

*Summary Bulletin*  
*of*  
*Reports of the Legislative Commission*  
*to the 69th Session of the*  
*Nevada Legislature*



*Legislative Counsel  
Bureau*

*Bulletin No.  
97-1*

*January 1997*



## SUMMARY BULLETIN 1997

### INTRODUCTION

This bulletin summarizes 15 study reports which were completed in 1996 for consideration by the 1997 Nevada Legislature. The *Summary Bulletin* serves two primary purposes: (1) it provides a brief outline of the work of each interim committee or subcommittee, so that legislators and interested parties may become familiar with the various studies, issues, and resulting recommendations; and (2) it is a reference tool to facilitate and encourage the use and understanding of the individual reports it summarizes.

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

Of the 15 study reports in this publication, 8 were directed by concurrent or joint resolutions approved during the 1995 Legislative Session. The studies conducted by the Committee on Health Care, the Committee on Public Lands, the Committee on High-Level Radioactive Waste, the Committee on Workers' Compensation, and the Review of Base Budgets were authorized by laws appearing in NRS. The studies concerning Claims for Medical Malpractice and State Regulations that Affect Business and Economic Development were initiated by special acts of the Legislature.

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

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



## **LEGISLATIVE COMMISSION**

Senator Randolph J. Townsend, Chairman  
Senator Ann O'Connell, Vice Chairman

## **SENATE**

Senator Ernest E. Adler  
Senator Lawrence E. Jacobsen  
Senator Joseph M. Neal, Jr.  
Senator Dina Titus

## **ASSEMBLY**

Assemblyman John C. Carpenter  
Assemblyman Joseph E. Dini, Jr.  
Assemblywoman Chris Giunchigliani  
Assemblywoman Joan A. Lambert  
Assemblyman Richard Perkins  
Assemblywoman Jeannine Stroth-Coward



## TABLE OF CONTENTS

<u>Bulletin No.</u>	<u>Title</u>	<u>Page</u>
97-1	Summary Bulletin 1997 Introduction .....	i
97-2	Claims for Medical Malpractice .....	1
	a. A.B. 520 .....	3
	b. Abstract .....	11
	c. Summary of Recommendations .....	13
97-3	State Regulations that Affect Business and Economic Development .....	15
	a. A.B. 538 .....	17
	b. Abstract .....	19
	c. Summary of Recommendations .....	21
97-4	Reconfiguring the Structure of School Districts .....	29
	a. S.C.R. 30 .....	31
	b. Abstract .....	33
	c. Summary of Recommendations .....	35
97-5	Laws Relating to the Distribution Among Local Governments of Revenue from State and Local Taxes .....	39
	a. S.C.R. 40 .....	41
	b. Abstract .....	43
	c. Summary of Recommendations .....	45

<u>Bulletin No.</u>	<u>Title</u>	<u>Page</u>
97-6	System of Parole and Probation in Nevada .....	47
	a. S.C.R. 52 .....	49
	b. Abstract .....	51
	c. Summary of Recommendations .....	53
97-7	Treatment of Mentally Ill Offenders .....	61
	a. S.C.R. 59 .....	63
	b. Abstract .....	65
	c. Summary of Recommendations .....	67
97-8	Continued Review of the Tahoe Regional Planning Agency .....	73
	a. A.C.R. 4 .....	75
	b. Abstract .....	77
	c. Summary of Recommendations .....	79
97-9	Appropriate Division of Fiscal Responsibility for Programs and Services Between State and Local Governments ..	87
	a. A.C.R. 33 .....	89
	b. Abstract .....	91
	c. Summary of Recommendations .....	93
97-10	Housing Programs in Nevada .....	95
	a. A.C.R. 38 .....	97
	b. Abstract .....	101
	c. Summary of Recommendations .....	103

<u>Bulletin No.</u>	<u>Title</u>	<u>Page</u>
97-11	Competition in the Generation, Sale, and Transmission of Electric Energy . . . . .	105
	a. A.C.R. 49 . . . . .	107
	b. Abstract . . . . .	109
	c. Summary of Recommendations . . . . .	111
97-12	Legislative Committee on Public Lands . . . . .	113
	a. NRS 218.5363 . . . . .	115
	b. Abstract . . . . .	117
	c. Summary of Recommendations . . . . .	119
97-13	Legislative Committee on Workers' Compensation . . . . .	123
	a. NRS 218.5375 . . . . .	125
	b. Abstract . . . . .	127
	c. Summary of Recommendations . . . . .	129
97-14	Legislative Committee on Health Care . . . . .	133
	a. NRS 439B.200 . . . . .	135
	b. Abstract . . . . .	137
	c. Summary of Recommendations . . . . .	139
97-15	Legislative Committee on High-Level Radioactive Waste . . . . .	143
	a. NRS 459.0085 . . . . .	145
	b. Abstract . . . . .	147
97-16	Legislative Committee for the Fundamental Review of Base Budgets of State Agencies . . . . .	149
	a. NRS 218.5384 . . . . .	151
	b. Abstract . . . . .	153
	c. Summary of Recommendations . . . . .	155



BULLETIN 97-2

**CLAIMS FOR MEDICAL MALPRACTICE**

Sections 7 and 8 of A.B. 520 - 1995 Session

**Members**

Assemblyman Jack D. Close, Sr., Chair  
Senator Mark A. James  
Senator Raymond D. Rawson  
Assemblywoman Barbara E. Buckley

**Staff Contacts**

Research Division:  
Paul Mouritsen, Principal Research Analyst  
(687-6825)

Legal Division:  
Risa L. Berger, Principal Deputy Legislative Counsel  
(687-6830)



Assembly Bill No. 520--Committee on Judiciary

CHAPTER 686

AN ACT relating to civil actions; revising the immunity from liability for civil damages provided for certain persons who provide emergency obstetrical care; providing such immunity to certain persons who provide medical care to indigent persons; revising the provisions governing the reduction and payment of an award for damages in certain actions for medical malpractice; requiring the interim finance committee to conduct a study of claims for medical malpractice filed during a certain period; making an appropriation; and providing other matters properly relating thereto.

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

**Section 1.** NRS 41.505 is hereby amended to read as follows:

41.505 1. Any physician or registered nurse who in good faith gives instruction or provides supervision to an emergency medical attendant or to a registered nurse, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in giving that instruction or providing that supervision. An emergency medical attendant or registered nurse who obeys an instruction given by a physician or registered nurse and thereby renders emergency care, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in rendering that emergency care.

2. [Any] *Except as otherwise provided in subsection 3, any person licensed under the provisions of chapter 630, 632 or 633 of NRS, who renders emergency care or assistance in an emergency, gratuitously and in good faith, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in rendering the emergency care or assistance or as a result of any failure to act, not amounting to gross negligence, to provide or arrange for further medical treatment for the injured or ill person. This section does not excuse a physician or nurse from liability for damages resulting from his acts or omissions which occur in a licensed medical facility relative to any person with whom there is a preexisting relationship as a patient.*

3. *Any person licensed under the provisions of chapter 630, 632 or 633 of NRS who renders emergency obstetrical care or assistance to a pregnant woman during labor or the delivery of the child is not liable for any civil damages as a result of any act or omission by him in rendering that care or assistance if:*

*(a) The care or assistance is rendered in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct;*

*(b) The person has not previously provided prenatal or obstetrical care to the woman; and*

*(c) The damages are reasonably related to or primarily caused by a lack of prenatal care received by the woman. A licensed medical facility in which such care or assistance is*

*rendered is not liable for any civil damages as a result of any act or omission by the person in rendering that care or assistance if that person is not liable for any civil damages pursuant to this subsection and the actions of the medical facility relating to the rendering of that care or assistance do not amount to gross negligence or reckless, willful or wanton conduct.*

4. *Any person licensed under the provisions of chapter 630, 632 or 633 of NRS who:*  
(a) *Is retired or otherwise does not practice on a full-time basis; and*  
(b) *Gratuitously and in good faith, renders medical care within the scope of his license to an indigent person, is not liable for any civil damages as a result of any act or omission by him, not amounting to gross negligence or reckless, willful or wanton conduct, in rendering that care.*

5. As used in this section, "emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS.

**Sec. 2.** NRS 41A.023 is hereby amended to read as follows:

41A.023 1. The board of governors of the Nevada Trial Lawyers Association may designate 40 of its members to serve on the northern tentative screening panel and [40] 60 of its members to serve on the southern tentative screening panel. Each person so designated shall serve for a term of 1 year.

2. The executive committee of the Nevada State Medical Association may designate 40 of its members to serve on the northern tentative screening panel and [40] 60 of its members to serve on the southern tentative screening panel. Each person so designated shall serve for a term of 1 year.

3. The Nevada Hospital Association may designate 40 administrators of hospitals and other persons employed by hospitals in management positions to serve as nonvoting members of the tentative screening panels. Each person so designated shall serve for a term of 1 year.

**Sec. 3.** NRS 41A.039 is hereby amended to read as follows:

41A.039 1. A claim of medical malpractice is properly presented to a screening panel by filing a complaint with the division. A fee of \$350 must accompany the complaint.

2. The complaint must contain a clear and concise statement of the facts of the case, showing the persons involved and the dates and circumstances, so far as they are known, of the alleged medical malpractice. *A screening panel may dismiss a complaint if the complaint is filed without an affidavit supporting the allegations of the complaint submitted by a medical expert.*

3. The person against whom a complaint is made must, within 30 days after receipt of the complaint, file an answer with the division, accompanied by a fee of \$350.

4. The claimant may respond only to the allegations of the answer or any accompanying affidavit by filing a written response with the division within 21 days after he receives the answer. The panel shall disregard any portion of the response that does not address an allegation raised in the answer or an affidavit accompanying the answer. No fee may be charged or collected by the division for the filing of the response.

5. A copy of any pleading required by this section to be filed with the division must be delivered by the party, by certified or registered mail, to each opposing party or, if he is represented in the proceedings by counsel, to his attorney.

6. The fees provided by this section must not be charged or collected more than once:

(a) From any party; or

(b) For the filing of any complaint, regardless of the number of parties joined in the complaint.

**Sec. 4.** NRS 41A.043 is hereby amended to read as follows:

41A.043 1. Within 35 days after the expiration of the time in which to answer the complaint of medical malpractice, the division shall hold a conference to resolve any issues as to challenges for cause. For good cause shown, the division may continue the conference once, for a period not to exceed 7 days. A party may challenge any person on the tentative screening panel for cause on any of the grounds provided by NRS 16.050 for the challenge of jurors.

2. The division shall determine whether cause exists to excuse any member of the tentative screening panel and shall notify each party of the excused members no later than the completion of the conference required by subsection 1.

3. Except as otherwise provided in this subsection, each party is entitled to not more than:

(a) Three peremptory challenges from the list of attorneys; and

(b) Three peremptory challenges from the list of physicians.

In any case in which there are two or more claimants or respondents, they are collectively entitled to not more than six peremptory challenges from the list of members selected for the tentative screening panel. Each party asserting a peremptory challenge shall notify the division of the challenge at the conference required by subsection 1.

4. The division shall randomly select, from the list of members of the tentative screening panel who have not been excused for cause or by a peremptory challenge, the names of three physicians, three attorneys and, if a hospital is also named in the complaint, one administrator of a hospital or person employed by a hospital in a management position, to serve on the screening panel for review of a claim of medical malpractice, but the representative of a hospital may not vote on any claim before the screening panel.

5. The division shall notify the parties and the members selected to serve on the screening panel immediately after it has made the selections. If any member so selected declines to serve, the division shall immediately and randomly select a replacement from the list. *The division shall not release or disclose to any person the names of the members selected.*

6. If, because of the exercise of challenges for cause or peremptory challenges or any other reason, no attorney, physician or administrator of a hospital designated pursuant to NRS 41A.023 remains available to serve on the screening panel, the division shall immediately notify the Nevada Trial Lawyers Association, the Nevada State Medical Association or the Nevada Hospital Association, as appropriate, and that association shall immediately designate a replacement from among its members. No person who is not so designated may serve on the screening panel.

**Sec. 5.** NRS 41A.056 is hereby amended to read as follows:

41A.056 1. If the screening panel finds in favor of the claimant and a cause of action involving medical malpractice is thereafter filed in district court, a conference for settlement must be held as provided in NRS 41A.059.

2. If the determination is not in favor of the claimant, the claimant may file an action in court. If the claimant does not obtain a judgment in his favor in court, the defendant must be awarded reasonable costs and attorney's fees incurred after the date of filing the action in court.

3. If the screening panel is unable, for any reason, to reach a decision, the claimant may file a civil action or proceed no further with the complaint.

4. *If the claimant files a civil action in district court, a person may not be named as a party in the action unless the person was named as a party in the complaint which was filed with the division and considered by the screening panel.*

**Sec. 6.** NRS 42.020 is hereby amended to read as follows:

42.020 1. [In] *Except as otherwise provided in subsection 2, in any action for damages for [personal injury against any provider of health care,] medical malpractice, the amount of damages, if any, awarded in the action must be reduced by the amount of any prior payment made by or on behalf of the provider of health care against whom the action is brought to the injured person or to the claimant to meet reasonable expenses of medical care, other essential goods or services or reasonable living expenses.*

2. *In any action described in subsection 1 in which liability for medical malpractice is established or admitted, the court shall, before the entry of judgment, hold a separate hearing to determine if any expenses incurred by the claimant for medical care, loss of income or other financial loss have been paid or reimbursed as a benefit from a collateral source. If the court determines that a claimant has received such a benefit, the court shall reduce the amount of damages, if any, awarded in the action by the amount of the benefit. The amount so reduced must not include any amount for which there is a right of subrogation to the rights of the claimant if the right of subrogation is exercised by serving a notice of lien on the claimant before the settlement of or the entry of judgment in the action. Notice of the action must be provided by the claimant to any statutory holder of a lien.*

3. *If future economic damages are awarded in an action for medical malpractice, the award must be paid, at the election of the claimant:*

*(a) In a lump sum which has been reduced to its present value as determined by the trier of fact and approved by the court; or*

*(b) Subject to the provisions of subsection 5, by an annuity purchased to provide periodic payments. As used in this subsection, "future economic damages" includes damages for future medical treatment, care or custody, and loss of future earnings.*

4. *If the claimant elects to receive periodic payments pursuant to paragraph (b) of subsection 3, the award must not be reduced to its present value. The amount of the periodic payments must be equal to the total amount of all future damages awarded by the trier of fact and approved by the court. The period for which the periodic payments must be made must be determined by the trier of fact and approved by the court. Before the entry of judgment, each party shall submit to the court a plan specifying the recipient of the*

payments, the amount of the payments and a schedule of periodic payments for the award. Upon receipt and review of the plans, the court shall specify in its judgment rendered in the action the recipient of the payments, the amount of the payments and a schedule of payments for the award.

5. If an annuity is purchased pursuant to paragraph (b) of subsection 3, the claimant shall select the provider of the annuity. Upon purchase of the annuity, the claimant shall:

(a) Execute a satisfaction of judgment or a stipulation for dismissal of the claim with prejudice; and

(b) Release forever the defendant and his insurer, if any, from any obligation to make periodic payments pursuant to the award.

6. As used in this section [, "provider of health care" means a physician, dentist, registered nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, doctor of acupuncture, medical laboratory director or technician, or a licensed hospital as the employer of any such person.]:

(a) "Benefit from a collateral source" means any money, service or other benefit which is paid or provided or is reasonably likely to be paid or provided to a claimant for personal injury or wrongful death pursuant to:

(1) A state or federal act which provides benefits for sickness, disability, accidents, loss of income or workers' compensation;

(2) A policy of insurance which provides health benefits or coverage for loss of income;

(3) A contract of any group, organization, partnership or corporation which provides, pays or reimburses the cost of medical, hospital or dental benefits or benefits for loss of income; or

(4) Any other publicly or privately funded program which provides such benefits.

(b) "Medical malpractice" has the meaning ascribed to it in NRS 41A.009.

**Sec. 7.** 1. The interim finance committee is hereby directed to contract with an independent organization to conduct a study of claims in actions for medical malpractice filed in this state for the period beginning on January 1, 1985, and ending on December 31, 1995. The contract must be awarded after providing notice to members of the general public requesting proposals for conducting the study and must be awarded on or before September 1, 1995.

2. The study must include, without limitation, an analysis of the following subjects for the period beginning on January 1, 1985, and ending on December 31, 1995:

(a) All open and closed claims for medical malpractice filed during that period against physicians and surgeons in this state.

(b) All reports of medical malpractice filed during that period, regardless of whether a claim was filed.

(c) Specific data for each claim specified in paragraph (a) including:

(1) The cause of the loss;

(2) A description of the injury for which the claim was filed;

(3) The sex of the injured person;

(4) The names and number of defendants in each claim;

(5) The names and provisions of coverage of each insurer involved in the claim;

(6) The amount of reserves of an insurer before and after each such claim and the general allocation of the insurer's reserves and surplus;

(7) The disposition of each claim;

(8) The amounts of money awarded through settlement or by verdict;

(9) The sums of money paid to each claimant and the source of those sums; and

(10) Any sums of money allocated to expenses for adjustment of losses.

(d) The amount of premiums charged for medical malpractice insurance and specific reasons for any increases or decreases in those premiums.

(e) The frequency and severity of claims specified in paragraph (a).

(f) The claims for medical malpractice submitted to a screening panel created pursuant to NRS 41A.019.

(g) The amount of attorneys' fees and legal costs relating to claims specified in paragraph (a).

3. Each insurer which is authorized to issue a policy of insurance in this state covering the liability of a practitioner licensed pursuant to chapters 630 and 633 of NRS for a breach of his professional duty toward a patient shall cooperate fully with the organization which is conducting a study in accordance with the provisions of this section. In conducting the study, the organization may conduct examinations of insurers and other persons pursuant to the same authority as that provided for the commissioner of insurance pursuant to NRS 679B.230.

4. The legislative commission shall appoint a legislative oversight committee comprised of one member from each of the following standing committees of the 68th session of the legislature:

(a) Senate standing committee on judiciary;

(b) Assembly standing committee on judiciary;

(c) Senate standing committee on finance; and

(d) Assembly standing committee on ways and means.

The committee shall keep itself informed of the progress of the study of claims which is conducted pursuant to this section and act as a liaison between the organization conducting the study and the legislature. The director of the legislative counsel bureau shall provide such staff and other support as is necessary for the committee to perform its duty.

5. All identifying data regarding each individual claim must be kept confidential by the organization conducting the study of claims. Only aggregate data collected as a result of the study may be disclosed by the organization. The organization shall not include in the study or otherwise disclose any information, statements or other data which is the work product of an attorney or is subject to the privilege provided for communications between an attorney and his client.

6. The independent organization selected to conduct the study shall provide to the interim finance committee such periodic reports of the organization's progress concerning the study as are required by the committee.

7. The study required pursuant to this section must be completed on or before September 1, 1996, and a written report thereof submitted to the governor, the interim finance committee and the chairmen of the senate and assembly standing committees on judiciary for the immediately preceding session of the legislature.

**Sec. 8.** 1. There is hereby appropriated from the state general fund to the interim finance committee the sum of \$75,000 for conducting the study required pursuant to section 7 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after September 1, 1996, and reverts to the state general fund as soon as all payments of money committed have been made.

3. If the cost of the contract awarded pursuant to section 7 of this act exceeds the amount of money appropriated pursuant to subsection 1, the interim finance committee is authorized to expend from the insurance examination fund the amount necessary to cover the difference. Any such expense must be paid out of the insurance examination fund as other claims against the state are paid.

**Sec. 9.** 1. This section and sections 7 and 8 of this act become effective on July 1, 1995.

2. Sections 1 to 6, inclusive, of this act become effective on October 1, 1995.



## ABSTRACT

### **CLAIMS FOR MEDICAL MALPRACTICE (Sections 7 and 8 of A.B. 520)**

The 68th Session of the Nevada Legislature enacted Assembly Bill 520 (Chapter 686, *Statutes of Nevada 1995*, pages 2641-2647). Sections 7 and 8 of this measure directed the Interim Finance Committee to contract with an independent organization to conduct a study of claims for medical malpractice. Assembly Bill 520 also directed the Legislative Commission to appoint a legislative oversight committee consisting of a member of the Senate Committee on the Judiciary, a member of the Assembly Committee on the Judiciary, a member of the Senate Committee on Finance, and a member of the Assembly Committee on Ways and Means to monitor the progress of the study and act as a liaison between the organization conducting the study and the Legislature.

In accordance with this mandate, the Interim Finance Committee selected Milliman & Robertson, Inc., an actuarial firm, to conduct the study. The firm examined the files for each claim for medical malpractice filed between 1983 and 1995 and collected data regarding frequency, severity, and characteristics of those claims. The results of this study are described in a report entitled "Medical Malpractice Claims Study" (August 23, 1996).

After reviewing the report prepared by Milliman & Robertson, Inc., the subcommittee contracted with a second actuarial firm, AIS Risk Consultants, Inc., to provide another independent review of this data. This analysis is reported in a publication entitled, "Analysis of Nevada Medical Malpractice Experience" (November 1, 1996). Both reports are available in the Legislative Counsel Bureau's Research Library.



## SUMMARY OF RECOMMENDATIONS

### **CLAIMS FOR MEDICAL MALPRACTICE (Sections 7 and 8 of A.B. 520)**

1. Require the Commissioner of Insurance to collect information regarding closed claims for medical malpractice and maintain a data base including the items of information specified in section 7 of Assembly Bill 520 of the 1995 Legislative Session.
2. Require that, in any action for medical malpractice in which the claim is \$75,000 or less, the parties must submit the dispute to mediation before it is heard before the medical-legal screening panel. Require that both parties participate in good faith.
3. Amend NRS 41A.059 to require that both parties to an action for medical malpractice and a witness designated by the plaintiff who will testify regarding damages be deposed before the mandatory settlement conference is held.



BULLETIN 97-3

**STATE REGULATIONS THAT AFFECT  
BUSINESS AND ECONOMIC DEVELOPMENT**

A. B. 538 - 1995 Session

**Members**

Assemblyman David E. Humke, Chair  
Senator Ann O'Connell, Vice Chair  
Senator Kathy Augustine  
Senator Sue Lowden  
Senator Bernice Mathews  
Assemblywoman Vonne Chowning  
Assemblyman Larry L. Spittler  
Assemblywoman Sandra Tiffany

**Staff Contacts**

Research Division:  
Denice Miller, Principal Research Analyst  
(687-6825)

Legal Division:  
Eileen G. O'Grady, Principal Deputy Legislative Counsel  
(687-6830)



Assembly Bill No. 538--Assemblymen Humke, Schneider, Carpenter, Ohrenschall, Manendo, Monaghan, Steel, Stroth, Sandoval, Lambert, Fetic, Bennett, Nolan, Arberry, Braunlin, Ernaut, Chowning, Allard, Hettrick and Marvel

## CHAPTER 702

AN ACT relating to administrative regulations; creating the legislative committee to study state regulations which affect business and economic development and prescribing its duties; and providing other matters properly relating thereto.

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

**Section 1.** 1. There is hereby created a legislative committee to study state regulations which affect business and economic development, consisting of eight members of the legislature appointed by the legislative commission.

2. As soon as practicable after the adjournment sine die of the 68th session of the legislature, the legislative commission shall appoint the members of the committee and designate the chairman and vice chairman.

3. The terms of the members of the committee expire on June 30, 1997. A vacancy on the committee must be filled for the remainder of the unexpired term in the same manner as the original appointments.

**Sec. 2.** 1. The legislative committee to study state regulations which affect business and economic development shall meet at the times and places specified by a call of the chairman or a majority of the committee.

2. The members of the committee are, except during a regular or special session of the legislature, entitled to receive out of the legislative fund the per diem expense allowances provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207.

3. The legislative counsel bureau shall provide the committee with such administrative and clerical support as the committee requires to carry out its duties.

**Sec. 3.** The legislative committee to study state regulations which affect business and economic development shall review the provisions of chapters 278, 333, 338, 341, 348A, 349, 361, 364A, 444, 444A, 445A, 445B, 446, 447, 459, 477, 484, 522, 538, 590, 598, 608, 612, 662, 686A and 689C of the Nevada Administrative Code and any other state regulations it determines affect business and economic development, and:

1. Determine the effect of existing state regulations on Nevada's efforts to promote economic development.

2. Consider possible methods to:

(a) Reduce the number and complexity of state regulations which affect business and economic development.

(b) Decrease the number of state agencies authorized to adopt regulations regarding similar subjects which affect business and economic development.

(c) Consolidate the assessment and collection of fees imposed by state regulations which affect business and economic development.

3. Recommend to the 69th session of the legislature any proposals for legislation the committee deems appropriate regarding the adoption of state regulations which affect business and economic development.

**Sec. 4.** Any recommended legislation proposed by the legislative committee to study state regulations which affect business and economic development must be approved by a majority of any members of the Senate and a majority of any members of the Assembly appointed to the committee.

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

## ABSTRACT

### **STATE REGULATIONS THAT AFFECT BUSINESS AND ECONOMIC DEVELOPMENT (A.B. 538)**

The 68th Session of the Nevada Legislature enacted Assembly Bill 538 (Chapter 702, *Statutes of Nevada 1995*, pages 2702-2703), which created a legislative committee to study state regulations that affect business and economic development. The bill specified that the committee was to determine the effect of state regulations on Nevada's efforts to promote economic development; consider methods to reduce the complexity or eliminate duplication of regulation; and recommend to the 1997 Nevada Legislature any proposals for legislation that the committee deemed appropriate.

The Legislative Commission appointed a committee of eight legislators to examine the issues and compile recommendations related to regulation of business.

The committee held three meetings in Las Vegas and two in Carson City, all of which were videoconferenced to enable more public participation. Testimony during the study included the concerns and recommendations of the business community; state agencies charged with regulation; local government; labor; and environmental protection groups.

At the committee's fifth and final meeting, a work session in Carson City, members adopted 31 recommendations. The subjects of these proposals include public access to information concerning regulations; review of regulations; regulatory boards and commissions; development and implementation of regulations; administrative fees, fines, and penalties; consolidation of regulations; environmental regulations; and public utility regulation.



## SUMMARY OF RECOMMENDATIONS

### STATE REGULATIONS THAT AFFECT BUSINESS AND ECONOMIC DEVELOPMENT (A.B. 538)

The following recommendations were adopted by the Legislative Commission's Committee to Study State Regulations That Affect Business and Economic Development at its work session of June 10, 1996. These proposed actions will be forwarded to the Legislative Commission for its acceptance, and relevant recommendations for legislation will be submitted to the 1997 Session of the Nevada Legislature for its consideration.

### PUBLIC ACCESS TO INFORMATION CONCERNING REGULATIONS

1. Require the Legislative Counsel to prepare and publish or cause to be published a state register of administrative regulations.
  - a. The register must include:
    - (i) Every notice of intent by an agency for the adoption, amendment, or repeal of a permanent regulation; and
    - (ii) Notice of final adoption of a permanent regulation, its effective date, and its informational statement.
  - b. The Legislative Counsel shall determine the frequency and dates of publication of the register within a range of no less than ten times a year and no more than once every two weeks. The Legislative Counsel shall determine the deadlines for submission of the required information by agencies accordingly.
  - c. A minimum number of copies must be produced for distribution to the Office of the Secretary of State, the Office of the Attorney General, the Supreme Court and State Libraries, each county clerk and county library, and the Legislative Counsel Bureau.
  - d. The cost of publication of copies required for distribution pursuant to paragraph (c) must be recovered from the agencies whose notices appear in the register;
  - e. The Legislative Counsel may sell additional copies to other state or local governmental agencies or any other person requesting a copy at a price not to exceed the cost to publish the additional copy; and

- f. Amend Chapter 233B of the *Nevada Revised Statutes* (NRS), “Nevada Administrative Procedure Act,” to require state agencies to provide to the Legislative Counsel Bureau the information required by this recommendation, in accordance with the guidelines established pursuant to paragraph (b).
2. Require the Legislative Counsel Bureau to provide access to the State Register on the INTERNET. The bureau may determine the manner of compiling the information and the frequency of revision, but the online register must be revised no less frequently than the State Register is published. Stipulate that no fee may be charged for access to the information.
3. Include in the final report a statement encouraging state agencies to supplement their notification procedures concerning proposed regulations with press releases.

### **LEGISLATIVE INTENT**

4. Require the Legislative Counsel to prepare, at the request of the chief sponsor, a synopsis of any bill drafted for submission to the Legislature that grants, expands, or amends the authority of a state agency to adopt administrative regulations, if:
  - a. The resulting regulations would affect persons or entities outside the agency; and
  - b. The agency is not exempt from the Nevada Administrative Procedure Act.

Further stipulate that the synopsis must:

- a. Be included in the bill;
  - b. Explain briefly the purpose of the bill as a whole; and
  - c. For each section of the bill, explain the change, repeal, or addition entailed in that section and its purpose as well as its substantive effect.
5. Include in the final report a statement encouraging the Office of the Attorney General to include, in the process of developing regulations, a stringent review of legislative intent of the associated rule-making authority.

### **REVIEW OF ADMINISTRATIVE REGULATIONS**

6. Include in the final report a statement expressing support for the passage of Ballot Question No. 5 on the 1996 General Election Ballot (constitutional amendment to allow specifically for legislative review of administrative regulations).

7. Authorize the Legislature or a representative body of the Legislature to reject any proposed administrative regulation that, in its determination, exceeds the agency's statutory authority or does not carry out legislative intent. In addition, delete the provision that allows a regulation to become effective over the objection of the Legislative Commission. Further, establish a procedure for the resubmission of regulations to which the Legislature objects.
8. Require state agencies to review administrative regulations a minimum of every ten years to determine if they should be revised, expanded, or repealed. Further require that an agency shall report the results to the Legislature next following its scheduled review. Stipulate that each section of the *Nevada Administrative Code* must be followed with the date of its last substantive revision.

### **CODIFICATION OF REGULATIONS**

9. Amend Chapter 233B of the NRS, "Nevada Administrative Procedure Act," and related provisions as necessary, to require the Legislative Counsel Bureau to cite, in every section of the *Nevada Administrative Code*, the statutory authority under which the section is promulgated.

### **REGULATORY BOARDS AND COMMISSIONS**

10. Require the Legislature or a representative body of the Legislature to review existing regulatory boards or commissions a minimum of every ten years to determine if the board or commission should be retained, revised, or eliminated. Establish a sunset date of four years for all new regulatory boards and commissions pending renewal by the Legislature.

### **DEVELOPMENT AND IMPLEMENTATION OF REGULATIONS**

11. Require the Attorney General to develop guidelines for the drafting of administrative regulations in language that reflects common, accepted usage of English and is as concise as possible.
12. Amend Chapter 233B, "Nevada Administrative Procedure Act," to require the use of workshops involving the public and regulated entities to solicit comments concerning the need for and possible content of new or revised regulations before holding the public hearing required pursuant to NRS 233B.061, "Proposed regulation: Public comment and hearing; record of hearing."

13. Amend Chapter 233B, "Nevada Administrative Procedure Act," and other provisions as necessary to stipulate that a permanent regulation becomes effective not sooner than 90 days after filing with the Secretary of State, unless otherwise precluded by federal law. This requirement would not apply to regulations addressing situations in which there is an imminent threat of danger to person or property.

### **ADMINISTRATIVE FEES, FINES, AND PENALTIES**

14. Require any agency responsible for the enforcement of regulations affecting business or professions to issue a citation, instead of a fine, for a first offense for failure to comply with a regulation, unless otherwise precluded by federal law. This requirement would not affect an agency's ability to take other appropriate action in an emergency or where there is an imminent threat of danger to person or property.
15. Amend NRS 482.565 and other provisions as necessary to stipulate that the Department of Motor Vehicles and Public Safety may impose administrative fines only if the department reasonably believes that a violation is the result of fraud or malfeasance.
16. Amend Chapter 218, "State Legislature," of the NRS to require the Fiscal Analysis Division to obtain a fiscal note on any legislative measure that has a financial impact on Nevada residents by:
  - a. Imposing or increasing a tax or authorizing a local government to do so;
  - b. Imposing or increasing a fee for a government service or authorizing a local government to do so;
  - c. Requiring a person or business to register with, be licensed by, or provide information to a state or local agency; or
  - d. Authorizing regulation of a business or profession or a specific aspect of that business or profession that previously was not regulated.

### **DUPLICATION OF REGULATIONS AND EFFORTS TO CONSOLIDATE**

17. Include in the final report a statement expressing support for the following concepts:
  - a. Reduction of the number and complexity of regulations;
  - b. Elimination of duplicate or conflicting regulations; and

- c. Consolidation of reporting requirements and fee collection.
18. Amend Chapter 233B of the NRS to include, among the contents of a notice of intent to adopt, amend, or repeal a regulation:
    - a. If the regulation is required under federal law, the citation and description of the federal law;
    - b. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency; and
    - c. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.
  19. Amend NRS 277.185 and related provisions as necessary to clarify that the annual meeting described in NRS 277.185 must be noticed as a public hearing. Further, stipulate that the Department of Taxation shall submit to the Legislative Counsel Bureau, on or before February 15 of each year, a progress report concerning the annual meeting, including any recommendations for legislation.
  20. Include in the final report a statement encouraging the Department of Taxation (DOT) to work with the Department of Business and Industry, the Department of Information Systems, local governments, and any other state or local agencies the DOT deems necessary, to continue efforts to consolidate information reporting and to use new technologies as much as possible to ease business's reporting and fee paying requirements. Include in the statement support for the concept of a computer-telephone system that enables small businesses to provide consolidated information to a central clearinghouse.

### **FEDERAL MANDATES**

21. Include in the final report a statement expressing support for the concepts embodied in the recommendations of the U.S. Advisory Commission on Intergovernmental Relations, which, pursuant to the Federal Unfunded Mandates Reform Act of 1995, conducted a study of the role of federal mandates in intergovernmental relations.

### **ENVIRONMENTAL REGULATIONS**

22. Amend or repeal NRS 459.3816, which designates certain substances in specific quantities as "highly hazardous." Direct the Division of Environmental Protection, in conjunction with the Health Division and the Division of Industrial Relations to establish, by regulation, the list of highly hazardous substances.

23. Amend Chapter 459, "Hazardous Materials," of the NRS to authorize the Division of Environmental Protection to combine and administer the following programs:
  - a. The State's Chemical Accident Prevention Program (NRS 459.380 through 459.3874, inclusive);
  - b. The Federal Occupational Safety and Health Administration's Process Safety Management Program; and
  - c. The Federal Environmental Protection Agency's Risk Management Program.
24. Amend Chapter 477, "State Fire Marshal," of the NRS to allow the State Fire Marshal the option of assessing an administrative penalty rather than the current criminal penalty for violations that do not pose an imminent threat to life or property.
25. Amend the provisions concerning hazardous materials permitting for intrastate carriers to, unless otherwise prohibited by federal law:
  - a. Require the Highway Patrol Division of the Department of Motor Vehicles and Public Safety to assess a fixed, rather than a calculated, fee for hazardous materials transportation; and
  - b. Limit application of requirements relating to permits for the transportation of hazardous materials to those vehicles that actually transport hazardous materials, rather than those that are merely capable of transport.

### **PUBLIC UTILITY REGULATION**

26. Amend Chapter 354, "Local Financial Information," of the NRS to conform to federal law to avoid the potential for discrimination between interstate utility providers and intrastate utility providers. Further, prohibit local governments from competing with private companies in the provision of public utility service, except in cases in which local governments are the only providers of such services.
27. Amend Chapter 704, "Regulation of Public Utilities Generally," of the NRS to delete the authority and responsibility of the Public Service Commission to establish regulations concerning plans for natural gas resource planning.
28. Amend NRS 704.110 to include promotional advertising among that information the commission is required to consider in any hearing concerning increased rates, fares, or charges of a public utility.
29. Repeal Nevada's Utility Environmental Protection Act (NRS 704.820-900, inclusive).

30. Provide that, unless there is imminent danger to public health or safety, a public utility supplier of natural gas does not have an obligation to secure supply and transportation capacity for customers who arrange their own gas supplies and transportation capacity.
31. Authorize a public utility supplier of natural gas to sell the exclusive right to acquire and sell supplies for its local distribution area.



BULLETIN 97-4

**RECONFIGURING THE STRUCTURE  
OF SCHOOL DISTRICTS**

S.C.R. 30 - 1995 Session

**Members**

Senator Jon C. Porter, Chair  
Senator Mike McGinness  
Senator Joseph M. Neal, Jr.  
Senator Raymond D. Rawson  
Assemblyman William Z. Harrington  
Assemblyman Michael A. Schneider  
Assemblywoman Gene Wines Segerblom  
Assemblywoman Dianne Steel

**Staff Contact**

Research Division:  
H. Pepper Sturm, Chief Principal Research Analyst  
(687-6825)

Legal Division:  
Timothy M. Chandler, Principal Deputy Legislative Counsel  
Kristin C. Bullock, Deputy Legislative Counsel  
(687-6830)



Senate Concurrent Resolution No. 30--Senator Porter

FILE NUMBER 161

SENATE CONCURRENT RESOLUTION--Directing the Legislative Commission to conduct an interim study of the feasibility of reconfiguring the structure of school districts in this state.

WHEREAS, Public education plays a crucial role in producing well-informed, educated and productive members of society; and

WHEREAS, The system of public education in Nevada is organized by county school districts, the boundaries of which are coterminous with the boundaries of the counties of the state; and

WHEREAS, In 1994, the United States Department of Education published the results of a survey based on the enrollment records of schools in 1991, which ranked the Clark County School District as the 12th largest in the nation and the Washoe County School District as the 99th largest in the nation; and

WHEREAS, The Clark County School District accounts for 62 percent of the pupils within the state and the Washoe County School District accounts for 18 percent of the pupils within the state; and

WHEREAS, The unique geography of the state has resulted in the concentration of some schools and pupils at locations that are considerably distant from the administrative offices of the various school districts; and

WHEREAS, Reconfiguring the structure of school districts may allow the school system in this state to be more responsive to the concerns of the residents of Nevada regarding education; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to enter into a contract with at least one qualified, independent, nationally recognized consultant to conduct an interim study of the feasibility of reconfiguring the structure of school districts in this state; and be it further

RESOLVED, That the Legislative Commission shall appoint a subcommittee composed of four members of the Senate and four members of the Assembly to oversee the interim study conducted by the consultant; and be it further

RESOLVED, That the Legislative Commission may, at the request of the subcommittee, appoint an advisory group to provide technical expertise to the Legislative Commission or the consultant regarding the reconfiguration of the structure of the school districts in this state and to assist the subcommittee in its efforts; and be it further

RESOLVED, That the scope of the study, which must be conducted within the confines and structure of the Nevada plan, as set forth in NRS 387.121, must include an analysis of:

1. Any alternatives for the organization of school districts;
2. Any financial, tax, legal, social and geographical considerations regarding those organizational alternatives; and

3. Any actions necessary to carry out those organizational alternatives;and be it further  
RESOLVED, That any recommendations for legislation resulting from the study must be  
approved by a majority of the members of the Assembly and a majority of the members of  
the Senate appointed to conduct the study; and be it further

RESOLVED, That the Legislative Commission submit a report of its findings and any  
recommendations for legislation to the 69th session of the Nevada Legislature.

## ABSTRACT

### **RECONFIGURING THE STRUCTURE OF SCHOOL DISTRICTS (S.C.R. 30)**

The 68th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 30 (File No. 161, *Statutes of Nevada 1995*, page 3033-3034) which directed the Legislative Commission to hire a consultant to conduct a study of the feasibility of reconfiguring the structure of school districts in Nevada. Funding for the consultant was provided under Section 10 of Assembly Bill 224 (Chapter 563, *Statutes of Nevada 1995*, pages 1940-1941).

The Legislative Commission appointed a subcommittee of eight legislators to provide oversight for the study. A total of seven meetings were held in Las Vegas, Elko, and Carson City. The subcommittee's purpose was to review boundary issues involved with school districts statewide, examine alternatives, and ensure that the impact of proposals to realign district boundaries, if any, were analyzed appropriately. To this end, a consultant—Management Analysis and Planning (MAP) Associates, of Berkeley, California—was retained to collect, analyze, and report information relating to school district boundary issues. The consultant proceeded in three basic phases: data collection; analysis and formulation of alternatives; and the evaluation of alternatives and presentation of findings. The subcommittee directed the consulting firm to visit each school district in the state during its initial investigative phase to identify issues that would need to be addressed should the legislative subcommittee and the full Legislature consider modifications to the present structure. The consultant's analysis and findings were submitted in a series of reports presented at the legislative subcommittee's meetings. The draft of the final report was delivered and accepted at the July 16, 1996, meeting, and the corrected copy was presented at the August 29, 1996, work session.

Members of the subcommittee reviewed the alternatives and findings presented by the consultant in its final report. Major items adopted include proposals to: provide a process for realigning school districts, initiated by a local school district or by voter petition; provide for the establishment of charter schools; provide for a statewide technology plan for education; establish an interim legislative study to review state participation in the financing of school construction; remove the sunset on Nevada's program for school-based decision making within public schools; urge school district boards of trustees to establish advisory councils; encourage cooperative agreements among school districts to share resources as well as agreements for student attendance in adjoining districts, when required; and urge school districts to make use of short-term financing for the purchase of computer equipment.



## SUMMARY OF RECOMMENDATIONS

### RECONFIGURING THE STRUCTURE OF SCHOOL DISTRICTS (S.C.R. 30)

1. Provide, within statute, a process for the realignment of school districts. The process may be initiated by a majority of school boards of trustees, or by petition of at least one-third of the qualified electors within the boundaries of the proposed school district. Petitions must include provisions that briefly describe the process of redistricting, including the: assignment of teachers; impact upon the Nevada Plan; financing of schools under the new plan; preservation of existing bonded indebtedness; effect on racial composition; and division of property.

Upon qualification of the petition, a proposed redistricting plan must be submitted for review and recommendation to the State Board of Education (Board) in consultation with the Office of the Attorney General. Following this review, the Board will forward its recommendations to the Legislature. The plan and the Board's recommendations must be reviewed and approved by the Legislature. The review by the Board and the Legislature will include specific criteria to ensure that the proposed district changes will continue to provide a general and uniform system of education throughout the state, including adequate financing for each school district and racial balance, to avoid extreme disparities in the education which is offered among school districts. No boundary may be approved that creates a wealthy district that fall outside of the Nevada Plan for School Finance or racial or ethnic imbalances. Following approval by the Legislature, the plan will be submitted for final approval to the voters of the county or counties affected for consideration at the next General Election.

**(BDR 34--243)**

2. Adopt a resolution urging school districts to continue the establishment of cooperative agreements pursuant to Chapter 277 of the *Nevada Revised Statutes* (NRS) for sharing staff and resources, especially in rural areas. Additionally, regional consortia or other alliances for sharing specialized services should be encouraged and formalized, particularly for special education services, pupil counseling, and other fields with a shortage of staff professionals. Greater coordination of capital construction projects among bordering districts pursuant to NRS 387.531 to 387.591, inclusive, also is encouraged; especially in areas where population clusters make such cooperation feasible. Finally, continued agreements for student attendance at an adjoining district pursuant to NRS 391.010 is supported, when such agreements are in the best interests of the children and the respective communities.

**(BDR R--244)**

3. Provide, within statute, for the creation and formation of charter schools in Nevada. The legislation allows for the establishment of six nonsectarian charter schools statewide, limited to schools serving kindergarten through the eighth grade, with no

more than two-thirds of the schools located in any one county. Student admissions can be limited by age, grade, or some subject area criteria; however, admissions cannot be limited based on race, ethnicity, religion, intellectual or athletic ability, or disability. Charters are to be granted for a period of six years.

As part of its application and charter, the sponsors of the charter school must specify the school's system of governance, including the type and composition of the governing body; the number of and length of terms of office for members of the governing body; the process by which the governing body will negotiate employment contracts; the manner in which pupil transportation to and from the school shall be addressed; whether the district's curriculum will be followed or if waivers will be requested. Charter schools may be operated by businesses, non-profit organizations, parents or other citizens, and teachers. Existing schools may convert to charter schools and new schools may be established. Waivers from state and local requirements are to be negotiated with the sponsoring organization or the Board on an issue by issue basis. Charter schools, must, however, comply with health and safety codes; Nevada Open Meeting Law requirements; state accountability provisions; and applicable federal requirements. Persons wishing to operate a charter school may not apply for sponsorship after July 1, 2003.

Charter schools must use licensed teachers (unless specifically waived by the Board). Provision is made for leaves of absence from public school and for retirement benefits of charter school teachers. A charter school has control over its budget as well as hiring, firing (under due process guidelines), and salary structure. They may not charge tuition, levy taxes, or issue bonds. Charter schools are permitted to accept gifts, grants, donations, and bequests from public or private sources; however, they may not use government money to purchase land or buildings. Per pupil funding from the Nevada Plan follows students enrolled in charter schools. Finally, provide for "seed money" for establishing charter schools, based upon the projected number of pupils to be served. This measure sunsets on July 1, 2003. **(BDR 34--246)**

4. Authorize the establishment of an Education Technology Commission for the purpose of drafting a statewide plan for using technology in education. The commission shall consist of representatives from Nevada school districts and the University and Community College System of Nevada (UCCSN). Appropriate \$250,000 to the UCCSN to carry out its duties in establishing a plan. Such a plan may be part of a broader policy for technology infrastructure, as exemplified by the Iowa Communications Network (ICN). The ICN is a statewide, state-owned, fiber optic communications and transmission network responsible for high quality, full-motion, two-way, interactive data, video, and long distance voice services.

Require that the plan address INTERNET access within the public school system; remote, cross-age peer tutoring; distance learning for pupils in rural or under-served areas; and the use and expansion of existing distance learning networks sponsored by school districts. The plan also must address continuing education opportunities

for teachers; college credit for staff development; and the exchange of ideas and promising school practices. The plan shall be submitted to the State Department of Education and the Nevada Legislature as a master plan for the distribution of any federal or state grants or appropriations made for education technology. Require the Department to enter into a cooperative agreement with the UCCSN to implement this plan and to report the status of the statewide plan to the 1999 Legislature. The report shall include an assessment of the ability of existing organizations to respond to teacher's needs in implementing classroom technology and requirements for related technology training.

Additionally, amend NRS 385.347 (regarding school accountability reports) to include a school by school report concerning the availability and application of education technology. Also require that school districts conduct a survey of their electrical and structural systems to determine financial priorities to develop technology and to ensure sufficient electrical and network capacity to achieve the goals listed in the Statewide Technology Use Plan for Education. **(BDR 34--247)**

5. Include a statement in the subcommittee's final report urging school districts to make use of short-term financing for the purchase of computer equipment. Under current practices, such equipment is often replaced within five years, but the bonds used to fund the purchase are not retired for 20 years. There are provisions within state law governing medium-term obligations (NRS 350.091[3]) which note that if the maximum term of financing is more than five years, the term may not exceed the estimated useful life of the asset to be purchased with the bond proceeds. The subcommittee wishes to emphasize that in the purchase of personal computers for the classroom, bonds should not be issued that exceed the useful life of the equipment.
6. Urge by resolution that the board of trustees of any school district establish by rule advisory boards for any purpose relating to the school district about which the board desires study or advice. Such councils could be modeled after the Clark County Citizen's Advisory Councils that advise the County Commission. Such advisory councils create clear channels of communication between the commission and the residents of the county's various incorporated and unincorporated communities. The purpose of the councils is to study the needs of the residents within each designated area, and to report those needs to the board. **(BDR R--250)**
7. Remove the sunset provision currently in place for NRS 386.4154, *et seq.*, Nevada's "Program of School-Based Decision Making for Public Schools within District." These provisions authorize school district boards of trustees to establish rules concerning school-based decision making. The statute provides that these rules must address specific issues concerned with accountability and governance. Further, the law permits state and local waivers from regulations for schools that adopt such a program. This statute is scheduled to expire June 30, 1999. **(BDR 34--243)**

8. Provide, by concurrent resolution, for the creation of an interim legislative study committee charged with making recommendations for creating a statewide formula providing for state participation in the financing of school construction. Such a study would survey the condition of school buildings in Nevada and ascertain the need for new facilities; determine the level of state participation; and provide for any needed oversight agency, the equalization formula, and the basic criteria needed to make a project eligible for state contributions. The results of and any recommendations from this study would be submitted to the 1999 Session of the Legislature. **(BDR R--251)**

BULLETIN 97-5

**LAWS RELATING TO THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF  
REVENUE FROM STATE AND LOCAL TAXES**

S.C.R. 40 - 1995 Session

**Members**

Senator Ann O'Connell, Chair  
Senator Jon C. Porter  
Senator Dean A. Rhoads  
Senator Raymond C. Shaffer  
Assemblywoman Joan A. Lambert  
Assemblyman P.M. Roy Neighbors  
Assemblyman Bob Price  
Assemblywoman Jeannine Stroth-Coward

**Advisory Committee**

Michael Pitlock, Director, Department of Taxation  
Marvin Leavitt, Las Vegas  
Mike Alastuey, Clark County School District  
Guy Hobbs, Clark County  
Mary Walker, Carson City  
Mary Henderson, Washoe county  
Terri Thomas, Sparks  
Gary Cordes, Fallon  
Steven M. Hanson, Henderson

**Staff Contacts**

Fiscal Analysis Division:  
Kevin Welsh, Deputy Fiscal Analyst  
Ted Zuend, Deputy Fiscal Analyst  
(687-6821)

Legal Division:  
Kim Marsh Guinasso, Principal Deputy Legislative Counsel  
(687-6830)



Senate Concurrent Resolution No. 40--Committee on  
Government Affairs

FILE NUMBER 162

SENATE RESOLUTION--Directing the Legislative Commission to conduct an interim study of the laws of this state relating to the distribution among local governments of revenue from state and local taxes.

WHEREAS, Nevada is a dynamic state with a growing population and a diverse economic base; and

WHEREAS, Regional differences in the local economies of this state directly affect the population and economic growth throughout the state; and

WHEREAS, The increase in population and the growth in the state's economy has created a tremendous strain on the local governments as those governments attempt to address the demands of this growth; and

WHEREAS, Often the creation of additional governmental entities is required to accommodate the population and economic growth and alleviate the strain on the existing local governments; and

WHEREAS, The present laws relating to the distribution of revenue generated by state and local taxes are inadequate to meet the demands created by this growth; and

WHEREAS, Because of the inadequacies of the laws relating to the distribution of that revenue, local governments often must compete against each other for the available revenue rather than cooperating with each other to meet the demands that the population and economic growth create; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of the laws relating to the distribution among local governments of revenue from state and local taxes; and be it further

RESOLVED, That the Legislative Commission shall appoint a subcommittee consisting of:

1. Two members of the Senate Standing Committee on Government Affairs;
2. Two members of the Senate Standing Committee on Taxation;
3. Two members of the Assembly Standing Committee on Government Affairs; and
4. Two members of the Assembly Standing Committee on Taxation; and be it further

RESOLVED, That the study must include, without limitation, an examination of the laws relating to the distribution of revenue from:

1. The local school support tax imposed pursuant to chapter 374 of NRS;
2. The tax on aviation fuel and fuel for motor vehicles imposed pursuant to chapter 365 of NRS;
3. The tax on fuel imposed pursuant to chapter 373 of NRS;
4. The tax on intoxicating liquor imposed pursuant to chapter 369 of NRS;
5. The tax on tobacco imposed pursuant to chapter 370 of NRS;

6. The vehicle privilege tax imposed pursuant to chapter 371 of NRS;
  7. The tax imposed on gaming licenses pursuant to chapter 463 of NRS; and
  8. The tax on the transfer of real property imposed pursuant to chapter 375 of NRS;
- and be it further

RESOLVED, That the Legislative Commission shall designate a chairman of the subcommittee from among the members of the Senate appointed to the subcommittee; and be it further

RESOLVED, That the subcommittee shall meet at least six times during the interim and consult with an advisory committee consisting of the Executive Director of the Department of Taxation and 8 members that are representative of various geographical areas of the state and are appointed by the Legislative Commission as follows:

1. Two members of the Local Governmental Advisory Committee created pursuant to NRS 266.0165;
2. Three members involved in the government of a county; and
3. Three members involved in the government of an incorporated city; and be it further

RESOLVED, That the members of the advisory committee serve without compensation, per diem allowance, travel expenses or other reimbursement; and be it further

RESOLVED, That any recommended legislation proposed by the subcommittee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the subcommittee; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the findings of the subcommittee and any recommendations for legislation to the 69th session of the Nevada Legislature.

## ABSTRACT

### **LAWS RELATING TO THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF REVENUE FROM STATE AND LOCAL TAXES (S.C.R. 40)**

The 68th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 40 (File No. 162, *Statutes of Nevada 1995*, pages 3034-3036), which directed the Legislative Commission to conduct an interim study of the laws relating to the distribution among local governments of revenue from state and local taxes. The study was to include, without limitation, an examination of laws relating to the distribution of revenue and alternate distribution methods to increase distribution efficiencies.

The Legislative Commission appointed a subcommittee of six legislators and an advisory committee consisting of the Executive Director of the Department of Taxation, and eight local government finance representatives to complete the study and submit any findings and recommendations for legislation to the 69th Session of the Nevada Legislature. The subcommittee held five public hearings in Carson City, Las Vegas, and Reno and received testimony primarily regarding the distribution of revenues to local governments from sales tax, liquor tax, cigarette and tobacco products tax, real property transfer tax, fuel taxes, and vehicle privilege tax and their respective distribution formulas.

The subcommittee, at a final work session in Carson City, adopted six recommendations for proposed legislation and one recommendation (approved by the Legislative Commission) to continue the advisory committee's work, examining four specific additional revenue issues.



## SUMMARY OF RECOMMENDATIONS

### **LAWS RELATING TO THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF REVENUE FROM STATE AND LOCAL TAXES (S.C.R. 40)**

1. The 1997 Session of the Nevada Legislature should consider legislation providing for a new formula for the distribution among the local governments within a county of: the Basic City/County Relief Tax; Supplemental City/County Relief Tax; Tax on Liquor; Tax on Tobacco; Real Property Transfer Tax; and Motor Vehicle Privilege Tax.
2. The 1997 Session of the Nevada Legislature should consider legislation that would provide for appropriate adjustments to the bases of the formula for revenue distribution of one or more local governments when previous functions are taken over or no longer exist.
3. The 1997 Session of the Nevada Legislature should consider legislation to allow two or more local governments within the same county to agree by cooperative agreement to an alternative formula for revenue distribution.
4. The 1997 Session of the Nevada Legislature should consider legislation to provide transitory language allowing a local government to request an adjustment to the base of the formula for revenue distribution purposes.
5. The 1997 Session of the Nevada Legislature should consider legislation providing for the number and type of services required to be provided by a new entity to qualify for inclusion in the formula for revenue distribution and to freeze the revenues of "enterprise" special districts at the base year.
6. The 1997 Session of the Nevada Legislature should consider legislation creating a legislative committee to continue the study of the distribution among local governments of revenue from state and local taxes.
7. The Legislative Commission should direct the S.C.R. 40 Advisory Committee to continue its analyses of local government revenues and to report its findings and recommendations to the Committees on Government Affairs in the Senate and Assembly during the 1997 Session.



BULLETIN 97-6

**SYSTEM OF PAROLE AND PROBATION IN NEVADA**

S.C.R. 52 - 1995 Session

**Members**

Senator William J. Raggio, Chair  
Senator Ernest E. Adler  
Senator Mark A. James  
Senator Sue Lowden  
Senator Maurice E. Washington  
Assemblyman Bernie Anderson  
Assemblyman Max Bennett  
Assemblyman John C. Carpenter  
Assemblywoman Genie Ohrenschall  
Assemblyman Larry L. Spittler

**Alternates**

Assemblyman Morse Arberry, Jr.  
Assemblyman John W. Marvel  
and  
Mike Harris, Commissioner, State Board of Parole Commissioners  
Carlos Concha, Deputy Chief, Division of Parole and Probation  
Dick Kirkland, Sheriff, Washoe County  
Richard Winget, Undersheriff, Las Vegas Metropolitan Police Department  
Robert Bayer, Director, Department of Prisons

**Staff Contacts**

Research Division:  
Allison Combs, Senior Research Analyst  
(687-6825)

Legal Division:  
Scott G. Wasserman, Chief Deputy Legislative Counsel  
Bradley A. Wilkinson, Principal Deputy Legislative Counsel  
(687-6830)



Senate Concurrent Resolution No. 52--Committee on Finance

FILE NUMBER 163

SENATE CONCURRENT RESOLUTION--Directing the Legislative Commission to conduct an interim study of the system of parole and probation within the State of Nevada.

WHEREAS, It has become apparent in recent months that the current standards used to determine whether an offender is eligible for parole or probation need to be reviewed and evaluated; and

WHEREAS, The health, safety and welfare of the residents of the State of Nevada must not be jeopardized in any way by the premature release of dangerous offenders; and

WHEREAS, The entire system of granting parole or probation to offenders has not been examined for many years; now, therefore, be it

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

RESOLVED, That the study must include:

1. A review and evaluation of the standards used for determining whether an offender is eligible for parole or probation;

2. An evaluation of the supervision of offenders released on parole or probation;

3. Consideration of methods to be used to improve communication between the State Board of Parole Commissioners, the Division of Parole and Probation of the Department of Motor Vehicles and Public Safety, local law enforcement agencies and other personnel who supervise offenders who have been released;

4. An analysis of the qualifications of members of the State Board of Parole Commissioners, the parole and probation officers and the personnel involved in the support of offenders who have been released;

5. A determination of the data processing system and personnel necessary to supervise offenders effectively on parole or probation; and

6. An analysis of how the rate of parole or probation is affected by budgetary limitations; and be it further

RESOLVED, That the Legislative Commission shall appoint an advisory committee to assist the interim study committee consisting of representatives of the State Board of Parole Commissioners, the Division of Parole and Probation of the Department of Motor Vehicles and Public Safety, law enforcement agencies and the prison system; and be it further

RESOLVED, That any recommendations for legislation resulting from the study must be approved by a majority of the members of the Assembly and a majority of the members of the Senate appointed to conduct the study; and be it further

RESOLVED, That the Legislative Commission report the results of its study and any recommended legislation to the 69th session of the Nevada Legislature.



## ABSTRACT

### **SYSTEM OF PAROLE AND PROBATION IN NEVADA (S.C.R. 52)**

The 1995 Nevada Legislature adopted Senate Concurrent Resolution No. 52 (File No. 163, *Statutes of Nevada 1995*, page 3036) which directed the Legislative Commission to conduct an interim study of the system of parole and probation in Nevada.

The Legislative Commission appointed a subcommittee of ten legislators to complete the study. The subcommittee held four meetings in Carson City. All of the meetings, except the fourth meeting, in which the subcommittee voted on its final recommendations, were video conferenced between Carson City and Las Vegas.

Testimony from representatives of the Division of Parole and Probation, the State Board of Parole Commissioners, the Department of Prisons, the Administrative Office of the Courts, the Office of the Attorney General, and local law enforcement agencies focused on methods of improving the supervision of offenders released on parole and probation, the internal operation of the Division and the Parole Board, and the communication between members of the criminal justice system, including state and local law enforcement agencies and the courts.

The subcommittee adopted 29 recommendations addressing issues in the following areas:

1. Regular review by the Parole Board of its standards governing the release of inmates and statistical data regarding the success of inmates on parole.
2. Terms of Parole Board members.
3. Hearings of the Parole Board and ratification of its decisions.
4. Training for Parole Board members.
5. Victim notification.
6. Minimum contact standards and classification levels for offenders under the supervision of the Division of Parole and Probation.
7. Computer technology utilized to link the Division of Parole and Probation with other state and local law enforcement agencies and the courts.



## SUMMARY OF RECOMMENDATIONS

### SYSTEM OF PAROLE AND PROBATION IN NEVADA (S.C.R. 52)

The Legislative Commission's Subcommittee to Study the System of Parole and Probation in Nevada recommends the following:

#### STATE BOARD OF PAROLE COMMISSIONERS

##### Monitoring the Operation of the State Board of Parole Commissioners

1. Amend *Nevada Revised Statutes* (NRS) 213.10885 to require that the State Board of Parole Commissioners (Parole Board) comprehensively review and reevaluate every 2 years the standards utilized to determine whether an inmate should be released on parole. The review should include a determination of whether the predicting factors are still effective. In addition, require that the Parole Board make available to the public its form that is based on these standards ("Parole Success Likelihood Factors"). Finally, the Parole Board shall report to each regular session of the Legislature the conclusions of the review and provide any changes in its standards, policies, procedures, or forms adopted pursuant to the review. **(BDR 16--180)**
2. Amend Chapter 213 of NRS to require that the Parole Board compile and maintain parole outcome measures and detailed information regarding its parole decisions, including the status of parolees in the system and the number and reasons for parole approvals, denials, and revocations. The research compiled should be a factor in the Parole Board's policy development and decision-making. **(BDR 16--180)**
3. Amend NRS 233B.039 to remove the Parole Board from the list of agencies exempted from the requirements of Chapter 233B. **(BDR 16--180)**
4. Include a statement in the final report recommending that the Chairman of the Parole Board meet at least semiannually with the administrative staff of the Division of Parole and Probation (Division) to develop methods of coordinating efforts to undertake joint planning, and to agree on means of implementing and evaluating such plans. In addition, the Chairman of the Parole Board should meet at least annually with representatives of local law enforcement, district attorneys, and the courts to develop methods of coordinating programs, to undertake joint planning, and to agree on means of implementing and evaluating such plans. Finally, the Chairman of the Parole Board should initiate quarterly meetings with the Director of the

Department of Prisons (Department) and the Division's field staff through conferences, seminars, and visits to field offices. Require that the Parole Board provide a report regarding these meetings prior to each session of the Legislature.

Include a statement in the final report stating that this recommendation is not intended to dictate the rate at which inmates are to be released on parole. The intention is to provide education on the operation and programs of the Department, the Division, and the Parole Board; and to increase communication between these agencies.

### **Terms of Members**

5. Amend Chapter 213 of NRS to require staggered terms for the members of the Parole Board. Initial terms will be varying lengths to create staggered terms. Subsequent terms will be 4 years, as required by statute. **(BDR 16-- 180)**
6. Amend NRS 213.1087 to eliminate the limitation to two 4-year terms for members of the Parole Board. **(BDR 16--182)**

### **Ratification of Parole Board Decisions**

7. Amend NRS 213.133 to allow two commissioners to approve the final decision on any issue before the Parole Board (including parole applications and revocation hearings) involving crimes with a penalty of 1 to 6 years or less, without approval of the majority of the Parole Board, except in those circumstances regarding capital offenses and other violent crimes specified under subsection 6 of NRS 213.113. For all other crimes (except those listed in subsection 6 of NRS 213.133), review and concurrence by a minimum of three commissioners is required, without approval of the majority of the Parole Board. Existing law under subsection 6, which requires a panel of three commissioners and approval of the parole decision by a majority of the Parole Board, will not change. **(BDR 16--181)**

### **Training**

8. Amend NRS 213.1088 to require at least 40 hours of orientation for Parole Board members and add the hearing representatives to the orientation requirement. Expand the information presented during the orientation required under NRS 213.1088 to include an historical perspective of the agency goals and objectives, programs, procedures, policies and regulations, job responsibilities, personnel policies, and the role of the Parole Board in the criminal justice system in Nevada.

In addition, amend NRS 213.108(6) to require that each member of the Parole Board and each hearing representative attend 40 hours of annual training. The training should include continuing education relating to their function, decision-making skills, new changes in the law, court decisions, correctional policies and programs, communications skills, problem solving, reports on research, and specialized training on their roles in the criminal justice system. Require that the Chairman of the Parole Board develop a written training and staff development plan for all Parole Board members and hearing representatives. **(BDR 16--180)**

### **Travel by the Parole Board**

9. Include a statement in the final report supporting the implementation of procedures designed to reduce the amount of travel time spent by parole commissioners while attending parole hearings. The Parole Board should investigate the possibility of utilizing available technology, including video conferencing, to have more frequent meetings without the necessity of travel.

### **Timing of Parole Eligibility Hearings**

10. Include a statement in the final report supporting the implementation by the Parole Board of new procedures that will require parole application hearings to be conducted at least 90 days prior to the date an applicant is eligible for actual release. Under this procedure, all Parole Board decisions in favor of granting a parole should be issued contingent upon continued good conduct and verification that the applicant has presented a truthful and viable parole release plan.
11. Include a statement in the final report supporting the implementation by the Parole Board of a new policy which, absent extraordinary circumstances, eliminates 6-month parole denial periods in favor of a minimum 1-year parole denial.

### **Parole Eligibility Lists**

12. Include a statement in the final report supporting the addition of a numerical score based on the categories of crimes in NRS to the parole eligibility lists indicating the applicant's relative criminal history. The score should be added as a component of the pre-sentence investigation report completed by the Division of Parole and Probation.

### **Victim Notification**

13. Include a statement in the final report supporting the implementation by all prosecuting offices in Nevada of a standard operating procedure through which all victims of crime (including victims of crimes that were dismissed

pursuant to plea agreement), at or before the time the offender is sentenced, are provided with a victim impact and parole application notification request form, and that all other interested persons who so request are provided with a parole application notification request form. To implement this recommendation the Parole Board should develop a standard request form for use by non-victims who wish to receive notification of parole proceedings.

## **DIVISION OF PAROLE AND PROBATION**

### **Policies and Procedures of the Division**

14. Amend Chapter 213 of NRS to require that the Division contact an offender released on parole within 5 days of his release from prison, unless waived by the Chief of the Division. Include a statement in the final report recommending that the Division implement a policy requiring the offender to contact the Division within 24 hours of release. **(BDR 16--183)**
15. Amend Chapter 213 of NRS to require that the Division review every 6 months the classification level of parolees and probations. Classification is the process of evaluating each individual's case to determine the appropriate supervision level and program needs of the individual offender. Each review shall specify the reasons for changing or maintaining the offender's classification level. **(BDR 16--183)**
16. Amend NRS to require that the Division of Parole and Probation conduct a risk and needs assessment for classification of all offenders prior to their scheduled appearance before the Parole Board. Include a statement in the final report noting the Subcommittee's concern for the potential fiscal impact of this recommendation, which will receive further consideration during the 1997 Legislative Session when an analysis of that impact is available. In addition, include a statement in the final report recommending that the Division, the Parole Board and the Department of Prisons work together to develop a single classification instrument. **(BDR 16--183)**
17. Amend NRS 213.1076 to increase the minimum supervision fee charged by the Division to \$30. **(BDR 16--183)**

### **Caseload Sizes and Minimum Contacts with Offenders**

18. Include a statement in the final report recommending that the Division apply for grant money from the National Institute of Corrections and similar criminal justice organizations to hire a professional consultant to conduct a time study of agent workloads to determine the appropriate allocation of staff based on supervision levels and monthly contacts, which may be increased based on the results of the study. If grant funding is not available, the subcommittee supports the Division seeking an appropriation (included in the Executive

Budget presented to the 1997 Legislature) to the Department of Administration to oversee the hiring of a consultant to conduct the study.

An additional component of the study, based on the results of the time study, should include an evaluation and revision, if appropriate, of the classification and risk assessment instrument ("Initial Assessment of Client Risk") currently used by the Division. The results of the study should be utilized in the development of performance-based measures to provide a mechanism for assessing what the Division does (including monthly contact minimums) and how well it performs its duties. The measures should provide a foundation for the Division's budget. The Division must complete the study and prepare performance-based measures by August 15, 1998, in preparation for its budget in Fiscal Years 1999-2000 and 2000-2001. A full report must be prepared for the 1999 Legislative Session.

19. Include a statement in the report recommending that the Department of Administration increase the Division's personnel and equipment to meet the public's expectation regarding the role of the Division.

#### **Salaries**

20. Include a statement in the final report supporting a study comparing the salaries of the Parole Board's commissioners and the Division's officers with their counterparts at the local level, in other states, and at the federal level.

#### **Reimbursement for Training Costs**

21. Amend NRS to require a parole and probation officer to reimburse the cost of initial training if the employee voluntarily leaves his employment within 2 years of receiving the training. Include an exception for taking another position with State Government, illness, hardship, involuntary termination, and similar circumstances. Provide that a statutory lien is created against any money due to the employee from the state until the matter is resolved.  
**(BDR 16--183)**

#### **Computer Equipment for the Division and in the Courts**

22. Include a statement in the final report supporting continued review and possible funding to procure the equipment and software necessary to implement an integrated computer system for the Division and the criminal justice system.
23. Include a statement in the final report supporting a study by the Administrative Office of the Courts, in conjunction with the Department of Motor Vehicles and Public Safety and the Department of Prisons, identifying the equipment needed to bring Nevada's criminal courts on-line with the Repository, which will enable sentencing courts to instantaneously transmit

information to the central repository at the time of sentencing and to receive information from the Repository. Depending upon the results of the study and the availability of funding, procurement of additional equipment and staff may be supported.

24. Include a statement in the final report supporting notification of the Nevada Criminal Justice Information System by the Department regarding an inmate's release on parole immediately prior to that release. In addition, support an automatic "hold on bail" placed on behalf of the Division on any parolee or probationer arrested for a criminal violation. The automatic hold should be effective for a maximum of 24 hours pending notification to the Division and a determination by the Division whether the hold should be continued and revocation procedures initiated.

## **DEPARTMENT OF PRISONS**

### **System for Awarding Good Time Credits**

25. Include a statement in the final report recommending a study of the system for awarding good time credits by the Department and the Office of the Attorney General. The preliminary results of the study and any recommendations with regard to good time credits should be made available prior to the 1997 Legislative Session.

### **Programs within the Department**

26. Include a statement in the final report supporting a review of the adequacy and effectiveness of the Department's programming opportunities, with specific focus on the availability and adequacy of programs to combat illiteracy, as well as programs related to substance abuse. Depending upon the results of this review and the availability of funding, the subcommittee recommends that the Department should include in its budget adequate prison programs in these areas that are available to all Nevada inmates.

### **Certification for Release by the "Psych Panel"**

27. Include a statement in the final report supporting the development of a standardized evaluation procedure, based upon written objective criteria, for determining whether to issue the "psych panel" certifications required for certain offenders prior to their release on parole.

## **CRIMINAL JUSTICE SYSTEM IN NEVADA**

28. Include a statement in the final report supporting the development of protocols between local medical facilities and local and state law

enforcement agencies which will allow for the timely sharing of information about offenders or crime victims who are hospitalized, and which will delineate procedures for detaining hospitalized offenders and for notifying law enforcement of an offender's proposed release.

29. Amend NRS 62.360 to allow sentencing courts direct access to juvenile court records that have not been ordered sealed in accordance with the law. **(BDR 5--184)**



**BULLETIN 97-7**

**TREATMENT OF MENTALLY ILL OFFENDERS**

S.C.R. 59 - 1995 Session

**Members**

Senator Mark A. James, Chair  
Senator Maurice E. Washington, Vice Chair  
Senator O. C. Lee  
Assemblywoman Maureen E. Brower  
Assemblywoman Jan Evans  
Assemblywoman Genie Ohrenschall

**Staff Contacts**

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

Legal Division:  
Scott G. Wasserman, Chief Deputy Legislative Counsel  
Bradley A. Wilkinson, Principal Deputy Legislative Counsel  
(687-6830)



Senate Concurrent Resolution No. 59--Committee on Judiciary

FILE NUMBER 164

SENATE RESOLUTION--Directing the Legislative Commission to conduct an interim study of the treatment of mentally ill offenders in the criminal justice system.

WHEREAS, A large percentage of offenders in Nevada prisons were convicted of offenses relating to sexually deviant behavior; and

WHEREAS, Many of these same offenders have been diagnosed as mentally ill; and

WHEREAS, To avoid recidivism upon their release into society, they must receive appropriate punishment as well as adequate treatment while fulfilling their sentences; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of the punishment of and treatment provided for mentally ill offenders in the criminal justice system, with an emphasis on those offenders who were convicted of offenses involving sexually deviant behavior; and be it further

RESOLVED, That the study must include:

1. An evaluation of the effectiveness of the current programs for treatment provided for mentally ill offenders in the criminal justice system;
2. A survey of treatment programs used in states other than Nevada;
3. The rate of recidivism of those offenders who have been convicted of offenses involving sexually deviant behavior and who received the current treatment before their release;
4. An analysis of the cost, length of treatment and expected results of the different types of treatment programs which are currently available but not used in Nevada; and
5. A consideration of any other matters deemed relevant to the punishment of and treatment provided for mentally ill offenders and the criminally insane; and be it further

RESOLVED, That no action may be taken by the study committee on recommended legislation unless it receives a majority vote of the senators on the committee and a majority vote of the assemblymen on the committee; and be it further

RESOLVED, That the results of the study and any recommended legislation be reported to the 69th session of the Nevada Legislature.



## ABSTRACT

### TREATMENT OF MENTALLY ILL OFFENDERS (S.C.R. 59)

The 68th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 59 (File No. 164, *Statutes of Nevada 1995*, pages 3037-3038) which directed the Legislative Commission to conduct an interim study of the treatment of mentally ill offenders, particularly sex offenders, in the criminal justice system. The commission appointed a subcommittee of six legislators (three Senators and three Assemblywomen) to carry out the provisions of the resolution.

The subcommittee held four meetings, including a work session, during the course of the study. One of the meetings was in Las Vegas and the other three were in Carson City. These public hearings were conducted through simultaneous video conferences between meeting rooms at the Legislative Building in Carson City and the Grant Sawyer State Office Building in Las Vegas.

During the course of this interim study, the subcommittee received extensive expert and public testimony concerning sex offenders and mentally ill offenders in Nevada's criminal justice system. The subcommittee reviewed various laws and treatment programs which other states have enacted to deal with sex offenders, and it considered the results of research conducted by psychologists and psychiatrists who are prominent in the field of sex offender treatment. It obtained testimony and correspondence from concerned citizens, district attorneys, judges, juvenile probation officers, police officers, sex offender therapists, victims of crime, and representatives of state criminal justice and mental health agencies. State and local officials who deal with mentally ill offenders and/or sex offenders contributed information and suggestions throughout the study.

At its final meeting and work session, the subcommittee adopted 24 recommendations, including nine bill draft requests (BDRs), for consideration by the 1997 Legislature. The recommendations address the following major topics:

- Incarceration and treatment of adult sex offenders;
- Treatment of juvenile sex offenders;
- Tracking and monitoring sex offenders; and
- Managing and supervising mentally ill offenders.



## SUMMARY OF RECOMMENDATIONS

### TREATMENT OF MENTALLY ILL OFFENDERS (S.C.R. 59)

This summary presents the recommendations approved by the Legislative Commission's Subcommittee to Study the Treatment of Mentally Ill Offenders in the Criminal Justice System (S.C.R. 59). The subcommittee submits these proposals to the 69th Session of the Nevada Legislature.

#### RECOMMENDATIONS CONCERNING THE INCARCERATION AND TREATMENT OF SEX OFFENDERS IN GENERAL (PRIMARILY ADULTS)

##### Sentencing, Incarceration, and Treatment

1. Include a statement in the final report recommending that prosecution should be included in all intervention measures regarding sex offenders. Prosecutors should vigorously seek convictions.
2. Amend the *Nevada Revised Statutes* (NRS) to require that, to assist judges in determining the appropriate sentence, the Division of Parole and Probation (DP&P), Nevada's Department of Motor Vehicles and Public Safety (DMV&PS), include a psychosexual evaluation in the report of the presentence investigation of each convicted sex offender. The psychosexual evaluation should be conducted using a standardized assessment methodology. Furthermore, the evaluation should be performed by a licensed mental health professional who has received sex offender specific training. **(BDR 14--284)**
3. Include a statement in the final report recommending that treatment provided to sex offenders should be directed toward changing their sexually offending behaviors. It should not be viewed as an alternative to punishment and should supplement incarceration.
4. Include a statement in the final report supporting the implementation of external controls (e.g., house arrest, increased supervision by parole and probation officers, and polygraph examinations) for sex offenders on parole or probation. Adult sex offenders who eventually will be released from prison should be placed in highly structured, realistic, and responsible treatment programs while they are incarcerated.

5. Include a statement in the final report recommending that, subject to legislative appropriation, all convicted sex offenders, particularly inmates in Nevada's Department of Prisons (DOP), receive appropriate treatment to reduce the chance that they will reoffend.
6. Draft and enact legislation to authorize the use of chemical castration or the chemical alteration of an individual's hormonal system for the treatment of certain sex offenders incarcerated in DOP or being supervised by the DP&P. In addition, include a statement in the final report recommending research and statistical reporting on the effectiveness of such treatment on each sex offender who receives this treatment. In particular, the study should track the long-term effectiveness of such treatment after such an offender is released from a term of imprisonment, parole, or probation. **(BDR 39--285)**
7. Draft and enact legislation to authorize the civil commitment of sex offenders. Such legislation should include a provision that repeat sex offenders be civilly committed until they no longer pose a threat to society. In addition, include a statement in the final report recommending that the Legislature give special consideration to Minnesota's "Psychopathic Personality Law." **(BDR 39--286)**
8. Include a statement in the final report recommending that the Legislature provide adequate funding for the following:
  - a. Community corrections personnel (e.g., parole and probation officers) to monitor sex offenders as they make a transition from prison into a community;
  - b. Continuing education for all personnel involved in the treatment of sex offenders (e.g., district attorneys, judges, parole commissioners, treatment providers); and
  - c. Inpatient as well as outpatient follow-up treatment for sex offenders.
9. Include a statement in the final report recommending that treatment for sex offenders be provided by therapists who specialize in sex offender specific therapy.

**Certification for Release by the "Psych Panel" (which currently must approve the release of offenders convicted of certain sex-related crimes)**

10. Include a statement in the final report supporting legislation, recommended by Nevada's Attorney General, to amend NRS 200.375, "Limitations on parole," to clarify that:
  - a. Inmates convicted of sex offenses do not have a liberty interest in certification by the "psych panel" so they can be considered for parole;

- b. The “psych panel” in its sole discretion may revoke such certification at any time; and
  - c. Recertification may be required for any inmate who has reentered Nevada’s prison system.
11. Amend the NRS to expand the requirement for certification prior to release by the “psych panel” to those inmates who are found guilty but mentally ill. **(BDR 16--287)**
  12. Amend the NRS to add the “psych panel” screening requirement to the following sexual offenses for which the panel is not currently required: battery with intent to commit sexual assault, child abuse, child pornography, incest, and sexual seduction. In addition, require the certification for coercion, which is the crime most frequently agreed upon as a result of plea bargaining a sexual criminal charge. **(BDR 15--288)**

### **RECOMMENDATIONS REGARDING JUVENILE SEX OFFENDERS**

13. Include a statement in the final report urging judges to exercise their discretion under existing law to close to the general public court proceedings involving juvenile sex offenders when the presence of the news media may have an adverse effect upon a youth’s chances of success in treatment and preventing recidivism.
14. Draft and enact legislation that requires the juvenile division of each district court to notify, in writing, the appropriate school district prior to the release of a juvenile sex offender. Include in the legislation a provision that prohibits a juvenile sex offender from attending the same school as his victim. **(BDR 5--289)**
15. Include a statement in the final report supporting continued legislative appropriations to the Division of Child and Family Services (DCFS), Nevada’s Department of Human Resources, for the division’s existing or authorized programs and facilities for the assessment and treatment of juvenile sex offenders. In addition, include a statement recommending that the Legislature provide adequate funding for the DCFS to expand its programs for juvenile sex offender treatment, particularly programs at the Caliente Youth Center and the development of programs at the Nevada Youth Training Center in Elko.
16. Include a statement in the final report recommending that the Legislature and the local governments provide adequate funding for the treatment of juvenile sex offenders. In addition, the Legislature should support the development and use of an increased number of in-state treatment programs. The treatment programs and related services should be provided in or near the community of residence of the offender and the offender’s family. Consideration should be given for these services to be provided at the local (county) level.

## RECOMMENDATIONS FOR TRACKING AND MONITORING SEX OFFENDERS

17. Draft and adopt a resolution directing the DOP, DP&P, and the Central Repository for Nevada Records of Criminal History (Nevada Highway Patrol Division, DMV&PS) to conduct a study of the recidivism rates of sex offenders in Nevada, particularly those offenses for which an offender may receive a sentence of lifetime supervision or for which community notice may be required. The study should also track juvenile sex offenders through the adult criminal justice system to determine the long-term effects of treatment. Furthermore, the study should be ongoing and the updated results should be reported to the Legislature and the Advisory Commission on Sentencing at the beginning of every regular legislative session. **(BDR 14--290)**
18. Draft and enact legislation to establish a program whereby anytime an adult or juvenile is found guilty of committing a sexual or violent offense, the court must provide the victims and witnesses with documentation which includes a form to request notification. The documentation should advise them of their rights to be informed of the movements of the defendant through the criminal justice system. **(BDR 14--291)**
19. Include a statement in the final report supporting Senator Mark A. James' Bill Draft Request (BDR 15--76) to amend the NRS to:
  - a. Require that a sex offender convicted in another state who moves to Nevada will be subject to the registration, lifetime supervision, and community notification requirements enacted in 1995 under Senator James' Senate Bill 192 (Chapter 256, *Statutes of Nevada 1995*) which increased the penalties for certain sex-related offenses;
  - b. Increase the penalty for failure to register as a sex offender from a misdemeanor to a felony;
  - c. Allow for a statewide repository of sex offender registration; and
  - d. Include juvenile sex offenders in the community notification provisions of S.B. 192.
20. Include a statement in the final report supporting Senator Mark A. James' Bill Draft Request (BDR 15--76) to authorize public access to the registry of sex offenders. The BDR would authorize the implementation of a sex offender registration hot line similar to the one used in California. Various employers and the public would be allowed to contact a centralized place to determine if a person is a registered sex offender.

## **RECOMMENDATION CONCERNING EDUCATIONAL PROGRAMS**

21. Include a statement in the final report supporting programs that educate children in recognizing, preventing, and reporting sexual abuse.

## **RECOMMENDATIONS REGARDING MENTALLY ILL OFFENDERS**

22. Include a statement in the final report recommending that one method of effectively managing mentally ill offenders in jail or prison is to have them involved in work programs and other productive activities that maximize the use of their time.
23. Amend the NRS to require lifetime supervision for offenders who are found guilty but mentally ill and convicted of crimes of violence, such as armed robbery, arson, battery, and murder. The lifetime supervision of such offenders would follow the expiration of a term of imprisonment, parole, or probation. **(BDR 14--292)**

## **RECOMMENDATION CONCERNING THE FISCAL EFFECT OF PROPOSED LEGISLATION**

24. Include a statement in the final report urging the various state and local agencies that deal with sex offenders and/or mentally ill offenders to review and analyze the recommendations adopted by this subcommittee, the subcommittee's final report, and the BDRs contained in the report. Most importantly, these agencies should immediately begin the analysis and planning necessary to advise the Legislature on the fiscal effect that these proposals may have on their budgets.



BULLETIN 97-8

**CONTINUED REVIEW OF THE TAHOE REGIONAL PLANNING AGENCY**

A.C.R. 4 - 1995 Session

**Members**

Senator Lawrence E. Jacobsen, Chair  
Senator William R. O'Donnell  
Senator Raymond C. Shaffer  
Assemblyman Marcia de Braga  
Assemblyman Thomas W. Fetic  
Assemblyman Brian E. Sandoval

**Staff Contacts**

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

Legal Division:  
Jan K. Needham, Principal Deputy Legislative Counsel  
Rick S. Combs, Deputy Legislative Counsel  
(687-6830)



Assembly Concurrent Resolution No. 4--Assemblyman Hettrick

FILE NUMBER 34

ASSEMBLY CONCURRENT RESOLUTION--Directing the Legislative Commission to appoint a committee to continue the review of the Tahoe Regional Planning Compact, including a review of the Tahoe Regional Planning Agency and the federal and state agencies that regulate activities in the Lake Tahoe Basin.

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

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

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

WHEREAS, As a necessary corollary to this vital concern and for the protection of Lake Tahoe, the Legislature of the State of Nevada is also concerned with the role and activities of those federal and state agencies having authority to regulate activities in the Lake Tahoe Basin and their interactions with and effect upon the Tahoe Regional Planning Agency and the Lake Tahoe Basin; and

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

WHEREAS, Senate Joint Resolution No. 7 of the 67th Legislative Session directed the Legislative Commission to appoint a committee of six legislators composed of three senators and three assemblymen to continue the review of the Tahoe Regional Planning Compact and to oversee the Tahoe Regional Planning Agency; and

WHEREAS, The review and oversight of the programs and activities of the Tahoe Regional Planning Agency and the role of each federal and state agency having authority and responsibility in the Lake Tahoe Basin continue to be necessary to ensure the proper functioning of those agencies; and

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

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint a committee of six legislators composed of three senators and three assemblymen to continue the review of the Tahoe Regional Planning Compact and to oversee the Tahoe

Regional Planning Agency and each federal and state agency having authority to regulate activities in the Lake Tahoe Basin; and be it further

RESOLVED, That the committee is directed to:

1. Review the budget, programs, activities, responsiveness and accountability of the Tahoe Regional Planning Agency; and

2. Study the role and activities of each federal and state agency having authority to regulate activities in the Lake Tahoe Basin, including their role in the protection of Lake Tahoe and their interactions with and effect upon the Tahoe Regional Planning Agency and the Lake Tahoe Basin; and be it further

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

RESOLVED, That the Chief Clerk of the Assembly transmit copies of this resolution to each member of the California delegation to the Tahoe Regional Planning Agency, the President pro Tempore of the Senate and the Speaker of the Assembly of the State of California.

## ABSTRACT

### **CONTINUED REVIEW OF THE TAHOE REGIONAL PLANNING AGENCY (A.C.R. 4)**

The 1995 Nevada Legislature adopted Assembly Concurrent Resolution No. 4 (File No. 34, *Statutes of Nevada 1995*) which directed the Legislative Commission to appoint a committee to continue the review of the Tahoe Regional Planning Compact and provide oversight of the Tahoe Regional Planning Agency (TRPA). The resolution further directed the committee to review the activities of federal and state agencies having authority to regulate activities in the Lake Tahoe Basin.

The committee held four hearings in the Basin. Background information and recommendations were received from a broad range of citizens, organizations specifically interested in the future of the region, and governmental entities having relevant responsibilities. The committee members also participated in a relatively extensive, on-the-ground review of projects and issues in the Nevada portion of the Basin.

As part of performing its oversight functions, the committee adopted 22 recommendations. In addition to letters urging the TRPA to emphasize particular aspects of its programs, major recommended actions include:

- Amending the Bistate Compact to modify the structure and authority of the Tahoe Transportation District so that it will reflect a public-private cooperative effort;
- Urging the Board of Directors of Nevada's Department of Transportation to allocate, based on its determination of priorities, special federal highway funds to specific projects in the Lake Tahoe Basin;
- Expressing support for the proposed ballot question to approve issuance of \$20 million in state general obligation bonds to provide grants to carry out projects for erosion control and the restoration of stream environment zones in the Basin; and
- Expressing support for convening a national summit meeting of federal agencies hosted by the TRPA to discuss a coordinated strategy for focusing the agencies' resources over time on projects and activities that will assist in preserving the Tahoe environment.



## SUMMARY OF RECOMMENDATIONS

### CONTINUED REVIEW OF THE TAHOE REGIONAL PLANNING AGENCY (A.C.R. 4)

Following is a summary of the recommendations adopted on May 31, 1996, by the Legislative Commission's Committee To Continue the Review of the Tahoe Regional Planning Agency (TRPA). These proposed actions will be forwarded to the Legislative Commission, and relevant recommendations will subsequently be transmitted to the 1997 Session of the Nevada Legislature.

#### GENERAL TRPA PROGRAMS AND PROCEDURES

The following recommendations address the TRPA's general programs and procedures.

##### Partnership Approach

1. Urge, by letter from the committee, the TRPA to:
  - a. Continue the "partnership approach" in working with interested participants toward consensus in the compilation and implementation of plans and projects designed to protect and improve the environment of the Lake Tahoe Basin; and
  - b. Include participation in the "partnership approach" in its work program and proposed budget for staffing, operations, and contractual services provided by necessary facilitators and/or consultants.

##### Public Information and Education

2. Urge, by letter from the committee, the TRPA to continue its efforts in the areas of public information, outreach, and education through such means as direct mail; radio and newspaper interviews and information; local workshops; and distribution of brochures concerning specific types of programs and procedures.

##### Regulatory Procedures and Ordinances

3. Urge, by letter from the committee, the TRPA to:

- a. Develop a proposal for the streamlining of regulatory programs in the Lake Tahoe Basin with the goals of:
    - i. Conforming the regulations of all jurisdictions in the Basin;
    - ii. Consolidating with local governments programs for the issuance of permits; and
    - iii. Reducing the volume of regulations through the use of concise, clear language.
  - b. Include funding to adequately support this streamlining activity in the Agency's budget requests to the States of Nevada and California for the upcoming two fiscal years.
4. Urge, by letter from the committee, the TRPA to continue its efforts to streamline its regulatory programs by:
- a. Reevaluating and making appropriate amendments to the ordinance limiting the height of construction in the Basin; and
  - b. Simplifying the ordinances relating to the shorezone of Lake Tahoe.
5. Urge, by resolution, the TRPA to continue to amend the general rules set forth in its Code of Ordinances, as appropriate, to provide exceptions within the Code to address situations which exhibit site-specific or other special circumstances.
6. Urge, by letter from the committee, the TRPA to:
- a. Establish and maintain a regional Geographic Information System (GIS) cooperative program for use by the public and governmental agencies as a means of cost-effectively managing lands and programs in the Lake Tahoe Basin;
  - b. Seek conceptual and financial support from land management and planning agencies for creation of the system; and
  - c. Provide supporting agencies with training, access, and maintenance of GIS data in exchange for financial support.

## **RECOMMENDATIONS RELATED TO OTHER STATE, REGIONAL, AND FEDERAL AGENCIES**

The following recommendations relate to state and federal agencies other than the TRPA.

### **Tahoe Transportation District**

7. Enact legislation proposing amendment of Article IX of the Tahoe Regional Planning Compact to modify the structure and authority of the Tahoe Transportation District by:
  - a. Adding to the Board of Directors one member of the South Shore Transportation Management Association, one member of the North Shore Transportation Management Association, and one at-large member elected by a majority of the other voting members;
  - b. Providing that the Directors of the Nevada and California Departments of Transportation serve as ex-officio, rather than voting, members of the Board of Directors;
  - c. Specifying that the vote of at least five of the nine voting members of the District's Board of Directors must agree in order to take an action;
  - d. Generally broadening the authorities of the District as they apply to owning, operating, and acquiring public and private transportation systems and facilities; and
  - e. Providing for a modification of the Board of Director's structure and voting procedure if local transportation districts are created.

### **Funding for Transportation-Related Water Quality Improvement Projects**

8. Urge, by resolution:
  - a. Nevada's Department of Transportation to consider the following projects on the list of priorities submitted to its Board of Directors for receipt of funds available through the Federal Intermodal Surface Transportation Efficiency Act (ISTEA), and
  - b. The Board of Directors of the Department of Transportation to allocate, based on its determination of priorities, funds available through ISTEA to the following projects:

- i. State Route 28, North Shore Casino Core Project incorporating scenic, sidewalk, and water quality improvements at an estimated project cost of \$1,300,000.
  - ii. State Route 28, Lakeshore Boulevard to Spooner Summit Project for the control of erosion and treatment of runoff from the highway with the remaining phases of the project costing an estimated \$15 million.
  - iii. State Route 28, Alternative Parking Facilities Project to provide satellite parking facilities at a cost of \$3 million.
  - iv. U.S. Highway 50, Kingsbury Grade to the Loop Road Project for completion of drainage improvements to Edgewood Creek from the Loop Road in the South Stateline area to the commercial core at the lower end of Kingsbury Grade at a cost of \$200,000.
  - v. U.S. Highway 50, Spooner Summit to Kingsbury Grade Engineering Study to perform preliminary engineering analyses of projects needed for the control of erosion and treatment of runoff along this segment of the highway at a cost of \$100,000.
  - vi. Upper Kingsbury Grade Engineering Study to evaluate the needs associated with erosion control and the treatment of runoff along the upper portion of Kingsbury Grade at a cost yet to be estimated.
9. Appropriate \$200,000 from the State General Fund to Nevada's Department of Transportation to assist in funding the North Shore Casino Core Project, but make the appropriation contingent upon Washoe County allocating \$200,000 to the project, the private entities in the project area contributing \$200,000, and the remainder of the necessary funding being available from other sources. See recommendation 8(b)(i) for an explanation of the project and its estimated cost.
10. By resolution:
  - a. Recognize and commend the ongoing efforts of parties associated with the proposed Storm Water Drainage Project at Stateline, Nevada;
  - b. Acknowledge the need for continual, long-term funding for the construction, operation, and maintenance of the project; and
  - c. Urge Nevada's Department of Transportation to include biennially in its budget requests adequate funding to pay the Department's share of the costs.

11. Urge, by resolution, the TRPA to:
  - a. Prepare a detailed plan for implementation of the master plan for the Loop Bikeway 2000 Project including identification of jurisdictional responsibilities, funding requirements, and sources of money to be pursued to effectuate the project; and
  - b. Submit this detailed plan to the entities identified as having jurisdictional responsibilities and include a request that necessary financing be considered during the entities' next funding cycles.
12. Urge, by letter from the committee, the Public Service Commission of Nevada to provide guidance as to whether the Tahoe Transportation District is eligible for an exemption from the requirement that entities which provide both on-demand and fixed-route transportation services, gratuitously and on a "for-fee" basis, must obtain a Certificate of Public Convenience and Necessity. Include in the letter a request that an expeditious process be employed to act upon an application filed by the District if the Commission determines that an exemption cannot be granted.

#### **Revolving Fund Program for Capital Improvement Projects**

13. Transmit letters from the committee to the TRPA, the Nevada Division of Environmental Protection, and the California State Water Quality Control Board urging these agencies to review and appropriately act upon models for creating or expanding "State Revolving Fund Programs" to provide low-interest loans for capital improvement projects which will assist in achieving and maintaining the environmental threshold carrying capacities in the Lake Tahoe Basin.

#### **Forest Management Program**

14. Urge, by letter from the committee, the Director of the Department of Conservation and Natural Resources to coordinate the efforts of the appropriate state and federal agencies in:
  - a. Preparing a preliminary or short-term forest management plan for state park lands in and adjoining the Lake Tahoe Basin; and
  - b. Identifying the funds needed to compile a comprehensive management plan for the area.

Request that these items be transmitted to the Legislature through the Executive budget process.

## **BROAD FUNDING-RELATED RECOMMENDATIONS**

The following recommendations address broad-based mechanisms to increase funding for programs and projects in the Lake Tahoe Basin.

### **Federal Sources of Funding and Summit Meeting**

15. Urge, by letter from the committee, the members of Nevada's Congressional Delegation to support:
  - a. The "Lake Tahoe Federal Legislative Agenda" prepared by a partnership of public and private entities interested in the Lake Tahoe Basin; and
  - b. The convening of a summit meeting of federal agencies hosted by the TRPA in the Lake Tahoe Basin to discuss a coordinated strategy for focusing the agencies' resources over time on projects and activities that will assist in achieving and maintaining the Basin's environmental threshold carrying capacities.

### **Twenty Million Dollar Bond Proposal**

16. Transmit (to the organization responsible for coordination of efforts to obtain a favorable statewide vote on the measure) a letter expressing the committee members' strong support for a "yes" vote on Ballot Question No. 12 appearing on the November 1996 General Election ballot. Ballot Question No. 12 is a proposal for the State of Nevada to issue \$20 million in general obligation bonds to provide grants to local governments and the State's Department of Transportation to carry out projects for the control of erosion and the restoration of natural watercourses in the Lake Tahoe Basin.

### **Lake Tahoe License Plate**

17. Enact legislation providing for the issuance of special license plates for the support of projects to preserve and restore the environment in the Lake Tahoe area.

### **Program for the "Undergrounding" of Utilities**

18. Request, by letter, the participation and assistance of the Public Service Commission of Nevada in efforts by members of the committee to create a program (modeled generally after the similar California program) through which users of overhead facilities along state and federal highways in the Lake Tahoe Basin would

replace these lines and equipment with underground facilities. Users of overhead facilities typically include electric utilities, telephone companies, and cable television companies.

### **Generation of Revenue at the Local Level**

19. Urge, by letter from the committee, the TRPA to seek federal funding in the amount of approximately \$100,000 to update the 1974 report entitled "Tahoe Regional General Plan Implementation: Financial Feasibility" in order to identify and evaluate alternative methods for generating local revenue in the Lake Tahoe Basin on a long-term, sustainable basis.
20. Transmit a letter from the committee to the Washoe County Board of Commissioners:
  - a. Commending the residents of Incline Village and Crystal Bay for their efforts to address the unique environmental issues in their communities; and
  - b. Urging the Board to consider placing a question on the November 1996 General Election ballot for the portion of Washoe County within the Lake Tahoe Basin which would ask the voters whether they would support the imposition of an additional real estate transfer tax of up to \$2 per \$500 of real estate value to fund projects for environmental health and safety if the State Legislature authorized such an increase and a vote of the residents were required before the increase took effect.

### **FUTURE OF LEGISLATIVE COMMITTEE**

Following are recommendations concerning the future of the legislative committee.

21. Continue, by resolution, the existence (during the interim after the 1997 Legislative Session) of the legislative committee in a similar manner as prescribed in Assembly Concurrent Resolution No. 4 (File No. 34, *Statutes of Nevada 1995*).
22. Invite the leadership of the California Legislature and other California legislators designated by their leadership to meet with the committee and members of Nevada's legislative leadership to discuss environmental trends, issues, and programs in the Lake Tahoe Basin and the funding of environmental measures in the Region. Incorporate a tour of relevant projects in the schedule for the meeting.



BULLETIN 97-9

**APPROPRIATE DIVISION OF FISCAL RESPONSIBILITY FOR  
PROGRAMS AND SERVICES BETWEEN  
THE STATE AND LOCAL GOVERNMENTS**

A.C.R. 33 - 1995 Session

**Members**

Assemblywoman Chris Giunchigliani, Chair  
Senator Ann O'Connell  
John P. Comeaux, Director, Department of Administration  
Robert Hadfield, Nevada Association of Counties (NACO)  
Pierre Hascheff, Reno, Nevada League of Cities  
Tom Grady, Alternate, Nevada League of Cities

**Staff Contacts**

Fiscal Analysis Division:  
Ted Zuend, Deputy Fiscal Analyst  
Kevin Welsh, Deputy Fiscal Analyst  
(687-6821)

Legal Division:  
Thomas Linden, Principal Deputy Legislative Counsel  
(687-6830)



Assembly Concurrent Resolution No. 33--Assemblymen Giunchigliani, Freeman, Bache, Monaghan, Manendo, Chowning, Anderson, Perkins, Price, Williams, Schneider, Braunlin, Steel, Goldwater, Bennett, Ohrenschall and Close

FILE NUMBER 170

ASSEMBLY CONCURRENT RESOLUTION--Directing the Legislative Commission to conduct an interim study to consider the appropriate division of fiscal responsibility for programs and services between the state and local governments.

WHEREAS, The creation of unfunded mandates by Congress and the shift of fiscal responsibility for previously adopted policies to the states have resulted in increasing requirements upon the state and local governments to create and carry out a variety of programs and services; and

WHEREAS, In addition to programs and services mandated by the Federal Government, each session of the Nevada Legislature enacts legislation which requires state agencies and local governments to establish or expand various programs and services; and

WHEREAS, In response to an outcry by local governments against the increasing number of unfunded mandates enacted by the Legislature, NRS 354.599 was amended in 1993 to require that if the Legislature "directs one or more local governments to establish a program or provide a service, or to increase a program or service already established which requires additional funding, a specified source for the additional revenue to pay the expense must be authorized by a specific statute"; and

WHEREAS, The residents of this state are recipients of the benefits of a vast number of necessary governmental programs and services, including the protection provided by police and fire services, provision of health care services, operation of libraries and recreational facilities, inspection of restaurants and buildings and monitoring of the quality of the air and water of the State Nevada; and

WHEREAS, The benefits derived from the provision of these programs and services enhance the life of each resident of the State of Nevada daily; and

WHEREAS, A comprehensive study is necessary to determine which governmental entity should be responsible for the delivery of the various programs and services currently provided in this state; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study to consider the appropriate division of fiscal responsibility between the state and local governments for funding programs and services; and be it further

RESOLVED, That the study include, but not be limited to:

1. An evaluation of the current division of responsibility between the state and the counties and cities for the delivery of services and programs and a determination of the current assignment of fiscal responsibility for those services and programs.

2. The development of a comprehensive plan and recommendations identifying:
  - (a) The governmental unit which is best suited to provide the most efficient and responsive delivery and administration of the service or program;
  - (b) The assignment of fiscal responsibility which recognizes the goal of cost efficiency and includes shared fiscal responsibility, if appropriate; and
  - (c) A proposed schedule for carrying out any recommendations which change the delegation of delivery of or fiscal responsibility for a service or program;and be it further

RESOLVED, That the committee to conduct the study consist of:

1. One member of the Senate and one member of the Assembly, appointed by the Legislative Commission, from whom the Legislative Commission shall appoint the chairman of the committee;
2. A representative of the Nevada Association of Counties appointed by the Legislative Commission;
3. A representative of the Nevada League of Cities appointed by the Legislative Commission; and
4. The director of the department of administration or his designee;

and be it further

RESOLVED, That the members of the committee who are not legislators shall serve without salary, per diem allowance or reimbursement for travel expenses; and be it further

RESOLVED, That any recommended legislation proposed by the committee must be approved by a majority of any members of the Senate and a majority of any members of the Assembly appointed to the committee; and be it further

RESOLVED, That the Legislative Commission report the results of the study and any recommended legislation to the 69th session of the Nevada Legislature.

## ABSTRACT

### **APPROPRIATE DIVISION OF FISCAL RESPONSIBILITY FOR PROGRAMS AND SERVICES BETWEEN THE STATE AND LOCAL GOVERNMENTS (A.C.R. 33)**

The 68th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 33 (File No. 170, *Statutes of Nevada 1995*, pages 3044-3046), which directs the Legislature to conduct an interim study to consider the appropriate division of fiscal responsibility for programs and services between the state and local governments. The study was to include an evaluation of the current division of responsibility between the state and the counties and cities for the delivery of services and programs and the current assignment of fiscal responsibility for those services and programs.

The Legislative Commission appointed a subcommittee consisting of five members, including two legislators, representatives of the Nevada Association of Counties and the Nevada League of Cities, and the director of the Department of Administration.

Prior to holding its first public hearing, the subcommittee surveyed each county and city to identify the major problem areas relating to the division of responsibility for programs and services. Responses to the survey indicated that the division of responsibility caused significant problems for local governments in the areas of district court services, long-term care in nursing homes, juvenile services, and mental health programs. After compiling the survey, the subcommittee conducted four public hearings, three in Las Vegas and one in Carson City, to consider these and other issues. Subcommittees of the full subcommittee also conducted three hearings that focused on social service, transportation, and district court issues, respectively.

At the subcommittee's fifth and final meeting, a work session in Las Vegas, the subcommittee adopted seven recommendations which addressed the collection of tax revenues; the provision of social services, including the funding of long-term care; and the principles to be used by the Legislature when considering legislation affecting the division of responsibility between governments.



## SUMMARY OF RECOMMENDATIONS

### **APPROPRIATE DIVISION OF FISCAL RESPONSIBILITY FOR PROGRAMS AND SERVICES BETWEEN THE STATE AND LOCAL GOVERNMENTS (A.C.R. 33)**

#### **RECOMMENDATIONS RELATED TO THE CREATION OF A STATE DEPARTMENT OF REVENUE**

1. Amend the *Nevada Revised Statutes* (NRS) to rename the Department of Taxation as the Department of Revenue.
2. Amend NRS 482.313 and Chapter 366 of the NRS to transfer responsibility for the collection of the vehicle rental fee and the special fuel tax, respectively, from the Department of Motor Vehicles and Public Safety to the Department of Taxation.
3. Direct that a study be organized by the executive director of the Department of Taxation and include, at a minimum, the executive director, the director of the Department of Administration and the State Treasurer, or his designee, to consider issues related to the consolidation of tax and fee collections within a state department of revenue. The study is to include the following:
  - a. An identification of any taxes and fees where the responsibility for collection can be transferred to a department of revenue.
  - b. A review of various issues related to the consolidation, including, but not limited to, budgetary constraints, statutory constraints, staffing needs, space requirements, computer technical requirements, and training requirements.
  - c. The cost of and the fees assessed for collecting taxes for other agencies and governments.

Interim reports of the study are to be submitted to the Legislative Commission and a final report is to be submitted to the Senate and Assembly Committees on Taxation by the start of the 1999 Legislative Session.

#### **RECOMMENDATIONS RELATED TO THE PROVISION OF SOCIAL SERVICES BY THE STATE AND LOCAL GOVERNMENTS**

4. Direct that the Department of Human Resources conduct a study on issues related to the provision of social services by state and local governments. The study is to include the feasibility of:

- a. Requiring that a claim for Aid to Families with Dependent Children be processed within 30 days;
  - b. Counties contracting with the state to operate certain welfare programs;
  - c. Amending the statutes to make the responsibility for community health services either a state function or a local function, but not both;
  - d. Amending the statutes to eliminate state-set eligibility requirements and program determination for county indigent programs and to give counties the requisite level of responsibility and accountability for their welfare programs;
  - e. Revising the definition of “household” and “income” to broaden the number of persons covered by county social services;
  - f. Out-stationing employees in community health centers and tribal clinics;
  - g. Creating a legal status for “court committed to outpatient treatment” to enable a court to order a person to take medication without being confined to a facility when a mechanism or program is in place to provide those services; and
  - h. Developing a profile of claims to track the processing of accepted and denied claims and the reasons for problems associated with the processing of those claims.
5. Amend the statutes by increasing by \$50 each year of each biennium the state limit on income for Medicaid eligibility until the limit reaches the 300 percent of Supplemental Security Income standard allowed under federal law.
  6. Include in the final report a resolution of support for the work study group of the juvenile justice commission in developing recommendations to streamline and improve juvenile justice services.

**RECOMMENDATION CONCERNING THE PRINCIPLES TO  
BE FOLLOWED WHEN CONSIDERING LEGISLATION AFFECTING  
THE DIVISION OF RESPONSIBILITY BETWEEN GOVERNMENTS**

7. Amend the joint rules of the Senate and Assembly to include certain principles when considering legislation that affects the division of fiscal responsibility for programs and services between the state and local governments. The principles involve streamlining programs to eliminate duplication, providing financial incentives and disincentives, eliminating legal and other barriers to the effective delivery of services, creating joint planning and partnership approaches to providing services, and creating review and oversight mechanisms.

BULLETIN 97-10

**HOUSING PROGRAMS IN NEVADA**

A.C.R. 38 - 1995 Session

**Members**

Assemblywoman Barbara E. Buckley, Chair  
Senator Bernice Mathews  
Senator Joseph M. Neal, Jr.  
Senator Dean A. Rhoads  
Assemblywoman Patricia A. Tripple  
Assemblyman Wendell P. Williams  
and  
Cloyd Phillips, Community Services Agency  
Jim Regan, Churchill County (NACO President)  
Eric Horn, Southern Nevada Homebuilders Association  
Charlene Wood-Peterson, Fannie Mae  
Jon Sasser, Legal Services Statewide Advocacy Office  
Robert Nielsen, Reno  
Holly Gregory, Elko  
Charles Horsey, Administrator, Nevada Housing Division

**Staff Contacts**

Research Division:

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

Legal Division:

Kimberly A. Morgan, Chief Deputy Legislative Counsel  
(687-6830)



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

FILE NUMBER 171

ASSEMBLY CONCURRENT RESOLUTION--Directing the Legislative Commission to conduct an interim study concerning the management of housing programs in Nevada.

WHEREAS, The shortage of safe, decent, sanitary and affordable housing for low-income and moderate-income families continues to be a problem in Nevada; and

WHEREAS, The housing needs of persons with special needs also are not being fully met; and

WHEREAS, Housing is a fundamental element of a strong economy and it is a basic need within our society; and

WHEREAS, When housing costs become too high, society is impacted in several negative ways, including reduced employment in the construction industry, and increased social welfare and related governmental costs resulting in the impairment of the security of the family structure; and

WHEREAS, The lack of affordable housing is detrimental to this state's goal of economic diversification and development; and

WHEREAS, It is essential to provide comprehensive housing opportunities with the cooperation of and coordination between the public and private sectors; and

WHEREAS, Within the executive branch of the State of Nevada, three separate departments administer housing or housing-related programs, in addition to two or more multijurisdictional local governmental consortiums; and

WHEREAS, A substantial amount of public money for Nevada's affordable housing programs is derived from the United States Department of Housing and Urban Development; and

WHEREAS, The United States Department of Housing and Urban Development is currently being reorganized and, whether by executive branch initiatives or congressional action, its functions and administrative responsibilities may be severally reduced, and its many housing programs may be cast into a few block grants, requiring the state and local governments to provide for the administration of such money; and

WHEREAS, Administration of the money for affordable housing must be carried out in the most efficient and effective manner possible; and

WHEREAS, The rules and regulations adopted by the United States Department of Housing and Urban Development relating to the requirements for tenants, owners and housing authorities may be eliminated and it will be within the discretion of the state or local governments to adopt appropriate rules and regulations with regard to the constraints of affordable housing programs; and

WHEREAS, Concerns have been voiced regarding the administration of public money for

affordable housing and such concerns are best addressed by state legislation and administration; and

WHEREAS, The capability of a person or family of low income or moderate income to purchase or rent decent, safe and sanitary housing in this state is of grave concern to the Nevada Legislature; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint an interim committee composed of members of the Senate and members of the Assembly to conduct an interim study concerning the housing programs within this state and develop a comprehensive plan for the coordination, administration and management of these programs; and be it further

RESOLVED, That the Legislative Commission is hereby directed to appoint to the committee the following nonvoting members to assist the committee in an advisory capacity:

1. One member who is a nonprofit developer of housing;
  2. One member who represents local government;
  3. One member who represents a housing association;
  4. One member who represents a program for affordable housing;
  5. One member who represents an organization which provides legal services to persons of low income;
  6. One member who is a private developer of housing with experience in the development of affordable housing; and
  7. One member with experience in the development of housing in rural communities;
- and be it further

RESOLVED That the Legislative Commission may appoint to the committee the following nonvoting members to assist the committee in an advisory capacity:

1. One member who represents financial institutions;
2. One member who is a realtor;
3. One member who represents a low-income housing program sponsored by the Federal Government;
4. One member who lives on a fixed income; and
5. One member who represents the Housing Division of the Department of Business and Industry; and be it further

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

1. The administration of the existing United States Housing and Urban Development programs, including consideration of the management of block grants;
2. To the extent feasible, the consolidation of state housing programs and consideration of the administrative responsibilities of federal programs;
3. Plans for the future which will provide an ample supply of affordable housing in this state;
4. The requirements governing tenants, housing providers and developers, cities and counties relating to the operation of affordable housing programs;
5. The coordination of the various affordable public housing programs in this state;
6. The administration of money for affordable housing, including, without limitation:

- (a) The feasibility of creating a public or private agency for financing low-income housing; and
- (b) Methods to increase the involvement of private financing and funding for low-income housing;
- 7. The qualifications and experience required of a director and other personnel of a housing agency; and
- 8. The responsiveness and the timeliness of the response of the Housing Division of the Department of Business and Industry to all persons who use its services; and be it further

RESOLVED, That the members of the committee who are not legislators shall serve without salary, per diem allowance or reimbursement for travel expenses; and be it further

RESOLVED, That any recommended legislation proposed by the committee must be approved by a majority of any members of the Senate and a majority of any members of the Assembly appointed to the committee; and be it further

RESOLVED, That the Legislative Commission submit a report of the results of the study and any recommended legislation to the 69th session of the Nevada Legislature.



## ABSTRACT

### **HOUSING PROGRAMS IN NEVADA (A.C.R. 38)**

The 68th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 38 (File No. 171, *Statutes of Nevada 1995*, page 3046-3048), which directed the Legislative Commission to conduct an interim study concerning the housing programs within this state. The study was to include, among several topics, a review and evaluation of the various aspects of the administration of federal and state housing programs in Nevada and the level of customer service provided by Nevada's Housing Division.

The Legislative Commission appointed a committee of six legislators and eight advisory members to examine the issues and compile recommendations that address the provision of affordable housing in Nevada.

The committee held five public hearings that were video conferenced between Carson City and Las Vegas. Much of the testimony concerned the reluctance of local governing boards to approve affordable housing projects and the need for additional funding for housing programs. At the beginning of the study, the committee had expected to address congressional amendments to federal housing law, but these did not materialize. Consequently, the committee's focus was on state and local governments' approaches to affordable housing.

Throughout the interim period, the committee compiled and refined the suggestions presented in testimony and by the members. At the fifth and final meeting, the legislative members took final action on the committee's recommendations to the 1997 Session of the Nevada Legislature. The members also voted to send several letters and include certain information in the final report. In total, 15 recommendations were adopted, which concern the provision of additional funding for affordable housing, the use of such funding, and other authorizations to local governments.



## SUMMARY OF RECOMMENDATIONS

### HOUSING PROGRAMS IN NEVADA (A.C.R. 38)

Following are the recommendations approved by the Legislative Commission's Committee to Study Housing Programs in Nevada.

#### RECOMMENDATIONS FOR LEGISLATION

The committee recommends that the 69th Session of the Nevada Legislature:

1. Create a tax credit program to encourage gaming licensees to provide affordable housing. **(BDR 41--229)**
2. Specify the parameters within which the State Board of Finance may waive certain conditions in the process of letting certain bonds. **(BDR 20--223)**
3. Authorize local governments to use density bonuses. **(BDR 22--225)**
4. Authorize counties to use their proceeds of the real estate transfer tax for affordable housing purposes, including, but not limited to, development fee rebates, affordable housing trust funds, down payment assistance, predevelopment expenses, and land acquisition. **(BDR 32--227)**
5. Ease zoning restrictions on manufactured homes. **(BDR 22--226)**
6. Authorize a local governing body to convey certain property to a nonprofit organization or housing authority for the development of affordable housing. **(BDR 20--228)**
7. Express support for affordable housing and encourage local governments to approve appropriate projects. **(BDR R--222)**
8. Urge Congress to request federal legislation be passed that allows the sale of public lands to governmental agencies or nonprofits at less than market value for the specific purpose of developing affordable housing. Include in the resolution a statement of support for United States Senator Richard H. Bryan's proposed amendment that would address this issue through a change to the federal Recreation and Public Purposes Act (43 U.S.C. 869). **(BDR R--224)**

## **RECOMMENDATIONS FOR COMMITTEE ACTION**

The members voted to send letters:

9. To county commissions and city councils, urging them to approve affordable housing projects.
10. To Governor Robert J. Miller to encourage him to require better coordination and communication between the Housing Division and the Community Block Development Program, which are the two entities in State Government that are most involved in the administration of affordable housing programs.

## **INCLUSION IN FINAL REPORT**

The committee agreed to include in its final report, without recommendation, the discussions, testimony, and proposed language that would:

11. Prohibit local governments from adopting an ordinance that prohibits or restricts residential developments based on certain characteristics of the occupants.
12. Require that a proposed housing development be allowed to apply for building permits after the staff review process, if the development is in the proper zone and complies with the local government's approved master plan, including the community's design standards.
13. Prohibit a local government from requiring that an affordable housing development obtain a special use permit.

In addition, the committee authorized the final report to include statements that:

14. Recommend that Nevada's Housing Advisory Committee implement the guidelines drafted by the Housing Division to allow the use of portions for the Low-Income Housing Trust Account for predevelopment dollars and matches for federal grants.
15. Support the transfer of the Weatherization Program from the Welfare Division to an appropriate agency within the Department of Business and Industry.

BULLETIN 97-11

**COMPETITION IN THE GENERATION, SALE, AND  
TRANSMISSION OF ELECTRIC ENERGY**

A.C.R. 49 - 1995 Session

**Members**

Assemblyman Pete Ernaut, Chair  
Senator Kathy Augustine  
Senator Sue Lowden  
Senator Raymond C. Shaffer  
Senator Dina Titus  
Senator Randolph J. Townsend  
Assemblyman Douglas A. Bache  
Assemblywoman Deanna Braunlin  
Assemblyman John C. Carpenter  
Assemblyman Joseph E. Dini, Jr.  
Assemblyman David Goldwater

**Staff Contacts:**

Research Division:  
Scott Young, Senior Research Analyst  
(687-6825)

Legal Division:  
Kimberly A. Morgan, Chief Deputy Legislative Counsel  
Kim Marsh Guinasso, Principal Deputy Legislative Counsel  
(687-6830)



Assembly Concurrent Resolution No. 49--Assemblymen Braunlin, Neighbors, Allard, Anderson, Arberry, Bache, Batten, Bennett, Brower, Buckley, Carpenter, Chowning, Close, de Braga, Dini, Ernaut, Evans, Fetic, Freeman, Giunchigliani, Goldwater, Harrington, Hettrick, Humke, Krenzer, Manendo, Marvel, Monaghan, Nolan, Ohrenschall, Perkins, Price, Sandoval, Schneider, Segerblom, Spitler, Steel, Stroth, Tiffany, Tripple, and Williams

FILE NUMBER 172

ASSEMBLY CONCURRENT RESOLUTION--Directing the Legislative Commission to conduct an interim study of the impact of competition in the generation, sale and transmission of electrical energy.

WHEREAS, The economy of the State of Nevada is dependent upon the availability of reliable, low-cost electric energy; and

WHEREAS, Nationwide there is a trend toward competition in the generation, sale and transmission of electric energy; and

WHEREAS, The effect of such competition may have potential benefits and impacts on shareholders and owners of public utilities as well as to their customers; and

WHEREAS, The Nevada Legislature does not intend to cause any adverse economic consequences to either shareholders or customers of investor-owned utilities or cooperatives generating, selling or distributing electric energy in the State of Nevada; and

WHEREAS, The Nevada Legislature does not intend to place investor-owned utilities or cooperatives within the State of Nevada at a competitive disadvantage with other states by adopting legislation incompatible with other western states, thus negatively affecting the State of Nevada; and

WHEREAS, It is in the best interest of the residents of the State of Nevada to explore the effects of competition in the generation, sale and transmission of electric energy so as to assess the economic consequences and opportunities associated with such competition; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint a subcommittee of legislators to conduct an interim study of the effects of competition in the generation, sale and transmission of electric energy; and be it further

RESOLVED, That the study must include an assessment of:

1. Financial issues, including, without limitation, the:
  - (a) Interests of residential customers, including price and choice;
  - (b) Interests of small business customers, large business customers, shareholders and other stakeholders;
  - (c) Financial integrity and cost of capital of utilities;
  - (d) Taxes paid by public utilities including franchise taxes and real and personal property taxes;
  - (e) Tax implications to local governments;
  - (f) Quantification and recovery of stranded investments;

- (g) Pricing of transmission and distribution services;
- (h) Pricing and rate subsidies for all classes of customers; and
- (i) Unbundling costs of services;
- 2. Legal issues, including, without limitation:
  - (a) Issues of state and federal jurisdiction;
  - (b) State statutory constraints;
  - (c) Issues related to the Federal Energy Regulatory Commission;
  - (d) Commerce clause constraints;
  - (e) A review of existing state laws, regulations and constitutional provisions which affect the generation, sale and transmission of electric energy;
  - (f) Interstate reciprocity;
  - (g) The continuing obligations of a utility to serve customers; and
  - (h) Issues concerning the use and protection of proprietary information in a competitive market;
- 3. Social issues, including, without limitation:
  - (a) The planning and operations of public utilities, including integrated resource planning;
  - (b) Environmental externalities; and
  - (c) Development and use of renewable resources; and
- 4. Issues related to system planning, operation and reliability, including, without limitation:
  - (a) Electric system reliability and the appropriate role of contracting; and
  - (b) Provisions by which wheeling customers would be permitted to leave or rejoin the system of a utility; and be it further

RESOLVED, That any recommended legislation proposed by the subcommittee must be approved by a majority of any members of the Senate and a majority of any members of the Assembly appointed to the subcommittee; and be it further

RESOLVED, That the Legislative Commission shall submit a report of its findings and any recommendations for legislation to the 69th session of the Nevada Legislature.

## ABSTRACT

### COMPETITION IN THE GENERATION, SALE, AND TRANSMISSION OF ELECTRIC ENERGY (A.C.R. 49)

The 68th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 49 (File No.172, *Statutes of Nevada 1995*, pages 3049-3050), which directed the Legislative Commission to conduct an interim study of the impact of competition in the generation, sale, and transmission of electrical energy. The study was to include an assessment of financial, legal, and social issues as well as system planning, operation, and reliability.

The Legislative Commission appointed 11 legislators to examine the issues and compile recommendations regarding restructuring the electric utility industry.

The subcommittee held seven public hearings through July 1996. Because of the complexity of the issues and the far-reaching impacts of restructuring, the subcommittee has scheduled meetings for September and October 1996 and plans to hold additional hearings during the winter.

The subcommittee received testimony on the potential benefits of open access to retail electric markets such as lower rates, more efficient use of resources, innovative new services, and a greater competitive edge for Nevada businesses in the global economy. The subcommittee also heard concerns about restructuring including whether all customer classes, not just industrial users, will experience lower rates, continued reliability of electric service, the future of environmental initiatives, and the potential for adverse impacts on utilities and their shareholders.

No recommendations have been developed yet because the study has not been completed. However, during the June 12, 1996, meeting, a set of ten general principles was adopted to guide the subcommittee in evaluating restructuring proposals. These principles are:

1. **Competition in Retail Electric Services:** Where effective competition exists, retail electric services should be provided on a competitive basis.
2. **Full and Fair Competition:** The rules that govern market activity should apply to all buyers and sellers in a fair and consistent manner in order to maintain a level playing field and guarantee a fully competitive market.
3. **Reliability:** Reliable electric service must be maintained.

4. **Benefits for All Customers:** All customers and shareholders should have the opportunity to share in the benefits of increased competition.
5. **Impact of Competition:** No classification of customer should be worse off after the restructuring process.
6. **Unbundling of Services and Rates:** Services and rates should be unbundled to provide customers with choice and clear price information on the cost components of generation, transmission, distribution, and ancillary charges.
7. **Universal Service:** Electric service is essential and should be available and affordable to all customers.
8. **Regulation:** The market framework for electric services should maximize reliance on ordinary business transactions and minimize reliance on the administrative regulatory process.
9. **Access to Transmission Facilities:** Nondiscriminatory open access to the transmission system and distribution facilities should be promoted for all transactions.
10. **Environment:** Electric utility restructuring shall in no event result in the degradation of environmental quality. Increased competition should support and further the goals of environmental improvement.

## SUMMARY OF RECOMMENDATIONS

### **COMPETITION IN THE GENERATION, SALE, AND TRANSMISSION OF ELECTRIC ENERGY (A.C.R. 49)**

The Legislative Commission's Subcommittee to Study Competition in the Generation, Sale, and Transmission of Electric Energy recommended that, in view of the complexity of the issues involved with restructuring the electric industry, the Legislature conduct additional study. The subcommittee recommended the establishment of an interim committee:

- Made up of members of the destination legislative standing committees (i.e., Senate Committee on Commerce and Labor, and the Assembly Committee on Government Affairs);
- Scheduled to meet at least quarterly during the 1997-1998 interim;
- Comprised of a six-member body with three members from each house of the Legislature;
- Authorized to take action on recommendations by a simple majority vote of its members;
- Chaired by a member to be appointed by the Legislative Commission;
- Budgeted for the normal per diem and salary rates applicable for members of interim study committees; and staffed and funded by the Legislative Commission; and
- Guided by the ten General Principles adopted at the June 12, 1996, meeting.



BULLETIN 97-12

**LEGISLATIVE COMMITTEE ON PUBLIC LANDS**

NRS 218.5363

**Members**

Senator Dean A. Rhoads, Chair  
Assemblyman John W. Marvel, Vice Chair  
Senator Lawrence E. Jacobsen  
Senator Dina Titus  
Assemblyman Dennis L. Allard  
Assemblyman P.M. Roy Neighbors  
Lee Chapman, Elko County Commissioner

**Alternates**

Assemblyman John C. Carpenter  
Assemblyman Marcia de Braga

**Staff Contacts**

Research Division:

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

Legal Division:

J. Randall Stephenson, Senior Deputy Legislative Counsel  
(687-6830)



## NEVADA REVISED STATUTES

### LEGISLATIVE COMMITTEE ON PUBLIC LANDS

#### **218.5363 Establishment; membership; chairman; vacancies.**

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

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

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

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

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



## ABSTRACT

### **LEGISLATIVE COMMITTEE ON PUBLIC LANDS (NRS 218.5363)**

Nevada's Legislative Committee on Public Lands is a permanent committee of the Nevada Legislature whose authorization and duties may be found in Chapter 218 of *Nevada Revised Statutes*. Created in 1983, this body is responsible for reviewing and commenting on proposed and existing laws and regulations that affect federally controlled lands in this state. The committee also provides a forum for the discussion of public lands issues with Federal, state, and local officials; representatives of pertinent organizations; and other interested individuals.

A report of the committee's activities during the 1995-1996 interim period has been prepared. This document reviews public lands legislation passed during the 1995 Legislative Session and summarizes the topics considered and acted upon by the committee during the interim. The Public Lands committee held seven regular meetings throughout Nevada and traveled twice to Washington, D.C., to meet with congressional and federal agency officials involved in public lands policy matters.

Topics of particular interest during this interim period included wild horse management, military operations in Nevada, local government planning for federal land use, pilot projects for local management of federal lands, and the continued viability of public lands industries.

Attendance at the hearings was high, and the committee was presented with numerous recommendations during the course of these meetings. The members voted to request the drafting of ten bills and resolutions for consideration by the 1997 Nevada Legislature. The subjects of these requests concern wild horses, estray animals, federal land management and planning, and others related to topics discussed during the interim. In addition, the members approved one committee resolution and voted to send several letters to Nevada's Congressional Delegation and various federal land management agencies.

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



## SUMMARY OF RECOMMENDATIONS

### LEGISLATIVE COMMITTEE ON PUBLIC LANDS (NRS 218.5363)

Following are the recommendations approved by Nevada's Legislative Committee on Public Lands.

#### RECOMMENDATIONS FOR LEGISLATION

The committee recommends that the 69th Session of the Nevada Legislature:

1. Make various amendments to the statutes concerning Nevada's Commission for the Preservation of Wild Horses. In particular, the Public Lands Committee recommends that the Nevada Legislature:
  - a. Change the membership of the commission to specify that certain representatives be appointed.
  - b. Remove the executive director's authority to call a meeting of the commission. Authorize the chairman or the vice-chairman to call a meeting of the commission.
  - c. Clarify that the commission's primary duties are to encourage the preservation of wild horses in certain areas and to identify certain programs for the management of wild horses. Revise the various ways in which the commission is directed to carry out these duties.
  - d. Require that each appeal or protest filed on behalf of the commission be approved by the commission before submission.
  - e. Authorize the commission to enter into agreements with the Federal Government to provide financial assistance for the removal and disposal of excess numbers of wild horses.
  - f. Clarify that the authority of the commission to enter into agreements with the Federal Government includes the authority to cooperate with law enforcement agencies in the apprehension and prosecution of violators of wild horse laws.
2. Make various amendments to the statutes concerning estrays. In particular, the Public Lands Committee recommends that the Nevada Legislature:
  - a. Add to the definition of "livestock" all sheep or animals of the ovine species.

- b. Change, from 10 to 5, the number of days in which an estray must be claimed.
    - c. Authorize Nevada's Division of Agriculture, on an emergency basis, to sell unbranded, abandoned livestock that are injured, sick, or otherwise debilitated or abandoned in order to facilitate the humane disposition of the animals.
  3. Revive the federal land planning process created pursuant to Senate Bill 40 of the 1983 Session. In particular, the Public Lands Committee recommends that the Nevada Legislature:
    - a. Require Nevada's Division of State Lands to prepare a report on a regular basis.
    - b. Make an appropriation to Nevada's Division of State Lands to implement the planning process.
    - c. Authorize local governments to include in their master plans a provision concerning the use of lands under federal management. Authorize local governments to request assistance from Nevada's Division of State Lands for this optional provision of master planning.
    - d. Make discretionary the governor's approval of plans or policy statements concerning lands under federal management.
    - e. Require the inclusion of federal agencies in the preparation of any plan or policy statement concerning the use of lands under federal management.
  4. Direct and fund Nevada's Division of State Lands to cooperate with one county in developing a proposal for a pilot public land management program.
  5. Urge the United States Congress to pass legislation directing the United States Bureau of Land Management to enter into contracts or cooperative agreements with the State or individual counties for pilot projects of state or county management of public lands.
  6. Express support to the United States Congress and the Nevada Congressional Delegation for the transfer or sale of public lands in the Las Vegas Valley for community expansion and development, provided that rural counties are not adversely affected by any transfers.
  7. Urge Nevada's Congressional Delegation to introduce and support legislation to assist utility companies in establishing the necessary infrastructure on public lands.

8. Urge the Federal Government to comply with Article I, Section 8 of the *United States Constitution* whenever the Federal Government seeks to obtain exclusive jurisdiction over land located in Nevada.
9. Express support for Congressional legislation that would transfer federal lands to state control.
10. Endorse the State of Nevada's request to the Navy to evaluate the relocation or abandonment of Bravo 16, provided that such an action not adversely affect the Navy's ability to carry out its duties at the Fallon Naval Air Station. Include a provision that recognizes the Navy's importance to Churchill County and the State of Nevada.

### **RECOMMENDATIONS FOR COMMITTEE ACTION**

The members voted to send letters:

11. To the Governor of the State of Nevada, expressing support for the budget request from Nevada's Division of State Lands to implement the planning process for lands under federal management.
12. To the Senate Committee on Finance and the Assembly Committee on Ways and Means, expressing support for the budget request from Nevada's Division of State Lands to implement the planning process for lands under federal management.
13. To the United States Secretary of Interior, expressing support for the United States Bureau of Land Management's Central Nevada Communication Sites Amendment.
14. To the United States Secretary of Interior and the Nevada Congressional Delegation, requesting that all mining claim owners be compensated for claims lost in military land withdrawals, whenever such compensation is required by law.
15. To the United States Bureau of Land Management, the Navy, and the Nevada Congressional Delegation, requesting that the Navy update the Range Air Installation Compatibility Use Zone (RAICUZ) report prior to any land withdrawal.
16. To the Nevada Congressional Delegation, urging their assistance in the resolution of certain water basin issues between Nevada and Arizona that adversely affect the water supply for Mesquite, Nevada.
17. To the Nevada State Director of the United States Bureau of Land Management, encouraging the continued acknowledgment of and compliance with Nevada water laws and water rights in all public lands management plans.

18. To the United States Bureau of Land Management, the United States Forest Service, and the Nevada Congressional Delegation, encouraging the inclusion and approval of local governments in the land exchange process, and to the Nevada Association of Counties and the Nevada League of Cities, urging them to encourage and assist their members in monitoring and commenting upon proposed land exchanges.
19. To Nevada resident Woodie Bell and the United States Forest Service, urging them to cooperate to resolve the issue of financial responsibility for cleanup work done at the Buckskin National Mine in Humboldt County, Nevada.
20. To Nevada's Congressional Delegation, encouraging each of them to work to amend the Endangered Species Act in order to reduce its negative effects on Nevada's communities. Urge the delegation to prevent any further additions of Nevada species to the endangered or threatened lists.

BULLETIN 97-13

**LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION**

NRS 218.5375

**MEMBERS**

Assemblyman Lynn C. Hettrick, Chair  
Senator Randolph J. Townsend, Vice Chair  
Senator Kathy Augustine  
Senator Joseph M. Neal, Jr.  
Senator Ann O'Connell  
Assemblyman David Goldwater  
Assemblywoman Sandra Krenzer  
Assemblyman Dennis Nolan

**Staff Contacts**

Research Division:  
Vance A. Hughey, Senior Research Analyst  
(687-6825)

Legal Division:  
Jan K. Needham, Principal Deputy Legislative Counsel  
Sue S. Matuska, Deputy Legislative Counsel  
(687-6830)



## NEVADA REVISED STATUTES

### LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION

#### **218.5375 Creation; membership; chairman and vice chairman; vacancies.**

1. There is hereby created a legislative committee on workers' compensation. The committee consists of:

(a) Four members appointed by the majority leader of the senate, in consultation with the minority leader of the senate, from the membership of the senate standing committee on commerce and labor during the immediately preceding session of the legislature.

(b) Four members appointed by the speaker of the assembly from the membership of the assembly standing committee on labor and management during the immediately preceding session of the legislature. The members must represent each political party represented in the assembly in the approximate proportion that they are represented in that house, but at least one member must be chosen from each political party.

2. The members of the committee shall elect a chairman and vice chairman from among their members. The chairman must be elected from one house of the legislature and the vice chairman from the other house. After the initial election of a chairman and vice chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the committee shall elect a replacement for the remainder of the unexpired term.

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

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

(Added to NRS by 1995, 2162)



## ABSTRACT

### LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION (NRS 218.5375)

The 68th Session of the Nevada Legislature created a Legislative Committee on Workers' Compensation with the enactment of Senate Bill 458 (Chapter 587, *Statutes of Nevada 1995*). The bill provides that the committee:

1. May review issues related to workers' compensation.
2. May study the desirability of establishing a preferred employee program which provides exemptions from the payment of premiums and other financial incentives for employers who provide suitable employment for injured employees and any other program for returning injured employees to work.
3. May review the manner used by the Division of Industrial Relations of the Department of Business and Industry to rate physical impairments of injured employees.
4. Shall, to ensure the solvency of the State Industrial Insurance System (SIIS):
  - (a) Review and study the financial condition of SIIS;
  - (b) Determine the extent of any apparent insolvency of the system; and
  - (c) Establish a formula which will be applied to calculate a surcharge that is equal in amount to any deficiency in the cumulative amount of premiums paid by an employer who is subject to the provisions of Section 33 of this Act.
5. May conduct investigations and hold hearings in connection with carrying out its duties pursuant to this section.
6. May direct the Legislative Counsel Bureau to assist in its research, investigations, hearings, and reviews.

This statutory committee is required to meet at least quarterly. The committee held seven public hearings including a work session. Much of the testimony at the hearings concerned the financial condition of SIIS and related issues. The committee also received testimony regarding a revision of the formula used by SIIS to experience rate policyholders and the effects of self-insurance on SIIS's operation. Dr. Richard Victor, Executive Director, Workers Compensation Research Institute, Cambridge, Massachusetts, provided a report to the committee regarding permanent partial disability benefits and medical fee schedules. The committee also reviewed a survey of other states regarding permanent partial disability awards.

At its work session the committee considered 66 recommendations and adopted 29 of them concerning administration, compensation payment, coverage, hearings and appeals, pensions and annuities, permanent partial disabilities, regulation of workers' compensation insurance, safety and health, and the solvency assessment formula.

Among the committee's recommendations are several that address the possible imposition of an assessment on employers. Currently, subsection 6 of *Nevada Revised Statutes* 616B.110 provides that the Commissioner of Insurance may declare SIIS to be insolvent if SIIS must liquidate its invested assets or real property in order to pay its outstanding obligations as they mature in the regular course of business. If such a declaration is made, the administrator of the Division of Industrial Relations, Department of Business and Industry, must impose a solvency assessment on Nevada's employers. Instead of this method of triggering an assessment, the committee recommended that a determination regarding whether to impose an assessment be made by the committee, and only after it has considered all other available options.

In addition, the committee approved a recommendation that the formula used to assess employers, if it becomes necessary to impose a solvency assessment, be based on a percentage of claim payments either made by employers or made on behalf of employers by their insurers. Such a formula would apply to all employers including employers who are self-insured at the time the assessment is imposed.

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

## SUMMARY OF RECOMMENDATIONS

### LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION (NRS 218.5375)

The Legislative Committee on Workers' Compensation recommends that the 69<sup>th</sup> Session of the Nevada Legislature consider the following changes to Nevada's workers' compensation laws:

#### ADMINISTRATION

1. Amend *Nevada Revised Statutes* (NRS) 616C.020 to reduce from 90 the number of days within which an injured employee must seek medical treatment.
2. Amend Chapter 616A of NRS to add a requirement that an insurer provide policy information to a policyholder within a reasonable period of time after such information is requested. This provision is designed to prevent an insurer from deliberately withholding information requested by a policyholder that may be required by the Commissioner of Insurance for consideration of an application for self-insurance.
3. Allow electronic transmission of the Employer's Report of Industrial Injury or Occupational Disease (C-3 form), Employee's Claim for Compensation/Report of Initial Treatment (C-4 form), medical bills, and other documents.
4. Amend NRS 616B.018 and NRS 616C.020 regarding obtaining medical and claim information from other insurers.
5. Amend NRS 616C.020 and NRS 616C.025 to clarify reporting requirements.
6. Amend NRS 616C.065 to clarify that an insurer shall take certain actions within 30 *working* days after being notified of an industrial accident and having *received a claim for compensation*.
7. Amend NRS 616C.235 to clarify that an insurer may dispose of a claim file six months after the date of automatic closure.
8. Amend NRS 616C.475 to clarify that a certification of disability shall not be given for dates that are prior to the date of the physician's examination of the injured employee.

9. Amend subsection 5 of NRS 616C.490 so that it is consistent with *Nevada Administrative Code* (NAC) 616C.103 which allows 30 days for an employer to notify the employee of the compensation to which he is entitled. The statute currently allows only 14 days.
10. Amend subsection 9 of NRS 612.265 to allow self-insured employers to participate in the program designed to identify persons who are simultaneously receiving unemployment compensation and workers' compensation benefits. Also, clarify in the statute that both the Employment Security Division of the Department of Employment, Training and Rehabilitation and insurers have authority to investigate persons suspected of violating the law by simultaneously obtaining benefits under both the unemployment compensation and workers' compensation programs.

### **COMPENSATION PAYMENT**

11. Correct a conflict between NRS 616C.060 and 616C.475 regarding the number of days within which an insurer must begin paying compensation. Subsection 1 of NRS 616C.060 requires that an insurer commence payment of an accepted claim within 30 days after the insurer has been notified of an industrial accident. Subsection 3 of NRS 616C.475 requires that an insurer make the first payment within 14 working days after receiving the initial certification of disability.
12. Amend the law to disallow any person from receiving workers' compensation benefits if that person has falsified citizenship documents to obtain employment.

### **COVERAGE**

13. Amend Chapter 616 to allow (but not require) coverage of a student in a "volunteer" Schools to Careers related situation.
14. Develop a specific provision that requires a teacher's employer to continue coverage while the teacher is in a temporary location in an approved Schools to Careers activity.

### **HEARINGS AND APPEALS**

15. Provide peer review or management review of hearing and appeals officers of the Department of Administration to help ensure consistency of decisions. Also require training of hearing and appeals officers at the National Judicial College in Reno.

16. Evaluate prior commitments made by the Department of Administration regarding scheduling of hearings and related matters.

### **PENSIONS AND ANNUITIES**

17. Amend Chapter 616 to specify that insurers may purchase annuities.

### **PERMANENT PARTIAL DISABILITIES**

18. Consider studying alternatives to the current PPD rating system such as implementing a schedule of benefits for most injuries to take out some subjective areas such as range of motion. If this review cannot be completed during the 1997 Legislative Session, continue the statutory Committee and charge the Committee with commissioning an independent study of PPD awards. The results of the study, along with recommendations of the Committee, are to be presented to the 1999 Legislature.
19. Address the issue of PPD awards for dental problems. (Note: NRS 616C.485 and NAC 616C.508 govern payment of PPD awards for loss of or permanent damage to a tooth.)
20. Amend NRS 616C.090 to provide that an injured employee be allowed to choose a doctor from the rotating list for a PPD evaluation at any time.
21. Amend NRS 616C.090 to provide that if an injured employee's claim is being administered by SIIS and the injured employee requests a doctor from the rotating list, and the injured employee is assigned a doctor who is employed by SIIS, then the injured employee is entitled to request another doctor from the rotating list.
22. Amend NRS 616C.090 to provide that the doctor who shall rate the claimant for a PPD shall be the claimant's treating physician.

### **REGULATION OF WORKERS' COMPENSATION INSURANCE**

23. Consider changing the law to place responsibility for adoption of an experience rating plan with the Commissioner of Insurance.
24. Correct a perceived conflict between NRS 616D.200 and the regulation adopted by SIIS regarding the "three times penalty" imposed for failure of an employer to secure or maintain workers' compensation insurance.
25. Amend NRS 616C.260 to change the benchmark for the medical fee schedule.

26. Identify which regulatory responsibilities should be delegated to the Commissioner of Insurance and/or DIR in anticipation of workers' compensation coverage being provided by private carriers beginning July 1, 1999.

### **SAFETY AND HEALTH**

27. Amend subsection 1(d) of NRS 616C.230 to strengthen provisions for an insurer to deny a workers' compensation claim if an injured employee tests positive for a controlled substance. Refusal to take a drug test would have the same presumption of "under the influence" as in the case of driving under the influence of alcohol. Termination of employment for failing a drug test or refusing to take a drug test would disqualify an injured employee from benefits.

### **SOLVENCY ASSESSMENT AND THE ROLE OF THE SIIS**

28. Currently, NRS 616B.110 provides that the Commissioner of Insurance may declare the SIIS to be insolvent if the agency must liquidate its invested assets or real property in order to pay its outstanding obligations as they mature in the regular course of business. Such a declaration would trigger imposition of a solvency assessment. Amend NRS 616B.110 to require that the decision to impose the assessment be made by the Legislative Committee on Workers' Compensation after it has considered all other available options.
29. Amend NRS 616B.110 so that if an assessment is imposed, it is based on a percentage of paid claims of all employers. Consider allowing exemptions for special circumstances such as cancer, heart, and lung coverage provided by certain governmental entities.

BULLETIN 97-14

**LEGISLATIVE COMMITTEE ON  
HEALTH CARE**

NRS 439B.200

**Members**

Assemblywoman Vivian L. Freeman, Chair  
Senator Maurice E. Washington, Vice Chair  
Senator Bob Coffin  
Senator Raymond D. Rawson  
Assemblywoman Maureen E. Brower  
Assemblywoman Jan F. Monaghan

**Staff Contacts**

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

Legal Division:  
Risa L. Berger, Principal Deputy Legislative Counsel  
(687-6830)



## NEVADA REVISED STATUTES

### LEGISLATIVE COMMITTEE ON HEALTH CARE

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

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

2. No member of the committee may:

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

3. The provisions of subsection 2 do not:

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

(b) Prohibit a member of the legislature from serving as a member of the committee if:

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

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

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

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

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

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

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



## ABSTRACT

### **LEGISLATIVE COMMITTEE ON HEALTH CARE (NRS 439B.200)**

In compliance with *Nevada Revised Statutes* 439B.200 through 439B.240, the Legislative Committee on Health Care oversees a broad spectrum of issues related to the quality, access, and cost of health care for all Nevadans.

The six-member committee held seven meetings between October 1995 and August 1996 in Carson City, Reno, and Las Vegas. Over the course of the meetings, the committee discussed a wide variety of topics. At the work session, the members adopted nine recommendations covering issues such as criminal background checks for group home owners and employees; Medicaid reimbursement for dental services; community service stipulations for Western Interstate Commission for Higher Education (WICHE) recipients; and contracting requirements for Medicaid managed care Health Maintenance Organizations (HMOs).



## SUMMARY OF RECOMMENDATIONS

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

1. Amend Chapter 449 (“Medical and Other Related Facilities”) of *Nevada Revised Statutes* (NRS) to include the following items:
  - Require the Health Division, Department of Human Resources, to seek criminal background information from owners and employees of residential facilities for groups;
  - Authorize the Health Division to charge owners and employees for the cost of the criminal background investigation;
  - Require owners and employees of residential facilities for groups to present their fingerprints to the Health Division for submission to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation;
  - Direct the Health Division to notify the administrator and the owner of a residential facility for groups of any employee whom it discovers has been convicted of a felony or a crime involving moral turpitude; and
  - Authorize the Health Division to deny a license to an owner and to prohibit an owner from employing a person who has been convicted of a felony or a crime involving moral turpitude.

Furthermore, the Legislature must appropriate \$250,000 to the Health Division to carry out these new duties.

2. Include a statement in the committee’s final report regarding the issue of a state agency providing ombudsman services to managed care consumers and providers.
3. Include a statement in the committee’s final report regarding the issue of prohibiting “gag clauses” in contracts between health care providers and managed care entities.
4. Include a statement in the committee’s final report regarding the issue of requiring managed care plans to reimburse, without prior authorization, nonemergency care provided in an emergency care setting or emergency care rendered by a nonparticipating plan provider, if the individual could reasonably infer that the condition was an emergency.

5. Include a statement in the committee's final report regarding the issue of requiring managed care plans to provide to consumers, either at the time of enrollment in a health plan or upon request, information related to access to health care through primary care physicians and specialist providers; the referral and utilization review process; provider payment structures; and a description of any financial disincentives within provider agreements for referring enrollees to services.
6. Urge, by resolution, that the State Welfare Board increase Medicaid reimbursement for dental services to encourage greater provider participation.
7. Amend Chapter 397 ("Western Regional Higher Education Compact") of NRS to authorize the Nevada Western Interstate Commission for Higher Education (WICHE) to require, as a term of any loan provided to a WICHE recipient, that the recipient perform community service to the medically underserved population for a specified period of time upon returning to practice in Nevada. The budget committees of the Legislature will determine the period of time that each recipient will be required to perform community service. In return, WICHE may forgive the loan portion of the financial support. In the event a recipient is not licensed by the state and cannot practice his or her profession, the loan portion must be reduced by 50 percent and become payable in ten installments.
8. Include a statement in the committee's final report and survey the mailing list members regarding the issues of a "Medically Needy Fund" to finance the provision of community-based, comprehensive primary care services to indigent or uninsured Nevadans. Direct patient care services covered by the fund will include: (1) counseling (family, mental health, and substance abuse); (2) dental services (preventive and restorative); (3) health education, preventive health services, and referrals; (4) outreach services; (5) pharmacy; (6) transportation services; (7) treatment of minor illnesses; (8) well-child care and immunizations; and (9) x-rays. A portion of the funds, as determined by the Department of Human Resources, may be used to finance infrastructure and capacity building activities (e.g., equipment, health care practitioner salaries, et cetera).

The Department of Human Resources will be required to administer the fund and contract with qualified community-based health centers to provide comprehensive primary care services. Such centers shall include: (1) Federally Qualified Health Centers (FQHCs); (2) FQHC "look alike", designated by the Federal Bureau of Primary Health Care and recognized by the U.S. Health Care Financing Administration; (3) Title V-funded Urban Indian Health Clinics; (4) Tribal Health Centers/Clinics on reservations or colonies; (5) the Primary Care Case Management program affiliated with the University of Nevada's School of Medicine; and may include, (6) community-based clinics or programs of larger organizations (hospitals, medical groups, or primary care clinics) that provide primary care services on a sliding fee schedule and at least 20 percent of the services provided are uncompensated.

9. Require, by statute, that the Department of Human Resources mandate health maintenance organizations (HMOs) participating in any Medicaid managed care program contract with an FQHC and the Primary Care Case Management program affiliated with the University of Nevada's School of Medicine to guarantee a safety net of primary care services and a continuum of care to its enrollees. In addition, HMOs participating in any Medicaid managed care program must adhere to federal mainstreaming requirements to assimilate Medicaid participants into the commercial HMO population.



BULLETIN 97-15

**LEGISLATIVE COMMITTEE ON  
HIGH-LEVEL RADIOACTIVE WASTE**

NRS 459.0085

**Members**

Assemblyman Bob Price, Chair  
Senator Joseph M. Neal, Jr., Vice Chair  
Senator Lawrence E. Jacobsen  
Senator Mike McGinness  
Senator John B. (Jack) Regan  
Assemblyman Max Bennett  
Assemblywoman Joan A. Lambert  
Assemblyman Richard D. Perkins

**Staff Contacts**

Research Division:  
John Meder, Senior Research Analyst  
(687-6825)

Legal Division:  
Steven J. Coburn, Senior Deputy Legislative Counsel  
(687-6830)



## NEVADA REVISED STATUTES

### LEGISLATIVE COMMITTEE ON HIGH-LEVEL RADIOACTIVE WASTE

#### **459.0085 Creation; membership; duties; compensation and expenses of members.**

1. There is hereby created a committee on high-level radioactive waste. It is a committee of the legislature composed of:

- (a) Four members of the senate, appointed by the majority leader of the senate.
- (b) Four members of the assembly, appointed by the speaker.

2. The legislative commission shall select a chairman and a vice chairman from the members of the committee.

3. The committee shall meet at the call of the chairman to study and evaluate:

(a) Information and policies regarding the location in this state of a facility for the disposal of high-level radioactive waste;

(b) Any potentially adverse effects from the construction and operation of a facility and the ways of mitigating those effects; and

(c) Any other policies relating to the disposal of high-level radioactive waste.

4. The committee shall report the results of its studies and evaluations to the legislative commission and the interim finance committee at such times as the legislative commission or the interim finance committee may require.

5. The committee may recommend any appropriate legislation to the legislature and the legislative commission.

6. The director of the legislative counsel bureau shall provide a secretary for the committee on high-level radioactive waste. Except during a regular or special session of the legislature, each member of the committee is entitled to receive the compensation provided for a majority of the members of the legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a committee meeting or is otherwise engaged in the work of the committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207. Per diem allowances, salary and travel expenses of members of the committee must be paid from the legislative fund.

(Added to NRS by 1985, 685; A 1987, 399; 1989, 1221; 1995, 1454)



## ABSTRACT

### **LEGISLATIVE COMMITTEE ON HIGH-LEVEL RADIOACTIVE WASTE (NRS 459.0085)**

Nevada's Legislative Committee on High-Level Radioactive Waste is a permanent committee, which is authorized by *Nevada Revised Statutes* 495.0085. Created in 1985, the committee is responsible for performing legislative oversight responsibilities to study and evaluate:

1. Information and policies regarding the location in this State of a facility for the disposal of high-level radioactive waste;
2. Any potential adverse effects from the construction and operation of a facility and the ways of mitigating those effects;
3. Any other policies relating to the disposal of high-level radioactive waste; and
4. Appropriate legislation for recommendation to the Legislature and the Legislative Commission.

The eight member committee held four meetings in the 1995-1997 interim period. Committee members also participated in the High-Level Radioactive Waste Interim Storage and Transportation Working Group of the National Conference of State Legislatures. In addition, the members monitored meetings of the Nuclear Waste Technical Review Board, the Advisory Committee on Nuclear Waste of the Nuclear Regulatory Commission, and technical exchange meetings between the Department of Energy and the Nuclear Regulatory Commission.

In addition to performing its mandated oversight functions, the committee has been following the progress of the proposed amendments to the federal Nuclear Waste Policy Act of 1982, as amended.

No recommended action is being proposed at this time. However, the committee will be monitoring legislative changes before the U.S. Congress and, if appropriate, will recommend action.



BULLETIN 97-16

**LEGISLATIVE COMMITTEE FOR THE FUNDAMENTAL REVIEW  
OF BASE BUDGETS OF STATE AGENCIES**

NRS 218.5384

**Members**

Senator Dean A. Rhoads, Chair  
Senator Bob Coffin  
Senator William J. Raggio  
Senator Raymond D. Rawson  
Assemblyman Jack D. Close, Sr.  
Assemblywoman Jan Evans  
Assemblyman John W. Marvel  
Assemblyman Larry L. Spitler

**Staff Contacts**

Fiscal Analysis Division:  
Daniel G. Miles, Senate Fiscal Analyst  
Mark W. Stevens, Assembly Fiscal Analyst  
(687-6821)



## NEVADA REVISED STATUTES

### LEGISLATIVE COMMITTEE FOR THE FUNDAMENTAL REVIEW OF BASE BUDGETS OF STATE AGENCIES

#### **218.5384 Duties and powers; cooperation of state agencies.**

1. A committee shall, during the legislative interim, perform a fundamental review of the base budget of each state agency assigned to it for review.

2. A committee may request the state agency under review and any other agency to submit information, analyses and reports which are pertinent to the reviews conducted pursuant to this section. Each agency of the state shall cooperate fully and provide the material requested within the period specified by a committee.

3. A committee shall, before the convening of the next regular session of the legislature, transmit a report of each review conducted pursuant to this section, and any related recommendations, to the legislative commission.

(Added to NRS by 1995, 2673)



ABSTRACT

**LEGISLATIVE COMMITTEE FOR THE FUNDAMENTAL REVIEW  
OF BASE BUDGETS OF STATE AGENCIES  
(NRS 218.5384)**

The 68<sup>th</sup> Session of the Nevada Legislature adopted Assembly Bill 194 (Chapter No. 692, *Statutes of Nevada 1995*, pages 2672-2675), which created a process by which the Legislature can perform a complete detailed review of the purpose, goals and resource requirements of state agencies or budget units on a revolving basis. Assembly Bill 194 (NRS 218.5384) provided that if the Legislature or the Interim Finance Committee by resolution determined that a base budget review was necessary, the Legislative Commission would create one or more committees to conduct the review(s). Leadership of both houses is required to make the appointments to the committee(s).

The Interim Finance Committee, at its meeting on October 18, 1995, did determine that certain agencies should undergo a fundamental review, and the Legislative Commission, at its meeting of November 28, 1995, created a single committee to conduct the review. The agencies chosen for review were:

Nevada Highway Patrol	Rural Clinics
Office of Equal Rights	Insurance Regulation
State Health Laboratory	Consumer Affairs
Benefit Services Fund	Child and Family Services

The Committee, at its first meeting, requested that the Fiscal Analysis Division conduct a staff review of each of the agencies using guidelines approved by the Committee. The Committee held three subsequent meetings to review the staff reports, interview the agencies, take public comment and make recommendations. The Committee adopted 46 recommendations for the eight agencies reviewed covering issues which include revisions to agency missions, goals and performance indicators; accounting procedures; budget adjustments; and, self assessment.

NRS 218.5384 requires the Committee to transmit its report and any related recommendations to the Legislative Commission prior to the next legislative session.



## SUMMARY OF RECOMMENDATIONS

### LEGISLATIVE COMMITTEE FOR THE FUNDAMENTAL REVIEW OF BASE BUDGETS OF STATE AGENCIES (NRS 218.5384(3))

#### NEVADA HIGHWAY PATROL (NHP)

1. The Committee was concerned with the NHP performance indicators for several reasons. First, the indicators continue to measure outputs, rather than outcomes. Second, there is little comparability between years because of changes in reporting methods. The Committee recommends the NHP continue to refine their performance indicators and provide more outcome-related indicators in the upcoming budget cycle.
2. Consistency in reporting expenditures and adherence with Legislative funding intent was also an area of concern for the Committee. The Committee recommends the agency revise amounts charged to incorrect expense categories and eliminate improper coding of expenditures in the future.
3. The agency attempted to categorize their base budget by function (program) instead of object of expense. Although the effort was not perfect, it did suggest that several programs might not be fully supported from the revenue designated for that function and, therefore, may be subsidized by the Highway Fund. The programs included the Visible Smoke Enforcement Program, Hazardous Materials, Information Services and the Dignitary Protection Program.

The Committee agreed with the agency's determination that each of these programs should be reexamined for proper financial support and recommends that continued effort be made to identify costs by program or function. In addition, the Committee recommends the agency evaluate the effectiveness of the Visible Smoke Program and establishing a separate budget account for Information Services.

#### DIVISION OF MENTAL HYGIENE AND MENTAL RETARDATION - RURAL CLINICS

1. The agency's mission statements, goals and objectives seem vague, general in nature and of limited value. The Committee recommended that the agency develop more meaningful information before the 1997 Legislature.
2. While the agency has done a great deal of work on performance measures, they have not provided a standard of comparison against which one can judge their

performance. The Committee recommends the agency develop standards or goals to measure actual performance against planned performance.

3. The agency fell behind in billings and collections for services provided to clients. One office had stopped billing and it appears to have taken too long for the agency to discover the problem. The Committee recommends the agency monitor the status of revenue collections by revenue source and office on a monthly basis and that the agency and the Division of MH/MR ensure each office has staff trained on proper billing procedures and establish a method to monitor and correct problems as they are developing.
4. The Legislature has been concerned about the Rural Clinics Administration office being at the Nevada Mental Health Institute and their staff having additional responsibilities with the Institute. The Committee recommends the agency should either ensure their administration, financial and support staff are providing services in support of the various Rural Clinics offices or consider moving the Administration Office away from the Nevada Mental Health Institute.
5. Approximately 25 percent of the clients served by Rural Clinics are children. The Committee recommends the Rural Clinics' program continue to work closely with the Division of Child and Family Services to ensure all of the clients who are children receive all necessary services from both Divisions.
6. The 1995 Legislature expressed concern about the mental health needs of citizens living in rural communities in Clark County. The agency has conducted a needs assessment of mental health requirements in rural Clark County and rural Nevada. The Committee recommends that results of the needs assessment be presented to the 1997 Legislature including a decision about whether the Rural Clinics' Program or the Las Vegas Mental Health Center should be the primary agency to provide services to rural communities in Clark County.

### **STATE HEALTH LABORATORY**

1. The Health Division has recommended a study to clearly delineate the role and functions of the State Health Laboratory; to identify the core public health functions that need to be state supported; and to determine an appropriate fiscal structure to maintain a viable laboratory program. The study would address whether testing services currently provided by the State Health Laboratory would be best performed in the private sector and determine the implications on the Laboratory's budget and on the Division's responsibilities for promoting and protecting public health. The Health Division would conduct the study. The Committee recommends that the study be completed by the Division and the results be reported to the 1997 Legislature.

2. The Health Division proposed and the Committee recommends that the Laboratory Certification program be gradually transferred from the State Health Laboratory to the Bureau of Health Facilities. A significant laboratory certification backlog currently exists which will not be addressed until additional resources are acquired. A measurement indicator that monitors certification activities would shed insight on the progress of reducing the backlog and meeting A.B. 580 (1995) requirements.
3. Fluctuations in user patterns and workload reductions primarily with environmental chemistry water testing has created a revenue shortfall for the past several fiscal years. The Health Division has requested a \$25,000 IFC allocation for FY 1996 to resolve the Laboratory's cashflow problem. Revenue shortfalls will most likely continue to plague the Laboratory's budget in FY 1997. The Committee recommends the Division study the laboratory fee structure and suggest an appropriate funding mix relative to the findings and recommendations of the internal study on possible privatization.
4. The State Health Laboratory has historically provided water chemistry and water bacteriology testing for the Division of Environmental Protection (DEP) per an inter-agency agreement. The reimbursement rate was increased this year from \$70,000 to \$90,000 per year. The rate of reimbursement does not cover the Laboratory's costs. The value of testing services provided DEP in FY 95 was \$145,000. The Committee recommends the Division re-negotiate a reimbursement rate with DEP that is more equitable and covers the Laboratory's costs.
5. The State Health Laboratory currently uses an assessment tool called a work time unit (wtu) to compare the output (productivity) of the laboratory on a year-to-year basis. The wtu has not been refined to a point to allow for making staffing to workload ratio comparisons. The Committee recommends the Laboratory continue refining the wtu assessment tool so in the future it can be used as a valid measurement indicator for making staffing determinations, for conducting productivity comparisons and for establishing a productivity standard with which year-to-year performance can be measured.

#### **DIVISION OF INSURANCE - REGULATION**

1. The Committee recommends that the Division conduct an audit of positions with the Budget Division and LCB Fiscal staff to ascertain which positions were granted specifically for accreditation purposes and that the Insurance Commissioner submit written certification that positions originally granted for accreditation are currently devoted to accreditation workload.

2. The Committee recommends the Insurance Division report to the 1997 Legislature regarding details of travel funds used from the NAIC budget and the Insurance Education and Research budget to achieve accreditation. The Division should identify courses that were funded by the two budgets that were specifically related to accreditation. The Division also needs to demonstrate how attendance of NAIC national conferences conforms to the legislative intent to fund training that will enable the Division to meet accreditation standards.
3. As part of the joint reconciliation of positions related to accreditation, the Division also needs to review personnel classifications. Preliminary information from NAIC reviews seems to indicate concern on the part of the accreditation team that incumbents in positions within the Division do not possess necessary skills to accomplish financial reviews. The Committee recommends any findings from the joint audit regarding reclassification actions should be substantiated and included with the agency's requested 1997-1999 budget.
4. The Committee recommends that the Insurance Division provide a comprehensive report on accreditation with its 1997-1999 budget request. The report should list all resources required for accreditation, to include updated requirements from the most current review. The report should also address the benefits to the state if accreditation is achieved.
5. The Committee recommends the Division provide actual FY 96 expense information for each fee or charge item of revenue, so a determination can be made as to the appropriateness of fees charged.
6. The Committee recommends the Division provide definitions of caseload with the 1997-1999 budget request.
7. The Committee recommends the Division adjust the amount of continuing legal education (CLE) that is funded for each attorney, to make the Division's budget request consistent with CLE provided by other agencies within the state.
8. The Committee recommends the Division provide expanded narrative for the Division's cost allocation process in the 1997-1999 budget to describe items allocated, methodology for allocation, and associated calculations.
9. The Committee recommends the Division provide detailed itemization of all costs pertaining to review of regulations for FY 96 actual cost, with specific justification for any request for those costs to remain in base for the FY 1998-1999 biennium.
10. The Committee recommends the Division Justify continued staffing of the Medical-Dental Legal Coordinator position with an attorney.

11. The Committee recommends the Division work with the Purchasing Division and the Budget Division to clearly define deliverables for the Medicare ICA contract and immediately amend the contract, to ensure the Division's satisfaction with vendor performance. Additionally, the Committee recommends development of measurement indicators or caseload information for the program, to be included in the 1997-1999 budget.
12. The Committee recommends the Division of Insurance carefully monitor receipt of federal cash to ensure that contract services are not obligated prior to approval or receipt of federal funding.
13. The Committee recommends that in the 1997-1999 budget, the Insurance Division either propose to transfer the Medicare ICA program to Aging Services or provide justification to retain the program within the Insurance Division, since the Medicare ICA program serves the same population as Aging Services.

#### **NEVADA EQUAL RIGHTS COMMISSION**

1. The Committee recommends the Commission provide updated goals with the 1997-1999 budget.
2. The Committee recommends the Commission provide a comprehensive report on its performance measures with the 1997-1999 budget to detail what each measure is, how it works, how it will be calculated, and how the data will be collected.
3. The Committee recommends that the Commission configure the 1997-1999 budget request to include an analysis of receipt of revenues over the biennium, with specific emphasis on receipt of federal funding and cash flow related to it. The Commission should mark specific instances of anticipated cash shortfall and provide details of their plan to resolve it.
4. The Committee recommends that the Commission, jointly with the Budget Division, LCB Fiscal staff, and department fiscal staff, develop a model to relate caseload to staff and to project future growth patterns for the program for inclusion in the 1997-1999 budget. Additionally, it is recommended that, as part of the Expanded Narrative, the Commission provide a status report on caseload/backlog with the 1997-1999 budget that defines terms the Commission expects to use and provides past trends as well as future projections for all performance indicators. It is also recommended that the Commission include case management as a part of the report on caseload/backlog.

5. The Committee recommends that the Commission provide a separate report with the 1997-1999 budget that indicates how employee work performance standards are being enforced, with specific relation to reduction of the backlog (or reduction of open cases).

### **BENEFIT SERVICES FUND**

1. The Committee recommends the agency continue to refine its mission statement and performance indicators in the 1997-1999 budget cycle.
2. Due to higher than anticipated reserves, the Committee on Benefits increased benefits to employees in July 1995. The Committee recommends the agency include with its 1997-1999 budget submittal a report on the excess reserve, the impact from the restoration of benefits and the estimated life of the reserve.
3. Changes made in actuarial assumptions of the Insurance Trust Fund immediately following the 1995 Legislative Session had a major impact on the fund reserves and had the new assumptions been available earlier Legislative action might have been altered. The Committee on Benefits committed excess reserves resulting from the new actuarial assumptions to increased insurance benefits. The Committee recommends that the Senate Committee on Finance and the Assembly Committee on Ways and Means thoroughly review the funding mechanism for benefit services before approving that budget. In addition, the Committee recommends that any increase in benefits that the Committee on Benefits proposes when the Legislature is not in Session be reviewed by the Interim Finance Committee.

### **CONSUMER AFFAIRS DIVISION**

1. The Committee recommends the Division revise their mission statement, develop measurable goals, and produce outcome-based performance indicators.
2. The Committee recommends the Division provide monthly reporting of caseload statistics expanding the categories of complaint resolution from "open" and "resolved" to include a "pending" category (to address cases forwarded to the Attorney General's Office which are unresolved for the customer). The Committee also recommends expanding the complaint resolution tracking to include the length of time to forward a case to the Attorney General's Office and the length of time to resolve a case for a consumer. The Committee also requested the agency to provide a historical analysis of the caseload distribution between northern and southern offices.

3. The Committee recommends the Division continue to work closely with the Consumer Fraud Unit of the Attorney General's Office to ensure cases are prepared in a consistent and thorough manner. The Committee also recommends the Division complete the hearing regulations currently in progress with the Attorney General's Office.
4. The Committee recommends the Division prepare a historical analysis of the restitution dollars distributed to consumers, and a review of the adequacy of the Division's bonding authority that creates the pool of restitution dollars available for distribution.
5. The Committee recommends the Division prepare a historical analysis of fees, fines, and registrations by type of business collected by the Division and deposited to the State General Fund.

### **CHILD AND FAMILY ADMINISTRATION**

1. Dependent upon the Administrator's desire to split this account and create additional budget accounts on a regional or geographical basis, the Committee recommends that the Division develop specific goals and objectives for this account, as well as refine and expand existing measurement indicators.

### **YOUTH COMMUNITY SERVICES (CHILD WELFARE)**

1. The Committee recommends refining the existing mission statement and creating new economy performance indicators to measure and track expenditures versus the performance of staff indicators currently contained in this account. Also, the agency should consider shifting indicators in this account to the Administrative or regional budget accounts.
2. The Committee recommends the agency update the "budget plan" developed by the Division with the latest actual expenditure information, together with the latest caseload projections for the 1997-99 biennium to arrive at an accurate and realistic adjusted base budget.
3. The Committee recommends the Division pursue enhanced or additional federal funding using tools such as the "Maximus contract" to maximize federal funding.
4. The Committee recommends the Division and Department of Human Resources continue the effort to control the costs of Aid Code 61 children and consider moving these costs to the Welfare Division's Medicaid budget.

5. The Committee recommends the Division and the Department of Human Resources provide a joint report to the 1997 Legislature on the work of the Family Resource Centers. The report should include information on the numbers of centers, caseload, cost and accomplishments (S.B. 405 requires a report to the Interim Finance Committee by September 30 of each year on all expenditures made during the preceding fiscal year). The report should detail expenditures of: the one-shot general fund appropriation contained in S.B. 405; Title IV-B - Subpart II Family Preservation and Family Support funds; and "in kind" donations.