percent of federal lands in Nevada have moved from federal to private ownership; and

5. Federal administration of the retained public lands, which are vital to the livestock and mining industries of the state and essential to meet the recreational needs of its citizens, has been of uneven quality and sometimes arbitrary and capricious; and

WHEREAS, Each of these sets of facts raises issues of great legal and economic complexity which require careful and deliberate study; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is directed to study the several possible approaches to the problem of securing a greater degree of control by the State of Nevada over the public lands within its borders for the common benefit of its citizens, which may include:

1. Application to the Congress of the United States for an additional land grant;

2. Application to the Congress of the United States for greater participation by the state in the administration of the retained lands; and

3. Legal action by the state to vindicate its claim to all the public lands, or any combination of these measures or of other measures to be devised; and be it further

Resolved, That the legislative commission submit its report and recommendations to the 59th session of the legislature.

SUMMARY OF RECOMMENDATIONS

The paragraphs below briefly summarize the recommendations of the subcommittee at the conclusion of its deliberations.

The subcommittee recommends:

1. That the legislature adopt a resolution urging the attorney general to assert, in the normal course of litigation, all possible claims the State of Nevada has to the public lands within its borders. (Appendix A, Exhibit A--BDR 90.)
2. That the legislature send a select committee of three senators and four assemblymen to Washington, D.C., with concrete proposals for increasing the percentage of land in nonfederal ownership in the State of Nevada. (Appendix A, Exhibit B--BDR 91.)
3. That the select committee consider as an item of first priority the question of whether the state should pursue, in the courts or in Congress, the possibilities for becoming the manager or trustee of the public lands without acquiring ownership.
4. That the state recommend to the Nevada congressional delegation the submission of a bill to authorize the selection by Nevada each year of a specified quantity of lands, until 100 percent of the public domain lands in Nevada have been transferred to nonfederal ownership.
5. That the select committee review the statutory provisions relating to the manner in which the State of Nevada consents to acquisition of land by the Federal Government (chapter 328 of NRS), to determine whether legislative concurrence should be required before the state's consent is effective and whether the state should attempt to bargain for the release of equivalent public domain lands as a quid pro quo.
6. That the select committee explore whether it would be worthwhile for the state to work toward federal legislation requiring state concurrence before certain activities and uses could take place on the public lands.

7. That the select committee work with other western states with a view to possible joint action on the problem of land acquisition from the Federal Government.
8. That present efforts in the direction of federal-state cooperation in land use planning for the federal lands be commended, and that continued development of procedures for this purpose be encouraged; and further, that the select committee communicate with Bureau of Land Management officials concerning the need for more effective advisory boards and public participation in decision-making in those areas where federal-state cooperation has not yet been achieved.
9. That the circulation of petitions be approved as a desirable means of expressing the sentiments of the signers on public land problems, but that action on petitions presented to the subcommittee be deferred until such time as the contents are submitted to the 59th session of the legislature.
10. That if the State of Nevada acquires additional lands from the Federal Government, either as owner or as trustee, the policy of the state be initially to sell only as much land as will increase overall tax revenues in the state sufficiently to offset the added management costs.
11. That the state land use planning agency provide assistance and coordination for counties which request such service in connection with the identification of specific lands appropriate for transfer from federal ownership or the preparation of supporting data needed to make the request.
12. That agencies of the Federal Government be asked to assure that notification of each proposed land exchange affecting the State of Nevada is provided directly to the state land use planning agency as well as to other state agencies, and that notice of the proposed exchange also be given by official publication in the newspapers of the counties affected.

S. C. R. 35 - 1975 Session

DERIVING ADDITIONAL STATE BENEFITS
FROM PUBLIC LANDS

Interim Subcommittee

Senator Richard E. Blakemore, Chairman
Assemblyman Roy Young, Vice Chairman
Assemblyman Chester S. Christensen
Assemblyman Karen W. Hayes
Assemblyman Thomas J. Hickey

Assembly Concurrent Resolution No. 33—Assemblymen Wagner, Mann, Hayes, Sena, Ford, Bennett, Heaney, Getto, Schofield, Christensen, Brookman, Hickey, Lowman, Chaney, Wittenberg, Weise, Dreyer, Mello, Jacobsen, Craddock, Vergiels, Barengo and Benkovich

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study skilled nursing facilities.

WHEREAS, The overall national population, because of lower birth rates and greater longevity, is becoming increasingly older; and

WHEREAS, The population 65 years of age and over increased by 25 percent from 1960 to 1971; and

WHEREAS, Federal medical care payments to the elderly have led to a rapid growth over the past 5 years in nursing homes and similar care facilities; and

WHEREAS, The growth in number of nursing homes across the nation has not in all cases been matched by maintenance in the quality of care provided, and the situation has led in some states to major scandals; and

WHEREAS, It is in the interest of all Nevadans, and especially elderly Nevadans, that the quality of institutional care for the elderly in Nevada be examined by the legislature; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission study the quality and availability of skilled nursing care facilities in Nevada and the adequacy of Nevada law for insuring the protection of the health, safety, physical and mental well-being of those individuals accommodated in such facilities; and be it further

Resolved, That a report of the findings and recommendations be submitted to the 59th session of the legislature.

19  75

Assembly Concurrent Resolution No. 52—Assemblymen Coulter, Murphy, Hayes, Benkovich, Wittenberg, Sena, Polish, Christensen, Wagner and Weise

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission, with the cooperation of the aging services division of the department of human resources, to conduct a study of the problems of the aged and aging.

WHEREAS, Approximately 15 percent of Nevada residents of age 60 and older are below the poverty level established by the Bureau of the Census; and

WHEREAS, It is estimated that almost half of Nevadans 60 years of age or older are in low income brackets; and

WHEREAS, Aging and aged citizens of our state face a myriad of problems in the areas of health and nutrition, transportation, housing, recreation, employment and income; and

WHEREAS, It is appropriate for the State of Nevada to insure that its older citizens maintain in their later years the dignity and well-being which they devoted most of their youth and middle years to earning; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission is hereby directed to conduct a study of the problems of the aged and aging in Nevada; and be it further

Resolved, That the legislative commission enlist the cooperation of the aging services division of the department of human resources; and be it further

Resolved, That the legislative commission utilize such expertise as is available on the subject within the University of Nevada System; and be it further

Resolved, That the legislative commission report the results of its study and make appropriate recommendations to the 59th session of the Nevada legislature.

19 75

ABSTRACT

SKILLED NURSING FACILITIES AND PROBLEMS OF THE AGED AND AGING

In 1975, the Nevada legislature adopted two resolutions in recognition of the fact that senior citizens constitute an increasingly large percentage of the state's population. While the problems of older persons often simply mirror the difficulties of other age groups, fixed incomes as well as declining health and mobility magnify these problems for persons over 65. Assembly Concurrent Resolution No. 33 directed the legislative commission to study skilled nursing facilities, and Assembly Concurrent Resolution No. 52 directed it to study the problems of the aged and aging.

The subcommittee appointed to study these subjects held hearings around the state and visited care facilities for the aging. Intermediate and adult group care facilities were reviewed, as well as skilled nursing facilities. Among the topics considered by the subcommittee in its study of institutionalized care for the aging were: the education and training of nursing home personnel; public guardianship for persons and/or estates of incapacitated senior citizens; inspections of care facilities; the rights of the institutionalized elderly; nonmedical care of patients in nursing homes and alternatives to institutionalization for senior citizens.

In its review of problems facing older Nevadans, the subcommittee utilized a study conducted by the department of psychology at the University of Nevada, Las Vegas. The Needs Survey of Nevada's Aging cited income, health, transportation and housing as the four major problems facing Nevada's senior citizens. Information presented to the subcommittee at hearings in Carson City, Reno, Las Vegas and four rural Nevada committees confirmed the needs expressed in the UNLV study. Included in the problem areas considered by the subcommittee were: earned income ceilings for social security recipients; need for low cost drugs; insurance problems;

standards for hearing aid fitting; tax relief; need for services in the home; cost of utilities and the need for preventative medicine.

The subcommittee's charge was broad, as was the range of problems which emerged in the course of the study. In addition to recommending legislation to alleviate some of the difficulties facing senior Nevadans, the subcommittee achieved other goals. Subcommittee hearings provided a public forum for expressing grievances and for exchanging information about existing public and private programs for the aging. Involvement by state agencies who provide services to senior citizens brought about constructive problem solving in several instances. Legislators and the public learned about successful programs already operating in Nevada communities. On the other hand, the subcommittee heard repeatedly that older Nevadans are frustrated by various bureaucratic guidelines for these programs. In the course of its study, the subcommittee also recognized that a number of serious problems face senior citizens for which legislative action would be futile and inappropriate. Intangible problems of loneliness, boredom and isolation exist alongside the material needs of many senior citizens.

SUMMARY OF RECOMMENDATIONS

A. Institutionalized Care for the Aging.

1. A letter be sent to all high schools, community colleges and the University of Nevada System to explore the feasibility of making courses and intern programs available in total health care of the aging, including gerontology; and a request be made of the University of Nevada for information regarding its philosophy on making it mandatory for licensed practical nurses (LPN's) and registered nurses (RN's) to take courses in geriatrics. The subcommittee recommended that this information be received before the 1977 legislative session.
2. A pilot traveling inservice training program be established to teach untrained workers in nursing homes about care of the aging patient; and that \$150,000 be appropriated for the biennium to be used as funding for a traveling nurses' aide pilot program; the traveling nurses program be required to report back to the legislature on the effectiveness of the program, the feasibility of reimbursement to the state in future years for program costs and recommendations concerning certification. (BDR 5-96)
3. A public guardianship bill be supported, using the Council of State Governments' "Public Guardianship Act" as a model. (BDR 20-99)
4. Duly authorized employees of the department of human resources be allowed to make unannounced inspections of health and care facilities to evaluate the care provided residents. (BDR 40-95)
5. The department of human resources be mandated to conduct public hearings and adopt a state "bill of rights" for residents in all licensed care facilities which are not presently covered by state statute or federal regulation. (BDR 40-92)
6. Letters be written to the respective state agencies involved in licensing and reimbursement, urging that more attention be given to the following problems:

- a. Therapy and exercise programs in nursing facilities.
 - b. Problems of inactivity among nursing home residents.
- 7. The state should support the home health care program in the rural counties as a viable alternative to institutionalization.
 - 8. The legislative commission conduct a feasibility study to explore the possibility of establishing a state geriatric center. (BDR 97)

B. Problems of the Aged and Aging.

- 1. The United States Congress be memorialized to lift the ceiling entirely on maximum earned income allowed to recipients of Social Security. (BDR 94)
- 2. The legislature enact generic drug substitution legislation similar to A.B. 436 of the 58th session.
- 3. Group insurance policies in Nevada be required to include options to convert to individual policies upon termination of the insured person's membership in the group. (BDR 57-100)
- 4. Nevada's hearing aid specialist law be amended along the lines of Oregon's 1975 law regulating hearing aid dealers. (BDR 54-98)
- 5. Legislation be endorsed which will provide greater assistance at all levels under the Senior Citizens' Property Tax Assistance Act.
- 6. A letter be written to the department of education recommending utilization of youth through the schools to provide home services to senior citizens.
- 7. Support be given to legislation abolishing the sales tax on food.
- 8. Legislation be supported and endorsed to fund a mobile health care unit. (BDR 5-53)

A. C. R. 33 and A. C. R. 52
1975 Session

SKILLED NURSING FACILITIES AND PROBLEMS
OF THE AGED AND AGING

Interim Subcommittee

Assemblyman Darrell H. Dreyer, Chairman
Senator Richard H. Bryan, Vice Chairman
Senator Joe Neal

Assemblyman Marion D. Bennett
Assemblyman Eileen B. Brookman
Assemblyman Steven A. Coulter
Assemblyman Patrick M. Murphy
Assemblyman Nash M. Sena

Senate Concurrent Resolution No. 25—Senator Young

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the publication policies of state agencies.

WHEREAS, All publications produced by state agencies should serve the maximum useful purpose for all those using such publications; and

WHEREAS, The legislature through the legislative counsel bureau has taken on a special responsibility carried out in many states by commercial publishing firms; and

WHEREAS, The legal profession of the state relies upon the accuracy, timeliness and comprehensiveness of publications of the legislative counsel bureau and other state agencies concerning statutes, legislative proceedings, supreme court decisions, and the regulations and decisions of executive agencies; and

WHEREAS, There have been questions raised within the legislature and among members of the State Bar of Nevada concerning the adequacy and usefulness of several publications and concerning ways to improve necessary publication; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is hereby directed to conduct an interim study of all publications of state agencies with special emphasis on those used and depended upon by the legal profession; and be it further

Resolved, That the legislative commission involve the State Bar of Nevada in such study and that the results of the study along with recommendations for changes in publications policy be reported to the 59th session of the legislature.

19  75

ABSTRACT

PUBLICATIONS POLICIES OF STATE AGENCIES

The 58th session of the Nevada legislature, through Senate Concurrent Resolution No. 25, directed the legislative commission "to study * * * all publications of state agencies with special emphasis on those used and depended upon by the legal profession."

At the original meeting of the subcommittee on the publications policy of state agencies, assigned by the legislative commission to study this topic, it was decided to divide the study into two distinct parts, the first dealing with executive agency publications and the second focusing on law-related publications produced by the legislative counsel bureau. Accordingly, the publications policies of state agencies report is separated into two parts, each discussing the findings and recommendations of the subcommittee related to each portion of its study. Part I of the report is an overview of the subcommittee's findings and recommendations pertaining to executive agency publications. Part II of the report presents the findings and recommendations resulting from the study of law-related publications.

PART I

EXECUTIVE AGENCY PUBLICATIONS

The interim study of executive agency publications was an outgrowth of legislative concern over the high volume of printed material being disseminated by state agencies, and with the formal annual and biennial reporting program conducted by certain state agencies. Of special concern to certain legislators has been the reports that appear in the appendix to the journal. It has been expressed that these reports (1) lack uniformity of style and size, (2) represent unnecessary duplication of printing and distribution costs, (3) offer no

comparability in the data presented, and (4) are not produced in time for relevant use by individuals needing current and reliable information.

Senate Concurrent Resolution No. 25 of the 1975 legislative session, states that "all publications produced by state agencies should serve the maximum useful purpose for all those using such publications." In line with this directive and with the concerns noted above, the subcommittee decided to make an objective evaluation of all executive agency publications to determine, among other things:

1. What publications are produced by each state agency, including the cost of these publications.
2. Which publications are required by law.
3. Which publications are produced by virtue of agency decision.
4. Duplication of state agency published information.
5. What published information is actually needed by the governor, the legislature and the public.

The subcommittee's study included (1) a review of previous state agency publications studies, (2) a questionnaire survey of all state agencies, (3) discussions with various executive agency personnel, (4) a review of Nevada Revised Statutes to determine publications required by law, and (5) the receipt of information from the state printing and records division of the department of general services concerning the printing costs of annual and biennial reports.

The recommendations that follow reflect the subcommittee's conclusions for needed improvements in executive agency publication's practices.

PART II

LAW-RELATED PUBLICATIONS

The legislative commission's subcommittee on the study of publications policy of state agencies conducted a study of publications used and depended upon by the legal profession, with special emphasis on publications produced by the legislative counsel bureau.

The subcommittee's study included (1) the nature and usage of major law-related publications, (2) a review of previous studies of counsel bureau publications, (3) a review of publication policies and procedures since 1970, (4) financial aspects of existing publications programs, (5) contracts with commercial publishers, and (6) an opinion survey of the membership of the state bar of Nevada.

This summary presents the major conclusions reached by the subcommittee in its study of Nevada law-related publications and its recommendations based thereon. These conclusions are based upon suggestions that came from subcommittee meetings, consultations with a special committee of the state bar of Nevada, correspondence and consultations with commercial publishers, an opinion survey of state bar membership, staff research and experience of the subcommittee's members.

A. The subcommittee concluded that:

1. The principal Nevada law-related publications are widely utilized and their quality has been generally excellent since the inception of Nevada Revised Statutes and related publications in 1957. Historically, timeliness of the publications has been the chief cause of complaint, and probably will continue to be until modern and more efficient production methods utilizing computer-assisted photocomposition are instituted. Despite the lack of

modern equipment, significant improvements have been made since 1970 in the timeliness and quality of services rendered as a result of increased efficiency in the editorial and printing operations and the development of certain innovations such as use of the Advance Sheets as a temporary supplement to NRS, the Later Case Services to the Annotations and the Digest, and the projected Advance Opinion service for Nevada Reports. Nevada's law-related publications are now as current as any comparable publications.

2. The publications produced by the legislative counsel bureau are no longer publicly funded. At least since July 1, 1974, if not earlier, overall the publications have been and now are self-supporting. They are not supported at taxpayer expense except to the extent that tax-supported public agencies are customers for the publications.
3. Publication of NRS, the Annotations and a Nevada Digest by a commercial publisher would not be economically feasible and would not be in the best interests of the State of Nevada or Nevada attorneys at this time because:
 - (a) None of them could produce the publications at less cost than the legislative counsel bureau does using its present methods;
 - (b) Participation by any of them in any phase of production of the publications would entail conversion to use of computerized photocomposition methods because they are not equipped to use the methods now used by the bureau; and
 - (c) The State of Nevada would be required to defray the very substantial costs of the necessary conversion to computer-assisted photocomposition methods, roughly estimated at a minimum of \$700,000, excluding the costs of the publications to purchasers.

SUMMARY OF RECOMMENDATIONS

EXECUTIVE AGENCY PUBLICATIONS

This summary represents the major conclusions reached by the subcommittee in its study of executive agency publications. These conclusions are based upon suggestions that came from subcommittee meetings, written communications to the subcommittee, testimony, staff research and experience of the subcommittee's members.

The subcommittee's recommendations concerning annual and biennial reports are that:

1. A separate, bound State of Nevada biennial report be established and that the existing practice of printing reports in the appendix to the journal be abolished through proper statutory amendment.
2. The statutes be amended to give the state planning coordinator the responsibility for compiling and issuing the State of Nevada biennial report and that this responsibility include:
 - (a) Determining, after consultation with the state library, department of economic development and other interested parties, the format, substance and timetable for issuance of the report.
 - (b) Considering, in developing the format for the report, the format used in the biennial report approach now used in Kansas and other states.
 - (c) Preparing the report as soon after the end of the fiscal year immediately preceding the legislative session as possible.
3. The senate standing committee on finance and the assembly standing committee on ways and means choose, during

their review of the executive budget, those agencies to be included in the State of Nevada biennial report.

4. Legislation reflecting the committees' choice of agencies to be included in the report be enacted and that this legislation include the repeal of existing annual or biennial reporting requirements in the statutes for agencies not chosen by the committees for inclusion in the State of Nevada biennial report.

The subcommittee's recommendations concerning all other executive agency publications are that:

1. The senate finance committee and the assembly ways and means committee give careful scrutiny to executive agencies' publication costs identified in the executive budget under the heading "Agency Publication."
2. The committees identify those publication in the "Agency Publication" category of the executive budget which no longer warrant production because of the lack of merit or utility of such publications.
3. Legislation be enacted which repeals any existing statutory requirement for any executive agency publication, in addition to annual and biennial reports, which the committees wish to be discontinued.

LAW-RELATED PUBLICATIONS

The subcommittee recommends that:

1. The present basic publications policies and programs of the legislative counsel bureau be continued at least as long as the publications are overall self-supporting or until decisions are reached concerning application of computer technology to the entire legislative process--of which production of law-related publications is only one facet.

2. The counsel bureau staff continue their efforts to increase the efficiency of the publication process and to improve the timeliness and quality of the service rendered to the state bar and other customers.
3. Further serious consideration be given to the matter of utilization of computer technology and techniques in the legislative operation and production of law-related publications.

S. C. R. 25 - 1975 Session

PUBLICATIONS POLICIES OF STATE AGENCIES

Interim Subcommittee

Assemblyman Albert W. Wittenberg, Chairman
Senator Carl F. Dodge, Vice Chairman
Senator Helen Herr
Assemblyman Lonie Chaney
Assemblyman Karen W. Hayes

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the feasibility of permitting or requiring public employers to pay the entire amount required to provide for employees' retirement.

WHEREAS, Various proposals have been made in committee hearings upon the financing of public employees' retirement, either to require or to permit the public employer to make on behalf of its employees the contribution now required of them to the public employees' retirement system; and

WHEREAS, This concept is attractive in the context of providing additional benefits to enhance the attractiveness of public employment while attempting to mitigate the financial burden on public employees imposed by the constantly rising cost of living; but

WHEREAS, The fiscal impact of such a change with its related effect upon the withdrawability of contributions is complex and the administrative feasibility of a mixed system (where only certain employers would make such payments) is undetermined; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is directed to study the feasibility of payment by the public employer of all contributions required to provide for public employees' retirement, in lieu of the present system of joint contribution, including specifically:

1. Whether it is administratively feasible to make such payment elective on the part of the public employer, or whether all employers must be treated uniformly with respect to contribution; and

2. The fiscal impact of elective payment (if feasible) and mandatory payment of total retirement costs upon the respective classes of public employers, state and local, and the requisite total rates of contribution; and be it further

Resolved, That the legislative commission report the results of its study, with any recommended legislation, to the 59th session of the legislature.

ABSTRACT

EMPLOYER PAYMENT OF EMPLOYEE CONTRIBUTIONS TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM

In 1975, the 58th session of the Nevada legislature adopted Senate Concurrent Resolution No. 33 which directed the legislative commission to study the feasibility of permitting or requiring public employers to pay the entire amount required to provide for employees' retirement. The concept of financing public employees' retirement, prior to legislation passed in the 1975 legislature, was through a joint contribution system--employers and employees made equal contributions to the system. Legislation passed at the 1975 session provided for an employer-paid program as an optional method of financing public employees' retirement. The major concern of the subcommittee assigned to conduct the study directed by S.C.R. 33 was to review the impact of the optional employer-paid program with specific emphasis on identifying:

1. The advantages and disadvantages of such a program for the public employer.
2. The advantages and disadvantages for the public employee.
3. The advantages and disadvantages to the retirement system.
4. The fiscal and administrative aspects of an elective or optional program versus a mandatory program.

The subcommittee conducted two public hearings in Carson City and one each in Reno and Las Vegas in an effort to obtain input from all levels of governmental employers and employees in the state, as well as interested citizens. Additionally, the executive officer of the public employees' retirement system or his authorized representative attended all subcommittee meetings and provided valuable technical assistance and information to the subcommittee and its staff. The subcommittee's findings can be summarized as follows:

1. The employer-paid program does provide an increase in take-home pay for the employee, does reduce or avoid costs for employers and does take a positive step toward adequately funding the public employees' retirement system at a lower contribution rate than may otherwise be required.
2. The program, however, is advantageous to the public employee only if he works to retirement or vests in the system and eventually receives retirement benefits. Employees who do not retire or vest in the system do not benefit from the employer-paid program.
3. The public employees' retirement system was established, and should be maintained, for the purpose of providing benefits to public employees at a time when they have earned them, that is, upon retirement.
4. The optional employer-paid program can be adequately operated by the retirement board and the public employers without placing an undue administrative burden on the system or the public employers.
5. Mandating the program would remove from locally elected public officials their authority and responsibility to bargain collectively with employee groups on this important fringe benefit.
6. Keeping the program optional should not adversely affect salary comparisons of public employees. Employers can maintain two salary schedules--one showing current salaries and one showing what those salaries would be if the employer-paid program had not been implemented.

SUMMARY OF RECOMMENDATIONS

1. The subcommittee recommends the continuation of the optional employer-paid program and allowing it to "sell itself" to the public employers and the public employees on its own merits. As of this report date, the optional employer-paid program has been in effect for just a little over 1 year. The information developed from this relatively short time frame of operation does not at this point justify mandating the program. Contrarily, the subcommittee has found no evidence which would justify the discontinuance of the optional program.
2. The subcommittee found that there is a savings or cost avoidance for the public employer under the employer-paid program. It is, therefore, recommended that public employers consider implementation of the employer-paid program as a means of holding down or avoiding costs in the future.
3. The subcommittee recommends that the 1977 legislature strongly consider legislation to be sponsored by the public employees' retirement board dealing with the employer-paid program with regard to:
 - (a) Changing the method for calculating retirement benefits for members under the employer-paid program to provide that a member's average compensation shall be increased by 50 percent of the contribution rate for each month that the member is under the employer-paid program.
 - (b) Providing survivor benefits to vested members regardless of whether or not they were under accredited contributing service at the time of death and providing for either a lump sum refund of 50 percent of the contributions made by the public employer under the employer-paid program or the monthly survivor benefits.

The subcommittee has not included proposed legislation in this report since the public employees' retirement board will be submitting a complete legislative package to the 1977 legislature. This will include all legislation dealing with the public employees' retirement act.

4. Although not specifically within the scope of this study, the subcommittee recommends that the 1977 legislature consider further study of the public employees' retirement system with the following objectives:
- (a) Determine the liability of the unfunded liability of the system. (Is the state alone liable, since the system was created by the state legislature, or are all public employers liable?) This determination is important because, in the future, the bonding capacity and bond ratings of public employers may be affected by this outstanding liability.
 - (b) Determine the most appropriate method and time frame to eliminate, or at least contain, the unfunded liability of the system.
 - (c) Determine the possible impact of pending federal legislation to place public retirement systems under federal supervision and control. In this regard, the subcommittee expresses strong opposition to any federal supervision, regulation, or control of Nevada's public employees' retirement system.
 - (d) Continue to measure the impact the employer-paid program has on the retirement system and the question of a mandated versus optional program.

S. C. R. 33 - 1975 Session

EMPLOYER PAYMENT OF EMPLOYEE CONTRIBUTIONS
TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Interim Subcommittee

Senator Floyd R. Lamb, Chairman
Senator Gary A. Sheerin, Vice Chairman
Senator Mary Gojack
Assemblyman James J. Banner
Assemblyman Darrell H. Dreyer

Senate Concurrent Resolution No. 48—Committee on Government Affairs

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study and make recommendations relating to the impact of regulations by the health division of the department of human resources on the power of a local government to approve construction projects.

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is directed to study:

1. The statutory requirements of chapters 116, 117, 278, 444 and 445 of NRS as they confer regulatory authority upon the health division of the department of human resources;
2. The effect of the health division's regulations on local government's authority to approve or disapprove construction projects; and
3. The feasibility of placing with local governments the exclusive control over the approval or disapproval of any construction project; and be it further

Resolved, That the legislative commission report the results of the study and make appropriate recommendations to the 59th session of the legislature.

19  75

SUMMARY OF RECOMMENDATIONS

The subcommittee recommends that:

1. Cities and counties which have a building or public works department and have adopted a nationally recognized building code be required to enforce in place of the health division or a district board of health state regulations and local ordinances pertaining to the construction of mausoleums, crypts and similar structures within their respective jurisdictions. (BDR 40-85)
2. The state enforce only the federal regulations and only to the extent required by the federal law; that to the extent local enforcement is not inconsistent with the federal law, the governing bodies of the cities and counties be required to enforce federal indirect source regulations and local regulations that are at least as strict as the federal regulations. (BDR 40-86)
3. The subdivision review and approval authority of the state health division be exercised by a district board of health, city or county upon its request if the health division determines that these agencies are adequately staffed to conduct subdivision reviews. (BDR 22-84)
4. The tentative map of a proposed subdivision be approved, conditionally approved or disapproved by the state health division and the state division of water resources. (BDR 22-84)
5. The requirement for public service commission review and approval of the water supply facilities of a proposed subdivision be eliminated and that the state health division be required to certify to the commission after approving the final map that the subdivision satisfies commission regulations pertaining to flowing pressures at a utility's distribution main and installation and service connections to the utility's distribution system. (BDR 22-84)

6. The planning commission, the clerk of the governing body of a city or county or, when permitted by the governing body, the subdivider or any other appropriate agency be required to distribute copies of the tentative map and any accompanying data to all state and local agencies charged with reviewing a proposed subdivision. (BDR 22-84)
7. The planning commission report upon a tentative map should contain recommendations to the governing body for approval, conditional approval or disapproval. (BDR 22-84)
8. In any proceeding involving the disposition of land, the courts be required to consider lot size and other applicable zoning requirements before ordering a physical division of the land. (BDR 22-84)
9. Executive agency regulations adopted by appointed officials be approved by elected officials and that procedures allowing full opportunity for public participation in their adoption be strengthened. (no BDR)

S. C. R. 48 - 1975 Session

THE ROLES OF THE STATE HEALTH DIVISION AND
LOCAL GOVERNMENT IN APPROVING
CONSTRUCTION PROJECTS

Interim Subcommittee

Senator Eugene V. Echols, Chairman
Senator Helen Herr, Vice Chairman
Assemblyman Eileen B. Brookman
Assemblyman Virgil M. Getto
Assemblyman John E. (Jack) Jeffrey
Assemblyman John M. Vergiels

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study the financing of general improvement districts.

WHEREAS, The purpose of general improvement districts is to provide certain urban services to areas under development and not within established municipalities; and

WHEREAS, General improvement districts make possible the accumulation of capital and a revenue base to enable the construction of projects designed for the general health and welfare in such districts; and

WHEREAS, Whatever fiscal device is used to obtain financing for improvements, it is the present and future property owners who will ultimately pay for such improvements; and

WHEREAS, The boards of trustees of general improvement districts in the early stages when long-range fiscal commitments are made are often composed of the developers of land in such districts; and

WHEREAS, Such situations have great potential for conflicts of interest that will ultimately result in added financial burdens to the eventual property owners; and

WHEREAS, Boards of trustees have the power to levy ad valorem taxes and issue both revenue and general obligation bonds and short-term notes; and

WHEREAS, City and county governments are often required to assume the responsibility for correcting the results of poor judgment or fiscal mismanagement by general improvement districts; and

WHEREAS, It is in the interest of the State of Nevada that land development and improvement be completely in accordance with sound business practice and ethics that will allow no room for scandal or questioning of legal arrangements for such development and improvement; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission conduct a study of the methods of creating, governing and financing general improvement districts in Nevada, such study to include an assessment of abuses under chapter 318 of NRS, the potential for abuse and recommendations for strengthening the protections in that chapter; and be it further

Resolved, That the review of chapter 318 of NRS include an assessment of the relationship between the provisions of such chapter and the provisions of law relating to cities, counties and unincorporated towns; and be it further

Resolved, That a report of findings and recommendations be submitted to the 59th session of the legislature.

ABSTRACT

CREATION, FINANCING AND GOVERNANCE OF GENERAL IMPROVEMENT DISTRICTS

Assembly Concurrent Resolution 32 of the 1975 session grew out of the consideration of a number of bills dealing with general improvement districts and recognition of the fact that this form of government had received no systematic review by the legislature since 1959 when chapter 318 of NRS was created. Adding to the concern over special districts in Nevada were the much publicized fiscal difficulties of New York city. The 1975 legislature evidenced an anxiety about the fiscal health of Nevada local governments but especially about general improvement districts.

The 63 general improvement districts created or reorganized pursuant to chapter 318 of NRS range in services provided from a single service to most the 14 possible services. At least 32 general improvement districts provide only a single service. Of those, 17 provide only television service. At the other extreme, Incline Village General Improvement District provides almost all possible services and functions, in many respects, as does an incorporated city. As might be expected, district budgets also vary greatly, from a low of \$719 to a high of \$16.9 million. Thirty-six general improvement districts levy no ad valorem tax at all. Only five general improvement districts levy \$1 or more per \$100 of assessed valuation.

The subcommittee conducted public hearings in four locations around the state and held two work sessions. In addition, the subcommittee invested considerable effort in eliciting information and suggestions from a wide range of people knowledgeable on the subject, especially county commissioners, county officials and district trustees. It was the insight from these people closest to the operation of improvement districts that constituted the bases for most of the subcommittee's recommendations.

It became apparent to the subcommittee that there have been a number of districts created that are not financially sound, that are performing services that should be provided by counties or that have been created in close proximity to existing districts providing the same or similar services.

The first major decision by the subcommittee was to retain chapter 318 of NRS. The option of requiring that all improvement districts be subordinate county service districts was considered and rejected. The chapter 318 district provides a flexibility not otherwise available for dealing with local area problems. Based upon this determination, the subcommittee concentrated on improving the usefulness and workability of chapter 318 and of increasing the scope of responsibility of boards of county commissioners.

In addition, the subcommittee examined several other aspects of current law that affect general improvement districts. Changes in several of these laws are recommended with the intent that districts be treated in the same manner as other local governments in relations with the public service commission, the department of taxation and the courts. The subcommittee has also recommended the creation of a technical assistance capability to all local governments too small to obtain such expertise on their own. Finally, the subcommittee decided that the state should have the authority to monitor more closely local government finances and, if necessary, to intervene to protect the fiscal health of local entities.

SUMMARY OF RECOMMENDATIONS

This summary presents the major conclusions reached by the subcommittee. These conclusions are based upon suggestions that came from four public hearings, written communications to the subcommittee, staff research and the members' own experience. Background information can be found in the body of the report beginning at page 8.

The subcommittee recommends:

1. That chapter 318 of NRS be retained but that the criteria and circumstances for the use of chapter 318 provisions be narrowed and limited to those situations that require an independent service capability which cannot be provided by general purpose government. (BDR 25-74)
2. That counties under certain conditions be required to assume a continuing and active interest in the operation of general improvement districts and that counties be given, under certain specific circumstances, increased power to merge, consolidate, dissolve or adjust the boundaries of districts. (BDR 25-74)
3. That the legislative intent in chapter 318 of NRS be amplified to include the mandate that expansion of services or boundaries of existing general improvement districts, or the use of county subordinate service districts subject to an expanded chapter 244 of NRS, is preferable to the creation of additional districts. (BDR 25-74)
4. That chapter 318 of NRS be amended to:
 - a. Require a registration list of eligible district voters. (BDR 25-74)
 - b. Allow the right to vote in district elections to all district residents and remove the special right of nonresident property owners to vote in district elections. (BDR 25-74)
 - c. Require that district elections be conducted by the regular county election official or someone deputized by him. (BDR 25-74)

- d. Remove public service commission control over district utilities but provide for technical assistance by the PSC to districts, and assure that in the absence of PSC controls districts provide notice and hearings on utility rate changes. (BDR 25-72)
- e. Increase the scope of county general obligation bond commissions to include a review and approval of all types of debt of general improvements districts, and restructure the commissions to include representation from general improvement districts in the county. (BDR 25-74)
- f. Amend the foreclosure procedures for delinquent property within general improvement districts to bring them into line with such procedures for city and county government. (BDR 25-72)
- g. Exempt general improvement districts from court filing fees as are other political subdivisions. (BDR 25-71)
- h. Require that certain elected county officials provide the services of their offices upon request on a reimbursable basis to general improvement districts and that county commissioners provide the services of other county offices on the same basis. (BDR 25-71)
- i. Require that all general improvement district actions that could result in a foreclosure on property be properly noticed to property owners. (BDR 25-72)
- j. Lower the maximum debt limit for general improvement districts from 100 percent to 50 percent of assessed valuation and bring other debt procedures, such as those for revenue bonds, special assessment bonds and short-term borrowing, into line with those for cities and counties. (BDR 25-73)
- k. Require that any plans for improvements, subject to county approval pursuant to chapter 278 of NRS to be carried out within or partially within a general improvement district, be submitted to that district for review and comment prior to approval. (BDR 25-71)
- l. Provide in the legislative intent portion of chapter 318 that the chapter is not intended as a vehicle for financing commercial costs of developers. (BDR 25-74)

- m. Provide that areas subject to state or federal mandate for environment or health reasons must be annexed to general improvement districts with the ability to provide the services to meet such mandates, but that the costs of service extension should be assigned equitably to the annexed areas. (BDR 25-72)
5. That several existing chapters of NRS dealing with single-purpose special districts be repealed with the powers and duties in such chapters added to chapters 244 or 318. (BDR 25-74)
 6. That gasoline tax moneys distributed to counties for the unincorporated areas be distributed to road districts on the basis of the district's county road mileage related to the overall county road mileage. (BDR 25-71)
 7. That the existing powers in chapter 244 of NRS allowing counties to establish county improvement districts be expanded so that such dependent districts under direct county control can be used to operate and maintain a service as well as to establish it. Counties could still create local advisory boards for such districts. (BDR 25-74)
 8. That under limited circumstances of federal mandate or state mandate pursuant to a federal order for environment or health reasons, provide that a county can create a subordinate service district (chapter 244 of NRS) or a general improvement district (chapter 318 of NRS) in spite of the opposition of a majority of the property owners of the proposed district. (BDR 25-74)
 9. That in the event of a local government fiscal emergency, the state be provided powers to assist in avoiding defaults or other fiscal trauma. (Department of taxation bill)
 10. That the department of taxation develop a local government technical assistance capability in conjunction with the University of Nevada system. (BDR 31-75)
 11. That the exception in paragraph (c) of subsection 2 of NRS 308.020, which waives the requirement for a service district plan for general improvement districts proposed by boards of county commissions, be repealed. (BDR 25-74)

12. That legislation be requested by the department of taxation which will increase the fiscal accountability of districts and increase the enforcement powers of the department to insure that accountability.

A. C. R. 32 - 1975 Session

CREATION, FINANCING AND GOVERNANCE
OF GENERAL IMPROVEMENT DISTRICTS

Interim Subcommittee

Assemblyman Jean Ford, Chairman
Assemblyman Robert G. Craddock, Vice Chairman
Senator Gary A. Sheerin
Assemblyman Robert M. Benkovich
Assemblyman Don A. Moody

Assembly Bill 29 of the 1975 session changed the composition of the dairy commission and made other changes in the law related to the commission. The interim study was directed by section 16 of the bill shown below.

Assembly Bill No. 29—Assemblymen Mann, Mello, Lowman, Wittenberg, Dreyer, Demers, Vergiels, Bennett, Bremner, Chaney, Sena, Polish and Schofield

CHAPTER 724.....

AN ACT relating to dairy products and substitutes; altering the composition and duties of the state dairy commission; providing for an executive director of the commission to be in the unclassified service of the state; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SEC. 16. The legislative commission shall make a comprehensive study of the problems confronting the dairy industry in Nevada and the related effects upon the consuming public, including:

1. The handling and transportation of fluid milk and other dairy products as these affect marketing areas in Nevada;
2. Operating procedures and efficiency of producers, distributors and retailers in the dairy industry; and
3. The obligations of the dairy industry to the people of Nevada, and report the results of its study and recommend any appropriate legislation to the 59th session of the legislature.

ABSTRACT

PROBLEMS CONFRONTING THE DAIRY INDUSTRY

Assembly Bill 29 of the 58th session of the Nevada legislature was introduced originally to abolish the dairy commission. In its final form, the bill restructured the existing dairy commission so that it is now balanced between four dairy industry members and four consumer members. Section 16 of A.B. 29 directed the legislative commission to "make a comprehensive study of problems confronting the dairy industry in Nevada and the related effects upon the consuming public."

The legislative commission appointed a subcommittee to carry out the study and its first order of business was to set forth priorities for the interim study. They were as follows:

1. Justification for the existing dairy commission;
2. Composition of the dairy commission;
3. Appropriate levels of price control, if any, on milk; and
4. Relationship of federal milk marketing orders to dairy cooperatives.

In pursuing these goals, the subcommittee held public hearings in Carson City and Las Vegas. Information was sought from milk producers, distributors, retailers and consumers. Questionnaires on the major issues emerging from the hearings were sent to members of the dairy industry. The subcommittee also met in joint session with members and staff of the dairy commission. At various times in the interim period, the chairman and staff of the subcommittee attended hearings of the dairy commission.

Of major importance to subcommittee deliberations were the Attorney General's 1975 "Report on the Nevada Dairy Commission" and the legislative auditor's report on the dairy commission

for the fiscal year ending June 30, 1975. The Attorney General's report came out in response to reports of illegal activities by wholesalers and retailers in the dairy industry. That report focused on failures of the state dairy commission to carry out its duties, especially with regard to policing an industry allegedly involved in unfair trade practices. The legislative audit's comparison of the dairy commission's duties with its financial resources was also valuable to the subcommittee.

After reviewing information from public hearings and reports, the subcommittee concluded that the existence of the state dairy commission is justified to protect the Nevada dairy industry and the public interest. One of the major factors influencing the subcommittee's decision was the desire to retain state control over milk marketing in Nevada.

In light of the controversy surrounding the commission and recent reports on its performance, the subcommittee mandated a complete reevaluation of the commission by the 1979 legislature. If the agency cannot justify its existence at that time, the subcommittee recommends that it be abolished.

In the judgement of the subcommittee, many of the current problems facing the Nevada dairy industry would be resolved if the dairy commission were to be restructured as a board of three non-industry members with expertise in agricultural economics, accounting and finance. The subcommittee believed that the decision on setting minimum milk prices or not and at what level should be left to the proposed panel of experts. The other major decisions of the subcommittee were to recommend that the dairy commission's funding be increased by additional assessments on the industry and that the maximum penalty for violations by the industry be increased.

SUMMARY OF RECOMMENDATIONS

1. The continued existence of the dairy commission is justified to protect the dairy industry and the public interest in the State of Nevada.
2. All Nevada Revised Statutes provisions relating to the state dairy commission expire effective July 1, 1979.
(BDR 51-101)
3. The dairy commission be restructured as follows:
 - (a) The commission will be made up of three members, one each who has a background in agricultural economics, accounting and finance or banking, and none of whom is connected to the dairy industry.
 - (b) The commission will operate much as the present dairy commission with part-time commissioners and full-time staff.
 - (c) Commission members will be appointed by the governor for a term of 3 years on a staggered basis. The first three-member commission to be appointed as follows:
 - (1) One member for 1 year.
 - (2) One member for 2 years.
 - (3) One member for 3 years.A new member can be appointed or an old member can be reappointed as each members's term of office expires.
4. The governor shall have the authority to remove commission members for malfeasance in office or neglect of duties.
(BDR 51-101)

5. The following changes in assessment rates for dairy products be made:
- (a) Assessments paid by distributors on butter be increased from one-half cent per pound to 1 cent per pound.
 - (b) Assessments paid by distributors on ice cream, sherbert and ice cream or ice milk mixes be increased from 2 cents per gallon to 4 cents per gallon.
 - (c) Assessments paid by distributors on cottage cheese be increased from one-fourth cent per pound to one-half cent per pound.
 - (d) Yogurt shall be assessed at the rate of one-half cent per pound.

BDR 51-101)

6. The powers and duties of the executive director will be as follows:
- (a) The executive director will be given authority to hire and fire staff members.
 - (b) The executive director will not be the hearing officer. The three commissioners will sit as hearing officers with two concurring on any affirmative action.
 - (c) All other powers and duties of the executive director, as provided in the statutes, will remain the same.

BDR 51-101)

7. The hearing procedures for an amendment or termination of a stabilization and marketing plan provide:
- (a) The commission may hold a hearing at any time.
 - (b) The commission is required to hold a hearing if a proper petition is presented.

- (c) The requirement that a petition be signed by not less than 55 percent of the producers be eliminated.
- (d) Notice of hearing must be sent to the consumer affairs division, department of commerce; and, the consumer affairs division given authority, through petition to intervene and testify at any dairy commission hearing.
- (e) After notice of hearing has been given, the hearing will proceed by the applicant's testifying first with the burden of proof and then the commission staff will respond.

(BDR 51-101)

8. The dairy commission staff should be utilized as follows:

- (a) The dairy commission should use the services of the attorney general, rather than employ independent legal counsel.
- (b) The dairy commission is mandated to set standards of developing cost criteria and drawing regulations.
- (c) The staff of the dairy commission will present evidence and background information at hearings.

(BDR 51-101)

- 9. The dairy commission be given the authority, but not the mandate, to set minimum prices at any or all levels of the dairy industry. If the commission chooses to set statutory minimum prices, existing guidelines should be followed. (BDR 51-101)
- 10. A resolution be drawn memorializing the U.S. Congress to enact H.R. 9498. (BDR 102)
- 11. Penalties for violations pertaining to the dairy industry in NRS should be changed so that penalties can be imposed up to \$1,000 per violation, with discretion given to the minimum amount fined. (BDR 51-101)

12. The dairy commission be notified of its sentiments regarding disposition of money received or forthcoming as a result of the attorney general's recent investigations into illegal practices in the dairy industry. In the subcommittee's opinion, that money should not be spent by the dairy commission for any purpose.
13. Legislation be enacted transferring to the general fund any money collected by the state dairy commission pursuant to the complaints of the attorney general filed April 5, 12, 19 and 26 of 1976. (BDR 51-101)

A. B. 29 - 1975 Session

PROBLEMS CONFRONTING THE DAIRY
INDUSTRY

Interim Subcommittee

Assemblyman Lawrence E. Jacobsen, Chairman
Senator Jack Schofield, Vice Chairman
Senator Richard H. Bryan
Assemblyman Virgil M. Getto
Assemblyman Lloyd W. Mann
Assemblyman Robert E. (Bob) Price

Assembly Concurrent Resolution No. 47—Assemblymen Getto, Bremner, Howard, Weise, Jacobsen, Demers, Hayes, Dini, Hickey, Lowman, Ford, Wagner, Sena, Young and Craddock

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study the feasibility of providing general funding for the support of the Nevada department of fish and game.

WHEREAS, The pattern established in the early part of this century in the field of conservation was for hunters and outdoorsmen to support conservation and wildlife programs; and

WHEREAS, In that era, hunting, camping and enjoyment of wilderness areas was limited to upper income groups; and

WHEREAS, In an earlier period, it was appropriate that those who enjoyed the outdoors and who hunted animals and birds and fished streams and lakes should shoulder the economic burden of supporting wildlife conservation and management programs; and

WHEREAS, In modern America, great numbers of us have camping equipment, campers and the time and money to enjoy our outdoor areas; and

WHEREAS, It has become well recognized that we are all part of a natural life-support system including humans, flora, fauna and the natural elements; and

WHEREAS, The protection of the natural ecology is of importance to everyone, not just hunters and fishermen, and ever-increasing numbers enjoy the outdoors and its natural residents; and

WHEREAS, It appears unfair and indefensible that one segment of the population should support through specific fees species and life systems important to everyone and enjoyed by far more than those who presently finance the Nevada department of fish and game; and

WHEREAS, The present system of funding the Nevada department of fish and game from license fees and federal funds is becoming increasingly inadequate for the purpose of protecting the wildlife of the state; and

WHEREAS, The proper and adequate funding methods are not readily apparent, although it is obvious that some changes are in order; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission study the feasibility of general funding to support the Nevada department of fish and game; and be it further

Resolved, That the legislative commission should include on a subcommittee to study this matter representatives of the Nevada department of fish and game; and be it further

Resolved, That the results of the study and any recommended legislation should be reported to the 59th session of the legislature.

ABSTRACT

GENERAL FUNDING FOR THE SUPPORT OF THE NEVADA DEPARTMENT OF FISH AND GAME

Traditionally, state wildlife programs in the United States have been primarily supported by sportsmen through the purchase of fishing and hunting licenses, tags and permits. Nevada is no exception. The Nevada department of fish and game receives the majority of its support from license revenue. License revenue in recent years has not been sufficient to match fully federal funds available to Nevada for wildlife programs nor to expand existing programs and develop new programs needed to relieve the pressures placed on wildlife by an expanding population oriented toward outdoor recreation. In recognition of these factors, Assembly Concurrent Resolution No. 47 directed the legislative commission to study the feasibility of providing general funding support for the department of fish and game. The subcommittee assigned to this study focused its attention on the department's financial status, general funding experience of other states, the effect of general funding on the receipt of federal funds and public opinion concerning general funding of wildlife programs.

The subcommittee held three public hearings, two in Reno and one in Las Vegas, to obtain testimony from the Nevada department of fish and game, state board of fish and game commissioners, the state fish and game advisory board, the county game management boards, sportsmen and conservation organizations and the general public.

The findings of the subcommittee are summarized as follows:

1. The trend in license income versus the increased cost of programs has resulted in a reduction or status quo in some programs and the elimination of the land acquisition program.

2. The increases in license income each year has been less than needed because of the reduction in sales because of declining game in the field, especially deer, and inflation.
3. The legislative license fee increase authorized in 1975 was expected to generate \$350,000 annually in additional revenue; however, due to reason number 2 above, the license fee increase is expected to generate only \$76,000 annually. This was based on the department's 1976 collections to date figures.
4. A further reduction in license revenue of \$100,000 is expected because of the commission's decision to institute a statewide deer harvest quota in the coming years.
5. Future legislative license fee increases will probably not generate the additional revenue needed as was demonstrated by the 1975 license fee increase.
6. The amount of license revenue and other dedicated revenues available to match Pittman-Robertson and Dingell-Johnson federal funds is steadily decreasing because of the smaller percentage growth in these revenues in relation to federal funds and inflation.
7. In recent years, the department has been unable to match fully each year's federal apportionment. The federal funds apportionment forward, therefore, is steadily increasing to where eventually current year dedicated funds used to match previous year's apportionments will no longer be sufficient, resulting in a lapsing of federal funds.
8. Fish and game programs eligible for federal funding are the same programs providing benefits to the general public.
9. Appropriation of general funds to match federal funds apportioned would be allowing the general public to help support fish and game programs that benefited them. Additionally, for every one state dollar spent, three federal ones are realized.

10. The subcommittee found very little support from those testifying for the department of fish and game for the department's becoming a total general funded agency and depositing its license revenue to the general fund.
11. The department's current financial problem if not corrected, will result in loss of revenue to communities with an economy partially dependent on the "fish and game" industry.
12. There was considerable support from those testifying for general funding of nongame and environmental activities because it would benefit the public at large.
13. Sportsmen strongly resented the use of their license revenue as being the sole support for fish and game programs which also benefit the general public.
14. Hunters and fishermen did agree that they should continue to support fully their programs from license revenue.

SUMMARY OF RECOMMENDATIONS

The subcommittee recommends that:

The legislature should provide general fund support to the department of fish and game in an amount sufficient to match the federal funds apportioned annually to the State of Nevada under the Pittman-Robertson and Dingell-Johnson Acts in order to help the state meet the obligations of fish and game management, including, but not limited to: (1) wildlife research; (2) acquisition and management of wildlife habitat; (3) nongame and rare and endangered species management research and protection; (4) environmental impact evaluations; (5) firearms safety education; and (6) capital construction.

A. C. R. 47 - 1975 Session

GENERAL FUNDING FOR THE SUPPORT OF THE
NEVADA DEPARTMENT OF FISH AND GAME

Interim Subcommittee

Senator Warren L. Monroe, Chairman
Assemblyman Robert E. Robinson, Vice Chairman
Senator William J. Raggio
Assemblyman Roger Bremner
Assemblyman Virgil M. Getto
Assemblyman Lawrence E. Jacobsen
Assemblyman John Polish

Senate Concurrent Resolution No. 38—Committee on Environment
and Public Resources

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the feasibility of establishing a regional water and sewer district to encompass certain areas of Washoe County.

WHEREAS, In certain areas of Washoe County, growth of population and increased tourism may place demands on water and sewer systems which cannot be met without adequate planning by the several areas affected; and

WHEREAS, The interests and requirements for water and sewer treatment facilities of the area of Washoe County encompassing the Truckee Meadows, Lemmon Valley, Verdi, Washoe Valley, Sun Valley and Panther Valley are so interrelated as to merit consideration as to the feasibility of creating a regional water and sewer district; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is hereby directed to conduct a study to determine the feasibility of establishing a regional water and sewer district for the area of Washoe County south to the Carson City line and west to California, including the Truckee Meadows, Lemmon Valley, Verdi, Washoe Valley, Sun Valley and Panther Valley; and be it further

Resolved, That such study shall explore the powers and responsibilities which a regional district of this nature would require in order to properly serve the water and sewer needs of the people of the proposed district; and be it further

Resolved, That the legislative commission is directed to report the results of such study, including any recommended legislation, to the 59th session of the Nevada legislature.

SUMMARY OF RECOMMENDATIONS

1. The governing bodies of local governments in the area of Washoe County which encompass the Truckee Meadows, Lemmon Valley, Verdi, Washoe Valley, Sun Valley and Panther Valley and the Washoe Council of Governments should hold meetings to determine if the residents of those areas would be better served by a regional water and sewer district. Such determination should also include the powers and responsibilities a regional district would require in order to serve properly the water and sewer needs of the people of the proposed district.
2. If the governing bodies determine that a regional water and sewer district is required, they should utilize existing statutory provisions to accomplish these purposes.
3. If the governing bodies determine that legislation is needed, the proposed legislation should be recommended jointly by all of the local governments so that the recommendations are compatible to all of the local governments.

S. C. R. 38 - 1975 Session

REGIONAL WATER AND SEWER IN
WASHOE COUNTY

Interim Subcommittee

Senator Thomas R. C. Wilson, Chairman
Assemblyman Patrick M. Murphy, Vice Chairman
Senator C. Clifton Young
Assemblyman Chester S. Christensen
Assemblyman Sue Wagner

Senate Concurrent Resolution No. 37—Committee on Legislative Functions

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study problems related to the state permanent school fund.

WHEREAS, Section 3 of article II of the constitution of the State of Nevada pledges proceeds from certain sources for educational purposes and specifies that they not be used for other purposes; and

WHEREAS, Chapter 387 of the Nevada Revised Statutes provides a framework for the administration of these proceeds within a fund known as the state permanent school fund; and

WHEREAS, The legislative commission directed that a financial postaudit of the state permanent school fund be accomplished by the legislative auditor; and

WHEREAS, The legislative auditor initiated a financial postaudit of the state permanent school fund but reported to the legislative commission that he was unable to perform a financial postaudit because of lack of sufficient legal definitions, fragmented administration of the fund, violations of statutes, conflicting statutes and dated statutes; and

WHEREAS, The judgments required to establish solutions to the problems set forth by the legislative auditor are properly the prerogative of the legislature, since these problems affect agencies of state government and various local governments; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is hereby directed to study the problems related to the state permanent school fund, such study to include:

1. A determination of the purpose of the state permanent school fund; and
2. Constitutional or statutory revisions necessary to achieve such purpose;

and be it further

Resolved, That the legislative commission report the results of the study to the 59th session of the legislature, together with any recommendations for necessary and appropriate legislation.

ABSTRACT

PROBLEMS RELATED TO THE STATE PERMANENT SCHOOL FUND

In 1974 the legislative commission directed the legislative auditor to make a financial postaudit of the state permanent school fund. The audit for fiscal 1974 was completed in February 1975. The auditor was unable to express an opinion on the financial condition of the fund because of "fragmented administration, violations of statutes, conflicting statutes, dated statutes, and inconsistent criteria for the remittance of penal fines." Appendix A to this report contains pertinent excerpts from the audit report--the "Environment of Operations" and "Legislative Study."

The auditor recommended that the legislature conduct a study of the state permanent school fund to recommend resolution and correction for the deficiencies noted in the audit report. S.C.R. 37, 1975, directed the legislative commission to study the problems related to the state permanent school fund including a determination of the purpose of the fund and constitutional or statutory revisions necessary to achieve such purpose.

The state permanent school fund was developed as a result of federal lands donated to Nevada with the stipulation that the proceeds from the sale of these lands be used for the benefit of public schools. The fund is an irreducible fund with income invested by the state board of finance and earnings deposited to the distributive school fund. Of 2.6 million acres donated to Nevada, there remains 2,976 acres open. Since 1965, the legislature has placed a moratorium on the sale, lease or exchange of open lands. The land contracts of sale outstanding are small (13,000 acres representing \$22,846). The fund balance is approximately \$11 million and the current major source of income is fines remitted from Nevada justice courts--\$568,000 in fiscal 1975. Investment earnings to the distributive school fund in fiscal 1975 were \$755,000. The

administration of the fund is somewhat fragmented, some statutes relating to fund administration are obsolete, and the several counties are not using a consistent criterion in the remittance of penal fines.

SUMMARY OF RECOMMENDATIONS

The subcommittee recommends the following:

1. The basic operation of the permanent school fund remains as established in the constitution and defined in NRS. That is, the fund remains irreducible with corpus earnings deposited to the distributive school fund.
2. Amend section 3 of article 11, of the Nevada constitution, (a) to delete escheated estates and fines collected under penal laws of the state as permanent school fund income and (b) to delete the references to agricultural loans. (BDR C-23)
3. Amend NRS 387.020 to delete the requirement that the board of examiners be physically present when the state treasurer clips the coupons on permanent school fund securities. The requirement is not followed in practice and appears obsolete. (BDR 34-24)

S. C. R. 37 - 1975 Session

PROBLEMS RELATED TO THE STATE
PERMANENT SCHOOL FUND

Interim Subcommittee

Assemblyman Donald R. Mello, Chairman
Senator B. Mahlon Brown, Vice Chairman
Assemblyman Roger Bremner
Assemblyman Melvin B. (Bode) Howard

Assembly Concurrent Resolution No. 8—Assemblymen Getto, Ford and Wagner

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study sexual discrimination in Nevada law.

WHEREAS, The 92d Congress of the United States of America has proposed a constitutional amendment providing that equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex; and

WHEREAS, The legislatures of a large number of states have ratified the proposed constitutional amendment; and

WHEREAS, Discrimination based on sex has come under close judicial scrutiny; and

WHEREAS, It is presently undetermined which constitutional and statutory provisions of Nevada law are based upon suspect sexual differentiation and which of such provisions might be modified to retain their basic features while eliminating their sexual bias; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission is hereby directed to study constitutional and statutory provisions of Nevada law to discover which of them discriminate between persons on the basis of their sex, and to report the results of such study and submit appropriate recommendations and suggested legislation to the 59th session of the Nevada legislature; and be it further

Resolved, That the legislative commission consider appointing a citizens' advisory committee to assist with this study.

SUMMARY OF RECOMMENDATIONS

Almost the entire 16 pages of narrative of this report are the recommendations of the citizens' advisory committee studying sexual discrimination in Nevada's laws. It would serve no purpose to reproduce that material here. The reader is referred to Bulletin 77-16.

A. C. R. 8 - 1975 Session

RECOMMENDATIONS BY THE CITIZENS' ADVISORY
COMMITTEE STUDYING SEXUAL DISCRIMINATION
IN NEVADA'S LAWS

Membership of the Citizens'
Advisory Committee

Mrs. Charlotte McCourt, Chairman
Mrs. Peggy Westall, Vice Chairman
Mrs. Adelene Bartlett
Mrs. Julie Bouck
Mrs. Kate Butler
Mrs. Mary Edwards
Mrs. Molly Hyer
Mrs. Joan Kenny
Mrs. Lorna Kesterson
Mrs. Ione Minister
Mr. John Pilkington
Mrs. Judy Lunn Roze
Mrs. William Saxton
Mrs. Lorraine Scatena
Mrs. Barbara Weinberg
Miss Cheryl Yee

Assembly Concurrent Resolution No. 14—Assemblymen Dini, Ford, Murphy,
Benkovich, Getto, Coulter, Barengo, Wagner, Heaney, Hayes and Hickey

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing legislative commission to
cause the director of the legislative counsel bureau to conduct a review of
regulations of agencies of the executive branch of state government.

WHEREAS, The Nevada Administrative Procedure Act authorizes certain agencies of the executive branch of state government to adopt reasonable regulations to aid them in carrying out their functions assigned by law and to adopt such other regulations as are necessary to the proper execution of those functions; and

WHEREAS, The regulations adopted by agencies, if adopted and filed in accordance with the Nevada Administrative Procedure Act, have the force of law; and

WHEREAS, All regulations adopted and used by an agency in the discharge of its function shall be available for public inspection; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission cause the director of the legislative counsel bureau to conduct a review in order to determine:

1. The agencies that have regulations in force;
2. The method used by such agencies in adopting, amending or repealing regulations;
3. The availability of the agencies' regulations to the general public; and
4. The content of existing regulations to determine whether they are in conformance with legislative policy; and be it further

Resolved, That the director of the legislative counsel bureau report his findings to the legislative commission; and be it further

Resolved, That the legislative commission report the results of such review and submit appropriate recommendations and suggested legislation to the 59th session of the Nevada legislature.

SUMMARY OF RECOMMENDATIONS

(Bulletin 77-17 does not contain a separate summary of recommendations. The following recommendations were extracted from the "Suggested Remedies" section of the bulletin.)

1. NRS 233B.040 should be amended to clarify that all authority to adopt substantive regulations depends upon an express legislative grant. (BDR 18-107)
2. The regulations should be codified to facilitate finding a particular subject and assure that the regulation found is current. (BDR 18-107)
3. The legislative commission should be authorized to review a regulation for its consistency with legislative intent, and suspend the effectiveness of an inconsistent regulation unless a court declares it valid. A regulation would be so reviewed if its inconsistency appeared during codification, or on complaint of a person affected or any legislator. (BDR 18-107)
4. The provisions in NRS that are duplicative of the Administrative Procedure Act and which constitute unnecessary references should be removed to improve the consistency of NRS. (BDR 18-107)

A. C. R. 14 - 1975 Session
REVIEW OF REGULATIONS OF EXECUTIVE
AGENCIES

Staff Study
Legal Division

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study the state election laws and to make a report of the results of the study with recommendations for proposed legislation to the next regular session of the legislature.

WHEREAS, Nothing is more fundamental to the strength of democratic government than the integrity of the election process; and

WHEREAS, The integrity of the election system is dependent upon the clarity, scope and precision of election laws; and

WHEREAS, Technological changes and actual usage both point to aspects of existing election law which are in need of reform; and

WHEREAS, The 1972 study of election laws addressed neither the question of recounts in close elections nor the use of electronic data processing in elections; and

WHEREAS, Election law is a complex entity of numerous interlocking and interdependent segments which should be changed only after understanding the overall impact of any change; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission is hereby directed to make a study of state election law, giving particular attention to the provisions for recounts in certain elections and to the use of electronic data processing in both voting and in counting votes, enlisting in such study the aid of two county election officials and two members of the public familiar with the election laws, from any four counties in the state, and to report the results of that study and recommend any appropriate legislation to the 59th regular session of the legislature of the State of Nevada.

SUMMARY OF RECOMMENDATIONS

The staff report on state election laws recommends that:

1. The monetary limitations on candidates' campaign expenditures be removed and the requirements relating to media advertising be consolidated and relaxed for constitutional and other reasons. (BDR 24-103)
2. The obsolete provisions and references concerning voting machines be eliminated to simplify and modernize the election laws. (BDR 24-104)
3. A system of random arrangement for candidates' names on ballots be established to give every candidate a chance to secure an advantageous ballot position and thus avoid persistent discrimination. (BDR 24-105)
4. An exception be made to the cutoff date for change of party affiliation by a prospective candidate where the change is to a subsequently qualified party; the state bear the cost of newspaper publication of statewide ballot questions; the deadline for mailing sample ballots be extended; the activities of deputy registrars be made subject to additional controls; provisions be added to insure voting secrecy; certain general repealing clauses be discarded and the applicability of specific provisions be clarified; and improvements be made to various other provisions. (BDR 24-106)

A. C. R. 24 - 1975 Session

STATE ELECTION LAWS

Staff Study

Legal Division

Senate Concurrent Resolution No. 30—Committee on Government Affairs

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the records retention procedures of local governments.

WHEREAS, Chapter 239 of NRS provides records retention and management procedures for the state and local governments; and

WHEREAS, That chapter in large part dates from the last century with patchwork amendments over the years; and

WHEREAS, It is essential that certain local government records be retained and available to the public; and

WHEREAS, Technology now allows filming of records which facilitates storage as well as retention and which allows destruction of bulky, space-taking original records; and

WHEREAS, Chapter 239 of NRS is inconsistent with recognized records retention practice and technology; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission study records retention in Nevada, such study to include a review of present local government records retention policy and a review of chapter 239 of NRS; and be it further

Resolved, That the results of the study and any recommended legislation be submitted to the 59th session of the legislature.

ABSTRACT

RECORDS RETENTION PROCEDURES OF LOCAL GOVERNMENTS

The 1975 legislature considered several bills dealing with records retention practices. This consideration made it apparent that the knowledge of actual practices and problems at the local level was inadequate. Members received some complaints about the provisions of chapter 239 of NRS but no consensus existed concerning either the problems or solutions.

The legislative commission determined that expertise in the technical aspects of records management, records retention and determination of historical value was required for the conduct of the study. This expertise was provided, upon request, by the division of state, county and municipal archives of the office of the secretary of state in the person of the division director, Mr. Frederick C. Gale.

The archives and the office of research of the legislative counsel bureau determined that the study could logically be divided into three segments. The first segment consisted of visits to every county seat in the state as well as several cities in addition to county seats. The second segment of the study consisted of compiling the various problems and suggested solutions that we received in meetings throughout the state, putting them into a single questionnaire and sending them out to all of the participants from the various meetings for individual responses. The third segment operated concurrently with the other two. It was a detailed review of chapter 239 of NRS as directed in the resolution. This review was undertaken initially prior to any of the meetings. After the meetings were completed, the chapter was reviewed again in light of comments from the meetings.

The results of the three parts of the study led to the conclusion that chapter 239 of NRS is basically a sound guide for records retention, that, in general, the problems in records

retention are found in the offices of county clerk and county recorder-auditor and that there are problems in records retention which can be summarized as follows:

- a. Lack of adequate storage facilities.
- b. Inadequate statutory guidance on what records should be retained and for how long.
- c. Costs of microfilming in terms of initial filming, reading and storage.
- d. Lack of expert assistance and the consequent inability to determine historical value.

Relying primarily on the suggestions and recommendations of the local officials most closely involved, the study was able to come to several conclusions about ways to improve local government records retention procedures. These include clarifying the law concerning ownership of documents deposited in the archives, technical assistance and microfilming assistance to local governments by the state and establishing the right of the archives to refuse documents of no vital, permanent or historic value.

SUMMARY OF RECOMMENDATIONS

1. Local governments should be provided with more specific guidelines concerning what public documents and records should be retained and for what lengths of time. (BDR 19-80)
2. A state microfilming service should be made available to local governments, especially small entities, and the service should be at cost. (BDR 19-80)
3. The state archives should be staffed and funded to provide regular technical assistance to local governments. (No BDR--action at budget consideration.)
4. Local governments should be guaranteed the right to reclaim any records that they have deposited in the state archives. (BDR 19-80)
5. The state archives should have the right to refuse records for storage which have no historic value and which are neither vital nor permanent. (BDR 19-80)

S. C. R. 30 - 1975 Session
RECORDS RETENTION PROCEDURES
OF LOCAL GOVERNMENTS

Staff Study
Office of Research

Senate Concurrent Resolution No. 31—Committee on Government Affairs

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing legislative commission to study intergovernmental payments.

WHEREAS, State, local and federal governments are enmeshed in a web of fiscal relationships; and

WHEREAS, Federal money goes to states, to local governments through states and to local governments directly; and

WHEREAS, State money goes to counties, to cities through counties and to cities directly; and

WHEREAS, Money collected by local governments from fines, fees and taxes are transferred to state government; and

WHEREAS, There are very likely administrative inefficiencies present in a system of uncoordinated money transfers from several programs; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission study the intergovernmental transfers of money with the intent of assessing the possibility of using offsetting entries as opposed to actually transferring funds; and be it further

Resolved, That the results of the study and any recommended legislation be reported to the 59th session of the legislature.

19  75

ABSTRACT

STUDY OF INTERGOVERNMENTAL PAYMENTS

The study was conducted as a result of Senate Concurrent Resolution No. 31 of the 1975 session. The resolution directed the study of "intergovernmental transfers of money with the intent of assessing the possibility of using offsetting entries as opposed to actually transferring funds."

That the state had an unwieldy system for handling intergovernmental payments was a foregone conclusion. Various aspects of the problem have been pointed out in studies, audit reports and testimony before legislative committees. However, this study marked the first time that an attempt was made to pull together the data necessary to assess the nature of the problem and the steps necessary for correction.

It was found that improvements in the system in some instances require only administrative action. In other cases, changes in the law are required. In either instance, it is first necessary to identify problem areas, identify better courses of action and determine how to implement the desired changes. The study, therefore, points out actions that can be taken immediately, a method for making fundamental changes in the system and areas for further study and followup.

SUMMARY OF RECOMMENDATIONS

It is recommended that:

1. The State of Nevada continue to develop and implement a system for transferring moneys to school districts by making direct deposits to school district accounts.
2. The State of Nevada continue to develop and implement a system for transferring moneys to cities by making direct deposits to city accounts. It may be feasible to reduce the clerical effort associated with making payments to the cities by transferring estimated amounts of money monthly and making periodic adjustments. Experimentation with state-county payments should serve to test this feasibility.
3. Legislation be enacted to permit the State of Nevada and Washoe County to enter into a pilot project to test the concept of establishing a system of offsetting payments as opposed actually to transferring cash. (BDR 5-233)
4. An interim study of gaming, including gaming revenues and their intergovernmental transfers, called for by the legislative auditor be conducted.
5. The legislature should consider alternatives to the current system of boat licensing which is inconvenient to boat owners and which gives rise to a duplication of record-keeping and processing.
6. The legislature should review the system for the handling of Taylor grazing fee moneys which currently are deposited in 24 funds in 15 counties for the benefit of six grazing districts.

S. C. R. 31 - 1975 Session
STUDY OF INTERGOVERNMENTAL PAYMENTS

Staff Study
Office of Fiscal Analysis

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study and explore courses of action which the Nevada legislature could take to encourage the creation and retention of private and community foundations in our state.

WHEREAS, Since the beginning of our history, private foundations and charitable associations have generously contributed to public morals and welfare in diverse fields such as medicine, education, agriculture and in other eleemosynary pursuits; and

WHEREAS, Philanthropies occupy a unique position as private organizations which promote the public welfare in our society; and

WHEREAS, The growth trend for private foundations has slowed in recent years and the termination rate of existing foundations has quickened; and

WHEREAS, In a time when financial crisis is causing the Federal Government and the State of Nevada to curtail spending, society can ill afford to see its private organizations of charity weakened; and

WHEREAS, The relationship between government and private foundations is based on the reciprocity of benefits which accrue to each in the form of additional social services provided for the public benefit in return for tax benefits to foundations; and

WHEREAS, Nevada taxpayers sacrifice tax revenues so that charitable associations and foundations can devote funds to the service of the people of our state; and

WHEREAS, Private foundations in Nevada expend millions of dollars each year in grants for higher education, medical research, conservation efforts and for many other meritorious civic and educational projects; and

WHEREAS, It is important to Nevadans to assure the continuation of private foundations and charities which bring goodwill, expertise and financial assistance to bear on many of the problems of our state; and

WHEREAS, The tax laws of the State of Nevada have, in a great measure, been responsible for attracting persons of wealth to the State of Nevada as residents; and

WHEREAS, This situation has been of great advantage to the State of Nevada, its institutions and citizens as a result of charitable contributions from such persons and the creation of private foundations; and

WHEREAS, It is of great importance to the State of Nevada to continue to encourage such persons to come to our state and become Nevada residents; and

WHEREAS, It is essential that the State of Nevada encourage the creation and retention of private and community foundations; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission is hereby directed to study and explore possible courses of action which the legislature of the State of Nevada could take to encourage the creation and retention of private and community foundations in our state; and be it further

Resolved, That the legislative commission shall report the results of its study, with any recommended legislation, to the 59th session of the legislature.

SUMMARY OF RECOMMENDATIONS

(Bulletin 77-21 does not contain a separate summary of recommendations. The following recommendations were extracted from the "Methods to Encourage Formation and Retention of Foundation in Nevada" section of the bulletin.)

It is recommended that:

1. NRS 163.550 be amended to clarify the authority of the court to terminate private foundation status thereby enabling conversion to a community foundation.
2. A broadbased governor's committee representative of both public and private organizations be created to arouse interest in creation of an appropriate community foundation and to coordinate efforts to that end.

A. C. R. 67 - 1975 Session

STUDY OF WAYS OF ENCOURAGING PRIVATE
AND COMMUNITY FOUNDATIONS

STAFF STUDY

Legal Division