

Summary Bulletin
of
Reports of the Legislative Commission
to the 70th Session of the
Nevada Legislature



*Legislative Counsel
Bureau*

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SUMMARY BULLETIN 1999

INTRODUCTION

This bulletin summarizes 18 study reports which were completed in 1998 for consideration by the 1999 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 four methods: (1) by a special act of the Legislature; (2) by a concurrent or joint resolution adopted by both the Senate and the Assembly; (3) by a law appearing in the *Statutes of Nevada* or *Nevada Revised Statutes (NRS)*; or (4) by direction of the Legislative Commission.

Of the 18 study reports in this publication, two reports were initiated by special acts of the Legislature, i.e., the Distribution Among Local Governments of Revenue from State and Local Taxes (Senate Bill 253) and the Legislative Committee on Education (Senate Bill 482). Seven studies were directed by concurrent or joint resolutions approved during the 1997 Legislative Session. Four studies, those conducted by the Committees on Health Care, Public Lands, Workers' Compensation, and High-Level Radioactive Waste were authorized by laws appearing in NRS. Five studies or reports were initiated at the request of the Legislative Commission, including the Subcommittee to Investigate Regulation of Mortgage Investments, the Study of Ballot Access by Minor Political Parties, the Study of City Charters, the Study of Tax Exemptions, and the Report of Health Insurance Coverage of Nevadans, 1997.

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

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

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BULLETIN 99-3

**LEGISLATIVE COMMITTEE TO STUDY
THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF
THE REVENUE FROM STATE AND LOCAL TAXES**

Senate Bill 253 — 1997 Session

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Gary Cordes, City of Fallon
Mary Henderson, Washoe County
Guy Hobbs, Hobbs, Ong, and Associates
Rick Kester, Douglas County School District
Marvin Leavitt, City of Las Vegas
Janet Murphy, Board of Trustees of Tahoe-Douglas General Improvement District (designee)
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CHAPTER 661

AN ACT relating to the state legislature; creating a legislative committee to study the distribution among local governments of revenue from state and local taxes; providing the powers of the committee; and providing other matters properly relating thereto.

[Approved July 17, 1997]

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *As used in sections 2 to 7, inclusive, of this act, "committee" means a legislative committee to study the distribution among local governments of revenue from state and local taxes.*

Sec. 3. 1. *There is hereby established a legislative committee to study the distribution among local governments of revenue from state and local taxes consisting of:*

(a) *Two members appointed by the majority leader of the senate from the membership of the senate standing committee on government affairs during the immediately preceding session of the legislature;*

(b) *Two members appointed by the majority leader of the senate from the membership of the senate standing committee on taxation during the immediately preceding session of the legislature;*

(c) *Two members appointed by the speaker of the assembly from the membership of the assembly standing committee on government affairs during the immediately preceding session of the legislature; and*

(d) *Two members appointed by the speaker of the assembly from the membership of the assembly standing committee on taxation during the immediately preceding session of the legislature.*

2. *The committee shall consult with an advisory committee consisting of the executive director of the department of taxation and 10 members who are representative of various geographical areas of the state and are appointed for terms of 2 years commencing on July 1 of each odd-numbered year as follows:*

(a) *One member of the committee on local government finance created pursuant to NRS 266.0165 appointed by the Nevada League of Cities;*

(b) *One member of the committee on local government finance created pursuant to NRS 266.0165 appointed by the Nevada Association of Counties;*

(c) *One member of the committee on local government finance created pursuant to NRS 266.0165 appointed by the Nevada School Trustees Association;*

(d) *Three members involved in the government of a county appointed by the Nevada Association of Counties;*

(e) Three members involved in the government of an incorporated city appointed by the Nevada League of Cities; and

(f) One member who is a member of a board of trustees for a general improvement district appointed by the legislative commission.

The members of the advisory committee are nonvoting members of the committee. When meeting as the advisory committee, the members shall comply with the provisions of chapter 241 of NRS.

3. The legislative members of the committee shall elect a chairman from one house of the legislature and a vice chairman from the other house. Each chairman and vice chairman holds office for a term of 2 years commencing on July 1 of each odd-numbered year.

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

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

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

Sec. 4. *1. The members of the committee shall meet throughout each year at the times and places specified by a call of the chairman or a majority of the committee.*

2. The director of the legislative counsel bureau or a person he designates shall act as the nonvoting recording secretary.

3. The committee shall prescribe regulations for its own management and government.

4. Except as otherwise provided in subsection 5, five voting members of the committee constitute a quorum.

5. Any recommended legislation proposed by the committee must be approved by a majority of the members of the senate and by a majority of the members of the assembly appointed to the committee.

6. Each legislative member of the committee, except during a regular or special session of the legislature, and any member of the advisory committee who is not employed by a local government 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 meeting of the committee or is otherwise engaged in the business of the committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207. The salaries and expenses paid pursuant to this subsection and the expenses of the committee must be paid from the legislative fund.

7. A local government that employs a member of the advisory committee shall pay the regular salary, per diem allowance and travel expenses of that member for each day or portion of a day during which he attends a meeting of the committee or is otherwise engaged in the business of the committee.

Sec. 5. *1. The committee shall:*

(a) Review the laws relating to the distribution of revenue generated by state and local taxes. In conducting the review, the committee may consider the purposes for which the various state and local taxes were imposed, the actual use of the revenue collected from the various state and local taxes and any relief to the taxpayers from the burden of the various state and local taxes that may result from any possible recommendations of the committee.

(b) Study whether removing the authority of the board of county commissioners of Washoe County to impose a certain additional vehicle privilege tax is a prudent act which is in the best interests of this state.

2. In conducting its review of the laws relating to the distribution of revenue generated by state and local taxes, the committee may review:

(a) The distribution of the revenue from:

(1) The local school support tax imposed by chapter 374 of NRS;

(2) The tax on aviation fuel and motor vehicle fuel imposed by or pursuant to chapter 365 of NRS;

(3) The tax on intoxicating liquor imposed by chapter 369 of NRS;

(4) The tax on fuel imposed pursuant to chapter 373 of NRS;

(5) The tax on tobacco imposed by chapter 370 of NRS;

(6) The vehicle privilege tax imposed by or pursuant to chapter 371 of NRS;

(7) The tax imposed on gaming licensees by or pursuant to chapter 463 of NRS;

(8) Property taxes imposed pursuant to chapter 361 of NRS;

(9) The tax on the transfer of real property imposed by or pursuant to chapter 375 of NRS;

and

(10) Any other state or local tax.

(b) The proper crediting of gasoline tax revenue if the collection is moved to the terminal rack level.

3. The committee may:

(a) Conduct investigations and hold hearings in connection with its review and study;

(b) Contract with one or more consultants to obtain technical advice concerning the study conducted pursuant to section 5.5 of this act.

(c) Apply for any available grants and accept any gifts, grants or donations and use any such gifts, grants or donations to aid the committee in carrying out its duties pursuant to this chapter;

(d) Direct the legislative counsel bureau to assist in its research, investigations, review and study; and

(e) Recommend to the legislature, as a result of its review and study, any appropriate legislation.

Sec. 5.5. *1. The committee shall appoint a subcommittee to conduct a study of the cost to the counties and incorporated cities in this state of maintaining highways, roads and streets and the practices of the counties and incorporated cities in maintaining those highways, roads and streets.*

2. The subcommittee shall:

(a) Identify the practices and procedures used to maintain the highways, roads and streets in this state or in any other state;

(b) Develop a data base for a uniform system of maintenance of highways, roads and streets by counties and incorporated cities;

(c) Identify procedures for developing that data base;

(d) Develop computer software for use in support of those procedures;

(e) Prepare a manual that sets forth those procedures; and

(f) Determine the average cost per mile of the highways, roads and streets maintained by the counties and incorporated cities in this state.

3. As soon as practicable after July 1, 1997, the director of the legislative counsel bureau shall determine the cost of the study and notify the executive director of the department of taxation of the cost of the study. The cost of the study must not exceed \$250,000.

4. Upon receipt of the notice required pursuant to subsection 3, the executive director shall prorate the cost of the study for each month of the 1997-98 fiscal year among each of the counties and cities in the proportion that the amount allocated to a county or city each month pursuant to NRS 365.550 bears to the total amount allocated to all the counties and cities for that month. After determining each month the prorated cost for each county and city, the executive director shall:

(a) Withhold the prorated amount from the amount allocated to the county or city for that month pursuant to NRS 365.550; and

(b) Notify the state controller, in writing, of the amount withheld.

5. Upon receipt of the notice required pursuant to subsection 4, the state controller shall transfer the amount specified in the notice to the legislative fund.

6. The money transferred to the legislative fund pursuant to subsection 5 is hereby authorized for expenditure by the director of the legislative counsel bureau to pay the cost of the study conducted pursuant to this section.

7. The committee shall, not later than November 1, 1998, submit a report of the findings of the subcommittee, including any recommended legislation, to the director of the legislative counsel bureau for transmittal to the 70th session of the Nevada legislature.

Sec. 6. 1. In conducting the investigations and hearings of the committee:

(a) Any member of the committee may administer oaths.

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

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

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

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books, papers or documents;

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

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

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

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

Sec. 7. *Each witness who appears before the committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this state. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the secretary and chairman of the committee.*

Sec. 8. *The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.*

Sec. 9. *This act becomes effective on July 1, 1997, and expires by limitation on July 1, 2001.*

ABSTRACT

LEGISLATIVE COMMITTEE TO STUDY THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF THE REVENUE FROM STATE AND LOCAL TAXES (Senate Bill 253)

The 69th Session of the Nevada Legislature adopted Senate Bill 253 (Chapter 661, *Statutes of Nevada 1997*), which established a Legislative Committee to Study the Distribution Among Local Governments of Revenue from State and Local Taxes in compliance with the requirements of *Nevada Revised Statutes* (NRS) 218.53881(6). The committee included eight legislators and a nonvoting Technical Advisory Committee consisting of the Executive Director of the Department of Taxation and ten members representing various local governments and associations of local governments. The committee was directed by statute to review the laws relating to the distribution of all revenues generated by state and local taxes. In conducting the study, the committee was allowed to consider the purposes for which the taxes were imposed, the actual use of the revenue, any relief to the taxpayers from the burden of the various taxes, and other specific matters relating thereto. The committee was further directed to appoint a Subcommittee to Conduct a Study of the Cost to the Counties and Incorporated Cities in the State of Maintaining Highways, Roads, and Streets, and the practices of the counties and incorporated cities of maintaining those highways, roads, and streets. An appropriation was made not to exceed \$250,000 for the subcommittee to complete the study. The subcommittee contracted with the University of Nevada, Las Vegas, Transportation Research Center (UNLV/TRC) to conduct the study.

The activities of the full committee included meeting eight times in Carson City, Las Vegas, and Reno (not including numerous meetings by the Technical Advisory Committee) and resulted in the submission of the recommendations identified in the Summary of Recommendations.

The Subcommittee to Conduct a Study of the Cost to the Counties and Incorporated Cities in the State of Maintaining Highways, Roads, and Streets, met concurrently with the full committee and the consultant, UNLV/TRC. The consultant has presented the subcommittee with the following preliminary recommendations on the following topics:

- Adoption of standardized definitions;
- Change in redistribution formula and mechanism;
- Change in county optional tax (Regional Transportation Commission);
- Adoption of maintenance management system and uniform reporting formats; and

- Potential inclusion of diesel tax and other gasoline taxes in the redistribution formula.

The consultant is still developing specific data and will report back to the full committee at its next meeting on January 21, 1999.

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE TO STUDY THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF THE REVENUE FROM STATE AND LOCAL TAXES

This summary presents the recommendations approved by Nevada's Legislative Committee to Study the Distribution Among Local Governments of the Revenue from State and Local Taxes during the 1997-1998 legislative interim. The corresponding bill draft request (BDR) number follows each recommendation for legislation.

1. Provide for the disincorporation of a local government in severe financial emergency if the Executive Director of the Department of Taxation determines that the severe financial emergency is unlikely to cease within the next five years. If the Executive Director makes such a determination, a ballot question must be submitted to the electors of the local government that would give the electors the choice of **(BDR 32-702)**:
 - (a) Disincorporation; or
 - (b) Raising the maximum ad valorem tax levy to the constitutional limit (\$5) and limiting the services provided by the local government to ensure a balanced budget.
2. For the purposes of distributions from the local government tax distribution fund (NRS 360.660), provide for the review of the base monthly allocation of a local government for possible adjustment if the population and assessed valuation of the local government have decreased for more than three consecutive years. **(BDR 32-703)**
3. Include the assessed valuation attributable to a redevelopment agency in the calculation of the assessed valuation of a local government or a special district for purposes of distributions from the local government tax distribution fund (NRS 360.690). **(BDR 32-704)**
4. Create a bifurcated system for determining the overall limitation on the total ad valorem tax levy. For local governments that have a certified combined rate of \$3.50 on June 25, 1998, any levy imposed by the Nevada Legislature for the repayment of bonded indebtedness (currently 15 cents) and any levy imposed by the board of county commissioners for the operation of schools pursuant to NRS 387.195 that is in excess of 50 cents (currently an additional 25 cents) must not be included in calculating the limitation on the total ad valorem tax levy pursuant to NRS 361.453 (currently \$3.64). For local governments that have a certified combined rate less than \$3.50 on June 25, 1998, any levy imposed by the Nevada Legislature for the repayment of bonded indebtedness that is in excess of the rate imposed on June 25, 1998 (over 15 cents), and any levy imposed by the board of county commissioners for the operation of schools pursuant to NRS 387.195 that is in excess of the

- rate imposed on June 25, 1998 (over 75 cents), must not be included in calculating the limitation on the total ad valorem tax levy pursuant to NRS 361.453. **(BDR 32-705)**
5. Prohibit a local government from “buying down” the ad valorem rates of another smaller, overlapping local government by increasing its ad valorem rate and thereby allowing the smaller local government to decrease its ad valorem rate so that the smaller local government’s total ad valorem tax levy remains below the statutory limitation. **(BDR 32-706)**
 6. Make various changes relating to the staffing of and the qualifications and removal of members of debt management commissions. **(BDR 32-707)**
 7. Amend the standards by which exemptions for economic development are granted. **(BDR 32-708)**
 8. Amend the *Constitution of the State of Nevada* to provide requirements with which the Legislature must comply when enacting exemptions from property taxes or sales taxes. **(BDR 32-709)**
 9. Make various changes to clarify the language of Senate Bill 254 (Chapter 660, *Statutes of Nevada*) of the 1997 Legislative Session. **(BDR 32-710)**
 10. Place a minimum threshold of \$2,000 before an additional service or program is considered a mandate to a local government pursuant to NRS 354.599, and place a statement on the face of each measure that has an impact of \$2,000 or more on a local government, which states that the bill contains a mandate and will require an additional funding source that must be specified by the Legislature. **(BDR 32-980)**
 11. Amend the Community Redevelopment Law (Chapter 279 of NRS) to **(BDR 32-982)**:
 - (a) Revise the definition of “redevelopment area” to require that at least 75 percent of the area included within a redevelopment area be “improved”; and
 - (b) Prevent the repeal, amendment, or modification of the Community Redevelopment Law in such a manner as to impair any outstanding securities issued pursuant to it.
 12. Revise the current formula for the distribution of the motor vehicle fuel tax set forth in NRS 365.550. The details for this recommendation will be determined at a meeting that will take place in January 1999. **(BDR 32-983)**
 13. Establish a bifurcated ad valorem rate for newly created general improvement districts so that separate rates exist for the provision of infrastructure and operating expenses. The rate for the provision of infrastructure will be eliminated upon the payment of any bonds issued or upon completion of the project. **(BDR 32-984)**

14. Authorize a school district to set aside a portion of the revenue that it receives from the tax on the net proceeds of minerals to establish a mitigation fund. Change the deadline by which statements of estimated net proceeds must be submitted to the Department of Taxation, from April 30 to April 15, and require the Department of Taxation to transmit to local governments estimates for budgetary purposes using information from those statements by April 25. **(BDR 32-985)**

BULLETIN 99-4

LEGISLATIVE COMMITTEE ON EDUCATION

Senate Bill 482 — 1997 Session

Members

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CHAPTER 473

AN ACT relating to education; requiring the department of education to evaluate the performance of public schools; placing a school on academic probation under certain circumstances based upon its evaluation; requiring the department under certain circumstances to establish a panel to supervise the academic probation of a school; revising the provisions relating to the accountability of public schools; revising provisions governing the financial reports of a school district; creating a commission on educational technology; revising provisions governing the administration of certain examinations to pupils; requiring pupils to participate in remedial programs under certain circumstances; creating a legislative committee on education; creating a legislative bureau of educational accountability and program evaluation; creating a council to establish academic standards for public schools; requiring the state board of education to adopt the academic standards; making appropriations; and providing other matters properly relating thereto.

[Approved July 16, 1997]

WHEREAS, The global economy of the 21st century will require that the children of the State of Nevada perform at a high level of academic achievement; and

WHEREAS, The public schools of the State of Nevada are central to the mission of the residents of this state to provide the children of this state with an education suitable to their future needs; and

WHEREAS, It is the obligation of the Governor, the Nevada Legislature, the Department of Education, the State Board of Education, local school districts, educational personnel and parents of this state to develop for the children of this state a system of instruction in which high expectations are consistently imposed and met; and

WHEREAS, An effective accountability plan will allow the public schools within the State of Nevada to meet the needs of pupils who are enrolled in the public schools; and

WHEREAS, The Nevada Legislature has a constitutional responsibility for Nevada's system of public education; and

WHEREAS, The Governor and the Nevada Legislature believe that the accountability of the public school system of the State of Nevada will be greatly enhanced by the adoption of the Nevada Education Reform Act of 1997; now, therefore,

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this act.

Sec. 2. *As used in sections 2 to 20, inclusive, of this act and NRS 385.347, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Bureau” means the legislative bureau of educational accountability and program evaluation created pursuant to section 41 of this act.*

Sec. 4. *“Committee” means the legislative committee on education created pursuant to section 37 of this act.*

Sec. 5. *The department shall, on or before December 15 of each year:*

1. *Evaluate the information submitted by each school district pursuant to paragraphs (b) and (g) of subsection 2 of NRS 385.347; and*
2. *Based upon its evaluation and in accordance with the criteria set forth in sections 6 and 7 of this act, designate each public school within each school district as:*
 - (a) *Demonstrating high achievement;*
 - (b) *Demonstrating adequate achievement; or*
 - (c) *Demonstrating inadequate achievement.*

Sec. 6. 1. *The department shall designate a public school as demonstrating high achievement if:*

- (a) *The number of pupils who took the examinations administered pursuant to NRS 389.015 is at least equal to 95 percent of the pupils who were required to take the examinations and were not exempt pursuant to the regulations of the department;*
- (b) *At least 50 percent of the pupils enrolled in that school who took the examinations administered pursuant to NRS 389.015 received an average score on those examinations that is at least equal to the 75th percentile of the national reference group of pupils to which the examinations were compared; and*
- (c) *The average daily attendance of pupils who are enrolled in the school and the teachers who provide instruction at the school is more than 95 percent.*

2. *The department shall designate a public school as demonstrating adequate achievement if:*

- (a) *The number of pupils who took the examinations administered pursuant to NRS 389.015 is at least equal to 90 percent of the pupils who were required to take the examinations and were not exempt pursuant to the regulations of the department;*
- (b) *At least 60 percent of the pupils enrolled in that school who took the examinations administered pursuant to NRS 389.015 received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared; and*
- (c) *The average daily attendance of pupils who are enrolled in the school and the teachers who provide instruction at the school is more than 90 percent.*

Sec. 7. *The department shall designate a public school as demonstrating inadequate achievement if:*

1. *Less than 60 percent of the pupils enrolled in that school who took the examinations administered pursuant to NRS 389.015 received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared; or*

2. *The average daily attendance of pupils who are enrolled in the school and the teachers who provide instruction at the school is less than 90 percent for 3 or more consecutive years based upon the yearly profile of information for the school maintained by the department pursuant to subsection 4 of section 18 of this act.*

Sec. 8. *As soon as practicable after the department makes a designation pursuant to section 5 of this act, the department shall provide written notice of the designation to the principal of the particular school. In addition, the department shall provide written notice of each such designation as follows:*

1. *Designations for all of the schools of this state to the:*
 - (a) *Governor;*
 - (b) *Committee;*
 - (c) *Bureau; and*
 - (d) *State board.*
2. *Designations for all of the schools within a school district to the:*
 - (a) *Superintendent of schools of the school district; and*
 - (b) *Board of trustees of the school district.*

Each notice that the department provides pursuant to this section must include, for each school that the department designates as demonstrating inadequate achievement, the number of consecutive years, if any, in which the school has received that designation.

Sec. 9. *The department shall maintain a record of the:*

1. *Information that it receives from each school district pursuant to section 18 of this act; and*
2. *Designation made for each school pursuant to section 5 of this act, in such a manner as will allow the department to evaluate the progress of each school in improving the achievement of pupils who are enrolled in the school on the examinations required pursuant to NRS 389.015, the attendance of pupils who are enrolled in the school and the attendance of teachers who provide instruction at the school.*

Sec. 10. 1. *The department shall adopt programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In adopting these programs of remedial study, the department shall consider the recommendations submitted by the committee pursuant to section 39 of this act and programs of remedial study that have proven to be successful in improving the academic achievement of pupils.*

2. *A school that receives a designation as demonstrating inadequate achievement pursuant to section 7 of this act shall ensure that each of its pupils who fails to demonstrate at least adequate achievement on the examinations administered pursuant to NRS 389.015 completes, in accordance with the requirements set forth in subsection 4 of NRS 389.015, a program of remedial study adopted by the department.*

Sec. 11. *If the department designates a school as demonstrating inadequate achievement pursuant to section 7 of this act and the provisions of sections 12 and 13 of this act do not apply, the board of trustees of the school district in which the school is located shall:*

1. *Prepare for that school a plan to improve the achievement of the school's pupils as measured by the examinations required pursuant to NRS 389.015.*

2. *On or before February 15 of the year immediately succeeding the year in which the designation was made, submit the plan to the:*

- (a) Governor;*
- (b) Department;*
- (c) Committee; and*
- (d) Bureau.*

Sec. 12. *If the department designates a school as demonstrating inadequate achievement pursuant to section 7 of this act for 2 consecutive years, the department shall:*

- 1. *Place the school on academic probation.*
- 2. *Prepare for that school a plan to improve the achievement of the pupils who are enrolled in the school as measured by the examinations required pursuant to NRS 389.015.*
- 3. *On or before February 15 of the year immediately succeeding the year in which the second designation was made, submit the plan to the:*

- (a) Board of trustees of the school district in which the school is located;*
- (b) Governor;*
- (c) State board;*
- (d) Committee; and*
- (e) Bureau.*

Sec. 13. *If the department designates a school as demonstrating inadequate achievement pursuant to section 7 of this act for 3 or more consecutive years:*

- 1. *The department shall:*
 - (a) Continue the academic probation of the school;*
 - (b) Prepare for that school a plan to improve the achievement of the school's pupils as measured by the examinations required pursuant to NRS 389.015; and*
 - (c) Submit the plan to the:*
 - (1) Board of trustees of the school district in which the school is located;*
 - (2) Governor;*
 - (3) State board;*
 - (4) Committee; and*
 - (5) Bureau.*

A plan prepared and submitted by the department pursuant to this subsection must contain specific information about the school, including, but not limited to, information concerning the administrative operation of the school, the curriculum of the school and the financial and other resources of the school.

2. *The board of trustees of the school district in which the school is located shall, until such time as the school is designated as demonstrating high achievement or adequate achievement pursuant to section 6 of this act, make at least four reports per year to the department, the committee and the governor concerning the progress of the school in carrying out the plan prepared pursuant to subsection 1.*

Sec. 14. 1. *Except as otherwise provided in subsection 3, in addition to the requirements set forth in sections 12 and 13 of this act, if a school receives two or more consecutive designations as demonstrating inadequate achievement, the department shall, on or before January 15, establish a panel to supervise the academic probation of the school. A panel established pursuant*

to this section consists of nine members appointed by the superintendent of public instruction as follows:

- (a) Two instructors or professors who provide instruction within the University and Community College System of Nevada;
 - (b) Two representatives of the private sector;
 - (c) Two parents or legal guardians of pupils who are enrolled in the school; and
 - (d) Three persons who are licensed educational personnel at public schools within this state.
- Two of the persons appointed pursuant to this paragraph must be classroom teachers who provide instruction at schools that are not located within the same school district as the school which is the subject of the evaluation.

2. For each day or portion of a day during which a member of the panel attends a meeting of the panel or is otherwise engaged in the work of the panel, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The school district in which the school on academic probation is located shall pay the allowances and expenses authorized pursuant to this subsection.

3. If a school receives two or more consecutive designations as demonstrating inadequate achievement, the school may submit to the department a request for a waiver of the requirement for the establishment of a panel to supervise the academic probation of the school. The department may grant such a waiver if the yearly profile of information for the school maintained by the department pursuant to subsection 4 of section 18 of this act demonstrates to the satisfaction of the department that the school has significantly improved in each of the immediately preceding 3 years covered by the profile.

4. If the department grants a waiver pursuant to subsection 3, it shall, on or before February 15 of each year, prepare a list that contains the name of each school for which the department has granted a waiver and the justification of the department for granting the waiver. The department shall submit the list to the:

- (a) Governor;
- (b) State board;
- (c) Committee; and
- (d) Bureau.

Sec. 15. 1. A panel established pursuant to section 14 of this act shall:

(a) Review the most recent plan prepared by the department for the school pursuant to section 12 or 13 of this act or the plan prepared by the board of trustees of the school district pursuant to section 11 of this act;

(b) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating inadequate achievement;

(c) Hold a public meeting to discuss the actions that the school will need to take to warrant receiving a designation of demonstrating high achievement or adequate achievement;

(d) On or before April 1, prepare a written report that includes an analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating inadequate achievement, including, but not limited to, issues relating to:

- (1) The financial resources of the school;
- (2) The administrative and educational personnel of the school;

(3) *The curriculum of the school;*
(4) *The facilities available at the school, including the availability and accessibility of educational technology; and*

(5) *Any other factors that the panel believes contributed to the designation of the school as demonstrating inadequate achievement;*

(e) *Submit a copy of the written report to the:*

(1) *Principal of the school;*

(2) *Board of trustees of the school district in which the school is located;*

(3) *Superintendent of schools of the school district in which the school is located;*

(4) *Superintendent of public instruction;*

(5) *Governor;*

(6) *State board;*

(7) *Department;*

(8) *Committee; and*

(9) *Bureau;*

(f) *Make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school; and*

(g) *In accordance with its findings pursuant to this subsection, adopt revisions to the most recent plan prepared by the department for the school pursuant to section 12 or 13 of this act.*

2. *The department shall, not more than 1 month after receiving the written report submitted by the panel:*

(a) *Amend the most recent plan prepared by the department for the school pursuant to section 12 or 13 of this act. In amending the plan, the department shall incorporate the revisions adopted by the panel pursuant to paragraph (g) of subsection 1.*

(b) *Submit to the panel a copy of an amended plan for the school which demonstrates to the satisfaction of the panel that the department incorporated the revisions adopted by the panel pursuant to paragraph (g) of subsection 1.*

3. *The department shall submit to the panel a copy of the designation that it gives to the school pursuant to section 5 of this act for the school year immediately succeeding the establishment of the panel. If the school does not earn a designation as demonstrating high achievement or adequate achievement for the school year immediately succeeding the establishment of the panel, the panel shall take such action pursuant to subsection 1 and section 16 of this act as it deems necessary to ensure that the school takes action to improve its designation.*

Sec. 16. *If a panel established pursuant to section 14 of this act determines that a school has not earned a designation as demonstrating high achievement or adequate achievement for the school year immediately succeeding the establishment of the panel, the panel shall:*

1. *Hold an additional public meeting to discuss the actions which must be taken to improve the achievement of pupils at the school.*

2. *On or before April 1, determine whether the superintendent of public instruction shall appoint an administrator to oversee the operation of the school pursuant to section 17 of this act.*

Sec. 17. 1. *If a panel established pursuant to section 14 of this act determines that an administrator must be appointed to oversee the operation of a school, the superintendent of public*

instruction shall, on or before May 1, appoint a licensed administrator to do so. The administrator must:

- (a) Possess knowledge and experience concerning the administration of public schools.*
- (b) Be appointed from a list of three qualified persons submitted to the superintendent of public instruction by the panel.*

2. An administrator appointed pursuant to this section:

(a) Shall:

(1) Establish and carry out a policy for the management of the school to ensure that the plan prepared by the department pursuant to section 13 of this act and revised by the panel pursuant to section 15 of this act is followed. This subparagraph does not prohibit the administrator from recommending changes to the plan.

(2) On a quarterly basis, make reports to the department, the governor and the committee regarding the progress of the school toward earning a designation of demonstrating high achievement or adequate achievement pursuant to section 6 of this act.

(b) May take any action not prohibited by law to ensure that the performance of the pupils of the school on the examinations administered pursuant to NRS 389.015 improves to such a level that the school is designated as demonstrating high achievement or adequate achievement pursuant to section 6 of this act.

(c) Serves at the pleasure of the superintendent of public instruction and is entitled to receive such compensation as may be set by the superintendent.

3. A school district that contains a school for which an administrator is appointed pursuant to this section shall reimburse the department for any expenses incurred by the department pursuant to subsection 2.

4. If a school for which an administrator is appointed pursuant to this section receives a designation of demonstrating high achievement or adequate achievement pursuant to section 6 of this act, the superintendent of public instruction shall terminate the oversight of the school by the administrator. After the superintendent terminates the oversight of the school, the board of trustees of the school district in which the school is located shall, on a quarterly basis and until such time as the school receives two consecutive designations of demonstrating high achievement or adequate achievement pursuant to section 6 of this act, make reports to the department, the committee and the governor regarding actions taken at the school to maintain that designation.

Sec. 18. *1. On or before April 15 of each year, the board of trustees of each school district shall submit the report required pursuant to subsection 2 of NRS 385.347 to the:*

- (a) Governor;*
- (b) State board;*
- (c) Department;*
- (d) Committee; and*
- (e) Bureau.*

2. On or before April 15 of each year, the board of trustees of each school district shall submit the information prepared by the board of trustees pursuant to paragraph (q) of subsection 2 of NRS 385.347 to the commission on educational technology created pursuant to section 27 of this act.

3. On or before June 15 of each year, the board of trustees of each school district shall:

(a) *Prepare:*

(1) *A separate written report summarizing the effectiveness of the district's program of accountability during the school year. The report must include:*

(i) *A review and analysis of the data upon which the report required pursuant to subsection 2 of NRS 385.347 is based; and*

(ii) *The identification of any problems or factors at individual schools that are revealed by the review and analysis.*

(2) *A written procedure to improve the achievement of pupils who are enrolled in schools within the district, including, but not limited to, a description of the efforts the district has made to correct any deficiencies identified in the written report required pursuant to subparagraph (1). The written procedure must describe sources of data that will be used by the board of trustees to evaluate the effectiveness of the written procedure.*

(b) *Submit copies of the written report and written procedure required pursuant to paragraph (a) to the:*

(1) *Governor;*

(2) *State board;*

(3) *Department;*

(4) *Committee; and*

(5) *Bureau.*

4. *The department shall maintain a record of the information that it receives from each school district pursuant to this section in such a manner as will allow the department to create for each school a yearly profile of information.*

5. *The board of trustees of each school district shall ensure that a copy of the written report and written procedure required pursuant to paragraph (a) of subsection 3 is included with the final budget of the school district adopted pursuant to NRS 354.598.*

Sec. 19. 1. *The bureau shall contract with a person or entity to:*

(a) *Review and analyze the information submitted to the bureau pursuant to section 18 of this act in accordance with standards prescribed by the committee pursuant to subsection 2 of section 39 of this act;*

(b) *Consult with each school district regarding any methods by which the district may improve the accuracy of the report required pursuant to subsection 2 of NRS 385.347 and the written report and written procedure required pursuant to section 18 of this act, and the purposes for which the reports and written procedure are used; and*

(c) *Submit written reports and any recommendations to the committee and the bureau concerning:*

(1) *The effectiveness of the provisions of sections 2 to 20, inclusive, of this act and NRS 385.347 in improving the accountability of the schools of this state;*

(2) *The status of each school that is designated as demonstrating inadequate achievement pursuant to section 7 of this act; and*

(3) *Any other matter related to the accountability of the public schools of this state, as deemed necessary by the bureau.*

2. *The consultant with whom the bureau contracts to perform the duties required pursuant to subsection 1:*

(a) *Must possess the experience and knowledge necessary to perform those duties, as determined by the committee; and*

(b) *Shall complete those duties within 6 months after the bureau provides to the consultant the report required pursuant to subsection 2 of NRS 385.347 and the written report and written procedure required pursuant to section 18 of this act.*

Sec. 20. *The department shall adopt:*

1. *Regulations to provide for the recognition of schools that receive a designation as demonstrating high achievement pursuant to subsection 1 of section 6 of this act;*

2. *Regulations which prescribe the factors that the department will consider in determining whether to grant a waiver from the establishment of a panel to supervise the academic probation of a school pursuant to section 14 of this act, including, without limitation, criteria for determining whether a school has significantly improved; and*

3. *Such regulations as it deems necessary to carry out the provisions of sections 2 to 9, inclusive, and 11 to 20, inclusive, of this act and NRS 385.347, including, without limitation, uniform standards for the type and format of data that must be submitted by the school districts and the time by which such data must be submitted.*

Sec. 21. **NRS 385.310** is hereby amended to read as follows:

385.310 The deputy superintendent for administrative and fiscal services, under the direction of the superintendent of public instruction, shall:

1. Determine the apportionment of all state school money to schools of the state as prescribed by law.

2. Develop for public schools of the state a uniform system of budgeting and accounting. [, which system, when approved by] *The system must provide for the separate reporting of expenditures for each:*

(a) *School district; and*

(a) *School within a school district.*

Upon approval of the state board , the system is mandatory for all public schools in [the state,] this state and must be enforced as provided [for] in subsection 2 of NRS 385.315.

3. Carry on a continuing study of school finance in the state, particularly the method by which schools are financed on the state level, and make such recommendations to the superintendent of public instruction for submission to the state board as he deems advisable.

4. Recommend to the superintendent of public instruction for submission to the state board such changes in budgetary and financial procedures as his studies may show to be advisable.

5. Perform such other statistical and financial duties pertaining to the administration and finances of the schools of the state as may be required by the superintendent of public instruction.

6. Prepare for the superintendent of *public instruction* the biennial budgets of the department for consideration by the state board and submission to the governor.

Sec. 22. **NRS 385.347** is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this state, in cooperation with associations recognized by the state board as representing licensed personnel in education in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the state board for the quality of the schools and the educational achievement of the pupils in the district.

2. The board of trustees of each school district shall, on or before March 31 of each year, report to the residents of the district concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for grades 4, 8, 10 and 11 for each school in the district and the district as a whole. Unless otherwise directed by the department, the board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and shall compare the results of those examinations for the current school year with those of previous school years. *The report must include, for each school in the district and each grade in which the examinations were administered:*

(1) *The number of pupils who took the examinations;*

(2) *An explanation of instances in which a school was exempt from administering or a pupil was exempt from taking an examination; and*

(3) *A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils in attendance in that period.*

In addition, the board shall also report the results of other examinations of pupil achievement administered to [each pupil] *pupils* in the school district in grades other than 4, 8, 10 and 11. The results of these examinations for the current school year must be compared with those of previous school years.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, the average class size for each required course of study for each secondary school in the district and the district as a whole, and other data concerning licensed and unlicensed employees of the school district.

(d) A comparison of the types of classes that each teacher has been assigned to teach with the qualifications and licensure of the teacher, for each school in the district and the district as a whole.

(e) The total expenditure per pupil for each school in the district and the district as a whole.

(f) The curriculum used by the school district, including any special programs for pupils at an individual school.

(g) Records of the attendance and truancy of pupils in all grades, *including, without limitation, the average daily attendance of pupils*, for each school in the district and the district as a whole.

(h) The annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole.

(i) *Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole.*

(j) Efforts made by the school district and by each school in the district to increase [communication] :

(1) *Communication with the parents of pupils in the district [. (j)] ; and*

(2) *The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.*

(k) Records of incidents involving weapons or violence for each school in the district.

[(k)] (l) *Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district.*

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

[(l)] (n) The transiency rate of pupils for each school in the district and the district as a whole.

[(m)] (o) Each source of funding for the school district.

[(n)] (p) *For each high school in the district, the percentage of pupils who graduated from that high school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university or community college within the University and Community College System of Nevada.*

(q) *The technological facilities and equipment available at each school and the district's plan to incorporate educational technology at each school.*

(r) Such other information as is directed by the superintendent of public instruction.

3. The superintendent of public instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts.

(c) Consult with a representative of [:

(1) The] *the:*

(1) Nevada State Education Association;

(2) [The] Nevada Association of School Boards;

(3) [The] Nevada Association of School Administrators [; and

(4) The] ;

(4) Nevada Parent Teachers Association [,] ;

(5) *Budget division of the department of administration; and*

(6) *Legislative counsel bureau,*

concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

[4. On or before April 15 of each year, the board of trustees of each school district shall submit to the state board the report made pursuant to subsection 2. On or before June 15 of each year, the board of trustees of each school district shall submit to the state board:

(a) A separate report summarizing the effectiveness of the district's program of accountability during the school year; and

(b) A description of the efforts the district has made to correct deficiencies identified in the report submitted pursuant to paragraph (a).

5. On or before February 1 of each year, the superintendent of public instruction shall analyze the information submitted to the state board and report to the legislature concerning the effectiveness of the programs of accountability adopted pursuant to this section. In even-numbered years, the report must be submitted to the legislative commission.]

Sec. 23. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 24 to 28, inclusive, of this act.

Sec. 24. *As used in sections 24 to 28, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 25 and 26 of this act have the meanings ascribed to them in those sections.*

Sec. 25. *“Commission” means the commission on educational technology created pursuant to section 27 of this act.*

Sec. 26. *“Committee” means the legislative committee on education created pursuant to section 37 of this act.*

Sec. 27. 1. *The commission on educational technology, consisting of 11 members is hereby created. The superintendent of public instruction and the director of the department of information services shall serve ex officio as nonvoting members of the commission.*

2. *The governor shall appoint the following voting members to the commission, at least two of whom must reside in a county whose population is less than 100,000:*

(a) *One administrator in a public school who possesses knowledge and experience in the general application of technology;*

(b) *One school teacher in a public elementary school who possesses knowledge and experience in the use of educational technology in the public schools;*

(c) *One school teacher in a public secondary school who possesses knowledge and experience in the use of educational technology in the public schools;*

(d) *One representative of public libraries who possesses knowledge and experience in the general application of technology;*

(e) *One representative of the University and Community College System of Nevada who possesses knowledge and experience in the use of educational technology in institutions of higher education;*

(f) *One representative of the private sector who possesses knowledge and experience in the use of technology; and*

(g) *One parent or legal guardian who possesses knowledge and experience in the general application of technology.*

3. *The senate majority leader shall appoint two voting members to the commission:*

(a) *One of whom is a member of the senate; and*

(b) *One of whom is employed in the field of technology.*

4. *The speaker of the assembly shall appoint two members to the committee:*

(a) *One of whom is a member of the assembly; and*

(b) *One of whom is employed in the field of technology.*

5. *The governor shall appoint a chairman among the voting members of the commission.*

6. *The term of each member of the commission is 2 years, commencing on July 1 of each odd-numbered year and expiring on June 30 of the immediately succeeding odd-numbered year. Upon the expiration of a term of a member, he may be reappointed, if he still possesses any requisite qualifications for appointment. There is no limit on the number of terms that a member may serve.*

7. *The person or entity who appoints a member to the commission may remove that member if the member neglects his duty or commits malfeasance in office, or for other just cause. Any vacancy in the membership of the commission must be filled for the remainder of the unexpired term in the same manner as the original appointment.*

8. *The commission shall hold at least four regular meetings each year, and may hold special meetings at the call of the chairman.*

9. *Members of the commission who are not legislators serve without compensation, except that for each day or portion of a day during which a member of the commission attends a meeting of the commission or is otherwise engaged in the business of the commission, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

10. *For each day or portion of a day during which a member of the commission who is a legislator attends a meeting of the commission or is otherwise engaged in the work of the commission, except during a regular or special session of the legislature, he is entitled to receive the:*

(a) *Compensation provided for a majority of the members of the legislature during the first 60 days of the preceding session;*

(b) *Per diem allowance provided for state officers and employees generally; and*

(c) *Travel expenses provided pursuant to NRS 218.2207.*

The compensation, per diem allowances and travel expenses of the legislative members of the commission must be paid from the legislative fund.

Sec. 28. 1. *The commission shall establish a plan for the use of educational technology in the public schools of this state. In preparing the plan, the commission shall consider:*

(a) *Plans that have been adopted by the department and the school districts in this state;*

(b) *Plans that have been adopted in other states, including, but not limited to, the Iowa Communications Network;*

(c) *The information submitted to the commission by the board of trustees of each school district pursuant to subsection 2 of section 18 of this act; and*

(d) *Any other information that the commission or the committee deems relevant to the preparation of the plan.*

2. *The plan established by the commission must include recommendations for methods to:*

(a) *Incorporate educational technology into the public schools of this state;*

(b) *Increase the number of pupils in the public schools of this state who have access to educational technology;*

(c) *Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, but not limited to, the receipt of credit for college courses completed through the use of educational technology;*

(d) *Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this state; and*

(e) *Address the needs of teachers in incorporating the use of educational technology in the classroom, including, but not limited to, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.*

3. *The department shall provide:*

(a) *Administrative support;*

(b) *Equipment; and*

(c) *Office space,*
as is necessary for the commission to carry out the provisions of this section.

4. *The following entities shall cooperate with the commission in carrying out the provisions of this section:*

- (a) *The state board.*
- (b) *The board of trustees of each school district.*
- (c) *The superintendent of schools of each school district.*
- (d) *The department.*

5. *The commission shall:*

(a) *Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this state.*

(b) *Allocate money to the school districts from the trust fund for educational technology created pursuant to NRS 393.163 and any money appropriated by the legislature for educational technology, subject to any priorities for such allocation established by the legislature.*

(c) *Establish criteria for the board of trustees of a school district that receives an allocation of money from the commission to:*

(1) *Repair, replace and maintain computer systems.*
(2) *Upgrade and improve computer hardware and software and other educational technology.*

(3) *Provide training, installation and technical support related to the use of educational technology within the district.*

(d) *Submit to the governor, the committee and the department its plan for the use of educational technology in the public schools of this state and any recommendations for legislation.*

(e) *Review the plan annually and make revisions as it deems necessary or as directed by the committee or the department.*

(f) *In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the committee and the department as the commission deems necessary.*

6. *As used in this section, "public school" includes the Caliente youth center and the Nevada youth training center.*

Sec. 29. *Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:*

The state board shall:

1. *In accordance with guidelines established by the National Assessment Governing Board and National Center for Education Statistics, adopt regulations requiring the schools of this state that are selected by the National Assessment Governing Board or the National Center for Education Statistics to participate in the examinations of the National Assessment of Educational Progress.*

2. *Report the results of those examinations to the:*

- (a) *Governor;*
- (b) *Board of trustees of each school district of this state;*
- (c) *Legislative committee on education created pursuant to section 37 of this act; and*

(d) *Legislative bureau of educational accountability and program evaluation created pursuant to section 41 of this act.*

Sec. 30. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools within its district to determine the achievement and proficiency of pupils in:

- (a) Reading;
- (b) Writing; [and]
- (c) Mathematics [.]; *and*
- (d) *Science.*

2. The examinations required by subsection 1 must be:

- (a) Administered before the completion of grades 4, 8, 10 and 11.
- (b) Administered in each school district at the same time. The time for the administration of the examinations must be prescribed by the state board.

(c) Scored by *the department or* a single private entity that has contracted with the state board to score the examinations. [The] *If a private entity has contracted with the board, the entity shall report the results of the examinations in the form required by the department.*

3. Different standards of proficiency may be adopted for pupils with diagnosed learning disabilities.

4. If a pupil fails to demonstrate *at least* adequate achievement on the examination administered before the completion of grade 4 [or 8,] , 8 *or* 10, he may be promoted to the next higher grade, but the results of his examination must be evaluated to determine what remedial study is appropriate. *If such a pupil is enrolled at a school that has been designated as demonstrating inadequate achievement pursuant to section 7 of this act, the pupil must, in accordance with the requirements set forth in this subsection, complete a program of remedial study pursuant to section 10 of this act.*

5. If a pupil fails to pass the proficiency examination administered before the completion of grade 11, he must not be graduated until he is able, through remedial study, to pass the proficiency examination, but he may be given a certificate of attendance, in place of a diploma, if he has reached the age of 17 years.

[5.] 6. The state board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The examinations on reading , [and] mathematics *and science* prescribed for grades 4 , [and] 8 *and* 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4 , [and] 8 *and* 10 in this state to that of a national reference group of pupils in grades 4 [and 8.] , 8 *and* 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:

- (a) To the extent necessary for administering and evaluating the examinations.
- (b) That a disclosure may be made to a state officer who is a member of the executive or legislative branch to the extent that it is related to the performance of that officer's duties.
- (c) That specific questions and answers may be disclosed if the superintendent of public instruction determines that the content of the questions and answers is not being used in a current

examination and making the content available to the public poses no threat to the security of the current examination process.

Sec. 31. NRS 389.017 is hereby amended to read as follows:

389.017 The state board [of education] shall prescribe regulations requiring that each board of trustees of a school district submit to the superintendent of public instruction [,] *and the department*, in the form and manner prescribed by the superintendent, the results of achievement and proficiency examinations given in the 4th, 8th , *10th* and 11th grades [of] to public school pupils in the district. The state board shall not include in the regulations any provision which would violate the confidentiality of the test scores of any individual pupil.

Sec. 32. NRS 393.163 is hereby amended to read as follows:

393.163 1. The trust fund for educational technology is hereby created in the state general fund. The trust fund must be administered by the superintendent of public instruction. The superintendent may accept gifts and grants of money from any source for deposit in the trust fund. Any such money may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 3.

2. The interest and income earned on the money in the trust fund must be credited to the trust fund.

3. The money in the trust fund may be used only [to provide grants] *for the distribution* of money to [individual public schools] *school districts* to be used in kindergarten through 12th grade to obtain and maintain hardware and software for computer systems, equipment for transfer of data by modem through connection to telephone lines, and other educational technology as may be approved by the [superintendent of public instruction] *commission on educational technology created pursuant to section 27 of this act* for use in classrooms.

Sec. 33. NRS 393.165 is hereby amended to read as follows:

393.165 The department shall, [by regulation,] *in consultation with the commission on educational technology created pursuant to section 27 of this act, adopt regulations that* establish a program whereby [individual public schools] school districts may apply to the [superintendent of public instruction for grants of] *commission on educational technology for* money from the trust fund for educational technology.

Sec. 34. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

The board of regents shall require employees of the system to provide to the board of trustees of each school district of this state, as appropriate, information regarding the:

1. *Number of pupils who graduated from a high school in the district in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university or community college within the system.*

2. *Costs incurred by the system in providing remedial instruction pursuant to subsection 1.*

Sec. 35. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 41, inclusive, of this act.

Sec. 36. *As used in sections 36 to 41, inclusive, of this act, unless the context otherwise requires, "committee" means the legislative committee on education.*

Sec. 37. 1. *The legislative committee on education, consisting of eight legislative members, is hereby created. The membership of the committee consists of:*

(a) *Four members appointed by the majority leader of the senate, at least one of whom must be a member of the minority political party.*

(b) *Four members appointed by the speaker of the assembly, at least one of whom must be a member of the minority political party.*

2. *After the initial selection, the legislative commission shall select the chairman and vice chairman of the committee from among the members of the committee. After the initial selection of those officers, each of those officers holds the position 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. If a vacancy occurs in the chairmanship or vice chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.*

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

4. *A vacancy on the committee must be filled in the same manner as the original appointment.*

Sec. 38. 1. *The members of the committee shall meet throughout the year at the times and places specified by a call of the chairman or a majority of the committee. The director of the legislative counsel bureau or his designee shall act as the nonvoting recording secretary of the committee. Five members of the committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the committee.*

2. *Except during a regular or special session of the legislature, for each day or portion of a day during which a member of the committee attends a meeting of the committee or is otherwise engaged in the work of the committee, he is entitled to receive the:*

(a) *Compensation provided for a majority of the members of the legislature during the first 60 days of the preceding regular session;*

(b) *Per diem allowance provided for state officers and employees generally; and*

(c) *Travel expenses provided pursuant to NRS 218.2207.*

The compensation, per diem allowances and travel expenses of the members of the committee must be paid from the legislative fund.

Sec. 39. 1. *The committee may:*

(a) *Evaluate, review and comment upon issues related to education within this state, including, but not limited to:*

(1) *Programs to enhance accountability in education;*

(2) *Legislative measures regarding education;*

(3) *Methods of financing public education;*

(4) *The condition of public education in the elementary and secondary schools;*

(5) *The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700 to 388.730, inclusive;*

(6) *The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and*

(7) *Any other matters that, in the determination of the committee, affect the education of pupils within this state.*

(b) *Conduct investigations and hold hearings in connection with its duties pursuant to this section.*

(c) *Request that the legislative counsel bureau assist in the research, investigations, hearings and reviews of the committee.*

(d) *Make recommendations to the legislature concerning the manner in which public education may be improved.*

2. *The committee shall:*

(a) *In addition to any standards prescribed by the department of education, prescribe standards for the review and evaluation of the reports of school districts pursuant to paragraph (a) of subsection 1 of section 19 of this act.*

(b) *For the purposes set forth in section 10 of this act, recommend to the department of education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In recommending these programs of remedial study, the committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.*

Sec. 40. 1. *If the committee conducts investigations or holds hearings pursuant to paragraph (b) of subsection 1 of section 39 of this act:*

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

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

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

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

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

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

(c) *The witness has failed or refused to attend or produce the books or papers required by the subpoena before the committee that is named in the subpoena, or has refused to answer questions propounded to him.*

The petition may request an order of the court compelling the witness to attend and testify or produce the books and papers before the committee.

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

4. *If it appears to the court that the subpoena was regularly issued by the committee, the court shall enter an order that the witness appear before the committee at the time and place fixed*

in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

Sec. 41. *1. The legislative bureau of educational accountability and program evaluation is hereby created within the fiscal analysis division of the legislative counsel bureau. The fiscal analysts shall appoint to the legislative bureau of educational accountability and program evaluation a chief and such other personnel as the fiscal analysts determine are necessary for the bureau to carry out its duties pursuant to this section.*

2. The bureau shall, as the fiscal analysts determine is necessary or at the request of the committee:

(a) Collect and analyze data and issue written reports concerning:

(1) The effectiveness of the provisions of sections 2 to 20, inclusive, of this act and NRS 385.347 in improving the accountability of the schools of this state;

(2) The statewide program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700 to 388.730, inclusive;

(3) The statewide program to educate persons with disabilities that is set forth in chapter 395 of NRS;

(4) The results of the examinations of the National Assessment of Educational Progress that are administered pursuant to section 29 of this act; and

(5) Any program or legislative measure, the purpose of which is to reform the system of education within this state.

(b) Conduct studies and analyses to evaluate the performance and progress of the system of public education within this state. Such studies and analyses may be conducted:

(1) As the fiscal analysts determine are necessary; or

(2) At the request of the legislature.

This paragraph does not prohibit the bureau from contracting with a person or entity to conduct studies and analyses on behalf of the bureau.

(c) On or before December 31 of each even-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the director of the legislative counsel bureau for transmission to the next regular session of the legislature. The bureau shall, on or before December 31 of each odd-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the director of the legislative counsel bureau for transmission to the legislative commission.

3. The bureau may, pursuant to NRS 218.687, require a school, a school district, the University and Community College System of Nevada or the department of education to submit to the bureau books, papers, records and other information that the chief of the bureau determines are necessary to carry out the duties of the bureau pursuant to this section. An entity whom the bureau requests to produce records or other information shall provide the records or other information in any readily available format specified by the bureau.

4. Except as otherwise provided in this subsection, any information obtained by the bureau pursuant to this section shall be deemed a work product that is confidential pursuant to NRS 218.625. The bureau may, at the discretion of the chief and after submission to the legislature or legislative commission, as appropriate, publish reports of its findings pursuant to paragraphs (a) and (b) of subsection 2.

5. *This section does not prohibit the department of education or the state board of education from conducting analyses, submitting reports or otherwise reviewing educational programs in this state.*

Sec. 42. NRS 354.598 is hereby amended to read as follows:

354.598 1. At the time and place advertised for public hearing, or at any time and place to which the public hearing is from time to time adjourned, the governing body shall hold a public hearing on the tentative budget, at which time interested persons must be given an opportunity to be heard.

2. At the public hearing, the governing body shall indicate changes, if any, to be made in the tentative budget, and shall adopt a final budget by the favorable votes of a majority of all members of the governing body. Except as otherwise provided in this subsection, the final budget must be adopted on or before June 1 of each year. The final budgets of school districts must be adopted on or before June 8 of each year [.] *and must be accompanied by copies of the written report and written procedure prepared pursuant to subsection 3 of section 18 of this act.* Should the governing body fail to adopt a final budget that complies with the requirements of law and the regulations of the department of taxation on or before the required date, the budget adopted and approved by the department of taxation for the current year, adjusted as to content and rate in such a manner as the department of taxation may consider necessary, automatically becomes the budget for the ensuing fiscal year. When a budget has been so adopted by default, the governing body may not reconsider the budget without the express approval of the department of taxation. If the default budget creates a combined ad valorem tax rate in excess of the limit imposed by NRS 361.453, the Nevada tax commission shall adjust the budget as provided in NRS 361.4547 or 361.455.

3. The final budget must be certified by a majority of all members of the governing body and a copy of it, together with an affidavit of proof of publication of the notice of the public hearing, must be transmitted to the Nevada tax commission. If a tentative budget is adopted by default as provided in subsection 2, the clerk of the governing body shall certify the budget and transmit to the Nevada tax commission a copy of the budget, together with an affidavit of proof of the notice of the public hearing, if that notice was published. Certified copies of the final budget must be distributed as determined by the department of taxation.

4. Upon the adoption of the final budget or the amendment of the budget in accordance with NRS 354.606, the several amounts stated in it as proposed expenditures are appropriated for the purposes indicated in the budget.

5. No governing body may adopt any budget which appropriates for any fund any amount in excess of the budget resources of that fund.

Sec. 43. 1. The council to establish academic standards for public schools, consisting of nine members, is hereby created. The membership of the council consists of the president of the state board of education or a member of the state board of education designated by the president and:

(a) Four members appointed by the governor in accordance with subsection 2;

(b) Two members appointed by the majority leader of the senate in accordance with subsection 3; and

(c) Two members appointed by the speaker of the assembly in accordance with subsection 3.

2. The governor shall ensure that:

(a) Two of the members whom he appoints to the council are parents or legal guardians of pupils who attend public schools. These members must not otherwise be affiliated with the public school system of this state.

(b) Two of the members whom he appoints to the council are licensed educational personnel.

(c) Insofar as practicable, the members whom he appoints to the council reflect the ethnic and geographical diversity of this state.

3. The majority leader of the senate and the speaker of the assembly shall each ensure that:

(a) One of the members whom he appoints to the council is a member of the house of the legislature to which he belongs.

(b) The other member whom he appoints to the council is a representative of a private business or industry that may be affected by actions taken by the council.

4. Each member of the council must be a resident of this state.

5. The term of each member of the council is 4 years, commencing on July 1, 1997, and expiring on June 30, 2001. The person or entity who appoints a member to the council may remove that member if the member neglects his duty or commits malfeasance in office, or for other just cause. A vacancy in the membership of the council must be filled for the remainder of the unexpired term in the same manner as the original appointment.

6. The governor shall select a chairman from among the membership of the council in accordance with this subsection. The governor shall not select as chairman the president of the state board of education, or his designee, or a member of the council who is otherwise affiliated with the public school system in this state. This subsection does not preclude the governor from selecting a parent or legal guardian of a pupil as chairman if the parent or legal guardian is not otherwise affiliated with the public school system in this state. The chairman holds the position for 2 years.

7. For each day or portion of a day during which a member of the council who is a legislator attends a meeting of the council or is otherwise engaged in the work of the council, except during a regular or special session of the legislature, he is entitled to receive the:

(a) Compensation provided for a majority of the members of the legislature during the first 60 days of the preceding session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218.2207.

The compensation, per diem allowances and travel expenses of the legislative members of the council must be paid from the legislative fund.

8. Members of the council who are not legislators serve without salary, but are entitled to receive the:

(a) Per diem allowance provided for state officers and employees generally; and

(b) Travel expenses provided pursuant to NRS 281.160.

Sec. 44. 1. The department of education shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

as is necessary for the council to establish academic standards for public schools, created pursuant to section 43 of this act, to carry out the provisions of this section and sections 43 and 45 of this act.

2. The council may request assistance from any agency of this state if such assistance is necessary for the council to carry out the provisions of this section and sections 43 and 45 of this act.

Sec. 45. 1. The council to establish academic standards for public schools, created pursuant to section 43 of this act, shall establish and submit to the state board of education:

(a) On or before September 1, 1998, standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, based upon the content of each course, that is expected of pupils for the following courses of study:

- (1) English, including reading, composition and writing.
- (2) Mathematics.
- (3) Science.

(b) On or before September 1, 1999, standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, based upon the content of each course, that is expected of pupils for the following courses of study:

- (1) Social studies.
- (2) Computer education.
- (3) Health and physical education.
- (4) The arts.

2. The council shall submit written recommendations to the state board of education:

(a) On or before November 1, 1998, on the type of examinations of achievement and proficiency to be administered statewide that may be used to measure the achievement of pupils in the standards of content and performance established by the council pursuant to paragraph (a) of subsection 1. The recommendations must include the grades in which the examinations should be administered.

(b) On or before November 1, 1999, on the type of examinations of achievement and proficiency in social studies to be administered statewide that may be used to measure the achievement of pupils in the standards of content and performance established by the council pursuant to subparagraph (1) of paragraph (b) of subsection 1. The recommendations must include the grades in which the examinations should be administered.

3. In developing the standards and examinations pursuant to subsections 1 and 2, the council shall:

(a) Hold at least eight meetings. The meetings must be held in at least four different counties during the period commencing August 1, 1997, and expiring July 31, 1999. At least four of these meetings must be held to hear public testimony concerning the proposed standards of content and performance and the examinations of achievement and proficiency.

(b) Consult with licensed educational personnel in the various school districts and with other persons who have knowledge and experience concerning standards of content and performance or examinations of achievement and proficiency in education.

(c) Review and consider any standards of content and performance and any examinations of achievement and proficiency:

- (1) Adopted by this state;
- (2) Adopted by the Commonwealth of Virginia or any other states;
- (3) Adopted by the Federal Government; or
- (4) Advocated in publications of entities, including, but not limited to, the "Standards Primer: A Resource for Accelerating the Pace of Reform," published in 1996 by the Education Leaders Council.

4. The state board of education shall adopt:

(a) On or before January 1, 1999, the standards of content and performance established by the council pursuant to paragraph (a) of subsection 1, to take effect in the 1999-2000 school year.

(b) Examinations of achievement and proficiency to be administered statewide, commencing in the 1999-2000 school year, to measure the achievement of pupils in the standards of content and performance adopted by the state board of education pursuant to paragraph (a). In adopting the examinations, the state board shall consider the written recommendations submitted by the council pursuant to subsection 2. The examinations must be scored by a single private entity or the department of education.

(c) On or before January 1, 2000, the standards of content and performance established by the council pursuant to paragraph (b) of subsection 1, to take effect in the 2000-2001 school year.

(d) Examinations of achievement and proficiency in social studies to be administered statewide, commencing in the 2000-2001 school year, to measure the achievement of pupils in social studies in the standards of content and performance adopted by the state board pursuant to paragraph (c). In adopting the examinations, the state board shall consider the written recommendations submitted by the council pursuant to subsection 2. The examinations must be scored by a single private entity or the department of education.

5. The state board of education shall:

(a) On or before February 1, 1999, submit a written report to the council and to the director of the legislative counsel bureau for transmission to the 70th session of the Nevada legislature. The written report must include a description of the standards adopted by the state board of education.

(b) On or before February 1, 2001, submit a written report to the council and to the director of the legislative counsel bureau for transmission to the 71st session of the Nevada legislature. The written report must include a description of the standards adopted by the state board of education.

6. In addition to the duties prescribed in subsections 1 and 2, the council shall:

(a) As soon as practicable, but not later than April 1, 1999:

(1) Submit to the governor, the senate standing committee on finance and the assembly standing committee on ways and means, written reports regarding the standards adopted by the state board of education pursuant to paragraph (a) of subsection 4.

(2) Submit to the director of the legislative counsel bureau for transmission to the 70th session of the Nevada legislature any recommendations for legislation that the council deems are necessary to incorporate into the public schools the standards that it established pursuant to paragraph (a) of subsection 1.

(b) As soon as practicable, but not later than April 1, 2001:

(1) Submit to the governor, the senate standing committee on finance and the assembly standing committee on ways and means, written reports regarding the standards adopted by the state board of education pursuant to paragraph (c) of subsection 4.

(2) Submit to the director of the legislative counsel bureau for transmission to the 71st session of the Nevada Legislature any recommendations for legislation that the council deems are necessary to incorporate into the public schools the standards that it established pursuant to paragraphs (a) or (b) of subsection 1.

7. The council shall, on or before June 30, 1999, and on or before June 30, 2001, report to the legislative committee on education, created pursuant to section 37 of this act, regarding the standards and examinations adopted by the state board of education pursuant to subsection 4.

8. The council shall, on or before June 30, 2001, coordinate its duties pursuant to this section with the legislative bureau of educational accountability and program evaluation, created pursuant to section 41 of this act, to enable the bureau to continue the duties of the council of evaluating and reporting after June 30, 2001.

Sec. 46. 1. On or before July 1, 1998, the commission on educational technology, created pursuant to section 27 of this act, shall:

(a) Adopt a preliminary version of the plan for the use of educational technology in the public schools of this state in accordance with subsections 1 and 2 of section 28 of this act; and

(b) Submit a preliminary version of the plan to the governor, the legislative committee on education, created pursuant to section 37 of this act, and the department of education in accordance with subsection 5 of section 28 of this act.

2. On or before January 1, 1999, the commission on educational technology, created pursuant to section 27 of this act, shall:

(a) Adopt a final version of the plan for the use of educational technology in the public schools of this state in accordance with subsections 1 and 2 of section 28 of this act; and

(b) Submit a final version of the plan to the governor, the legislative committee on education, created pursuant to section 37 of this act, and the department of education in accordance with subsection 5 of section 28 of this act.

Sec. 47. The senate majority leader shall select the chairman and vice chairman of the legislative committee on education created pursuant to section 37 of this act for the terms commencing on July 1, 1997.

Sec. 48. 1. On or before April 1, 1998, the legislative committee on education, created pursuant to section 37 of this act, shall recommend programs of remedial study pursuant to subsection 2 of section 39 of this act.

2. On or before June 1, 1998, the department of education shall adopt programs of remedial study pursuant to section 10 of this act.

Sec. 49. 1. The examination in science required of pupils by the amendatory provisions of NRS 389.015 must be administered commencing in the 1999-2000 school year.

2. The examinations required of pupils who are enrolled in the 10th grade by the amendatory provisions of NRS 389.015 must be administered commencing in the 1997-1998 school year, but may be administered at a different time for that school year than the examinations administered to pupils who are enrolled in the 4th and 8th grades.

Sec. 50. 1. There is hereby appropriated from the state general fund to the legislative fund created pursuant to NRS 218.085 the sum of \$370,116 for use by the legislative committee on education created pursuant to section 37 of this act.

2. Any unencumbered balance of the appropriation made by subsection 1 does not revert to the state general fund but constitutes a balance carried forward to the succeeding fiscal year.

Sec. 51. 1. There is hereby appropriated from the state general fund to the legislative fund created pursuant to NRS 218.085 for use by the legislative bureau of educational accountability and program evaluation created pursuant to section 41 of this act:

For the fiscal year 1997-1998 \$235,456

For the fiscal year 1998-1999 \$205,830

2. Any unencumbered balance of the appropriation made by subsection 1 does not revert to the state general fund but constitutes a balance carried forward to the succeeding fiscal year.

Sec. 52. 1. There is hereby appropriated from the state general fund to the department of education the sum of \$14,000 for the payment of per diem allowances and travel expenses pursuant to subsection 9 of section 27 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 53. 1. There is hereby appropriated from the state general fund to the department of education the sum of \$23,950 for the payment of compensation, per diem allowances and travel expenses pursuant to subsection 8 of section 43 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 54. 1. There is hereby appropriated from the state general fund to the department of education to pay the costs incurred by the department of education for purchasing, administering and scoring the examinations required of pupils who are enrolled in the 10th grade by the amendatory provisions of NRS 389.015:

For the fiscal year 1997-1998 \$130,000

For the fiscal year 1998-1999 \$85,000

2. The examinations purchased and administered by the department of education must be:

(a) Purchased from the same vendor from whom the 4th and 8th grade examinations are purchased; and

(b) The version of the examination that is administered to pupils in the 4th and 8th grades which is appropriate for administration in the 10th grade.

3. The sums appropriated by subsection 1 are available for either fiscal year. Any balance remaining of those sums must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon all payments of money committed have been made.

Sec. 55. 1. There is hereby appropriated from the state general fund to the department of education for the fiscal year 1998-1999 the sum of \$271,500 to pay the costs incurred by the department of education for developing, writing and printing the examinations required of pupils pursuant to paragraph (b) of subsection 4 of section 45 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon all payments of money committed have been made.

Sec. 56. 1. There is hereby appropriated from the state general fund to the department of education for the fiscal year 1998-1999 the sum of \$70,000 to pay the costs incurred by the department of education for developing, writing, printing and administering in the 1998-1999 school year the examinations in writing skills required of pupils in the 4th grade in addition to the examinations required of those pupils pursuant to NRS 389.015.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon all payments of money committed have been made.

Sec. 57. 1. There is hereby appropriated from the state general fund to the department of education for the fiscal year 1998-1999 the sum of \$87,000 to pay the costs incurred by the department of education for developing, writing and printing the examinations in science required of pupils who are enrolled in the 11th grade by the amendatory provisions of NRS 389.015.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon all payments of money committed have been made.

Sec. 58. 1. There is hereby appropriated from the state general fund to the department of education the sum of \$30,000 to pay the costs incurred by the department of education in administering and reporting the results of the examinations required by section 29 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 59. 1. There is hereby appropriated from the state general fund to the department of education for the fiscal year 1998-1999 the sum of \$82,100 to pay the salary, travel expenses, administrative and equipment expenses of an employee responsible for carrying out, administering, monitoring and evaluating the effectiveness of programs of remediation adopted by the department of education pursuant to section 10 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 60. 1. There is hereby appropriated from the state general fund to the department of education the sum of \$3,000,000 for the fiscal year 1998-1999, to be distributed among the schools that have been designated as demonstrating inadequate achievement pursuant to section 7 of this act. A school that receives such a designation shall submit to the department of education, for transmission to the state board of examiners, a request for an allocation from the appropriation. The state board of examiners shall consider the request and, if it finds that an allocation should be made, recommend the amount of the allocation to the interim finance committee for independent evaluation and action. The interim finance committee is not bound to follow the recommendation of the state board of examiners. In determining the amount of the allocation, the state board of examiners and the interim finance committee shall consider:

(a) The total number of pupils who are enrolled in the school who failed to demonstrate at least adequate achievement on the examination administered pursuant to NRS 389.015; and

(b) The need of the school.

2. A school that receives money pursuant to subsection 1 shall:

(a) Use the money to pay the costs incurred by the school in providing the program of remedial study required by section 10 of this act. The money must first be applied to those pupils who the school determines are performing at a level which poses the highest risk of failure.

(b) Use the money to pay for the salaries, training or other compensation of teachers and other educational personnel to provide the program of remedial study, instructional materials required for the course of remedial study, equipment necessary to offer the program of remedial study and any other additional operating costs attributable to the program of remedial study.

(c) Use the money to supplement and not replace the money the school would otherwise expend for programs of remedial study.

(d) Account for the money separately.

3. A school that receives money pursuant to subsection 1 shall not use the money to:

(a) Settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district and the school district.

(b) Adjust the schedules of salaries and benefits of the employees of the school district.

4. The appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 61. 1. There is hereby appropriated from the state general fund to the department of education the sum of \$27,500,000 for allocation by the commission on educational technology created pursuant to section 27 of this act to the school districts and public libraries of this state and the youth training center in Elko and the Caliente youth center. Not more than \$400,000 may be distributed to the public libraries. The commission on educational technology shall allocate the money for the purchase and installation of hardware, software and electrical wiring for computer laboratories, upgrading computer software, purchasing additional computers for instructional purposes in classrooms and purchasing other technology for use in enhancing teaching or learning in a school or classroom. The commission on educational technology shall determine the amount of money that must be distributed to school districts based upon the needs of each school district and the wealth of the school district relative to the other school districts in this state.

2. There is hereby appropriated from the state general fund to the department of education to be distributed among the various school districts in this state for the repair, maintenance and replacement of computer hardware, upgrading computer software, contracting for technical support and providing training for teachers on the use of educational technology to improve classroom instruction:

For the fiscal year 1997-1998 \$3,700,000

For the fiscal year 1998-1999 \$4,900,000

3. To receive money pursuant to subsection 1 or 2, a school district must:

(a) Complete forms provided by the superintendent of public instruction;

(b) Submit a written request to the commission on educational technology that identifies the schools within the school district that need educational technology and the financial needs of those schools to obtain the educational technology;

(c) Submit a plan to the commission on educational technology for the use of educational technology to improve the instruction and academic achievement of pupils, including, without limitation, a plan to evaluate the effectiveness of the use of educational technology; and

(d) Provide any additional information requested by the commission.

4. To receive a grant of money pursuant to subsection 1, the Nevada youth training center in Elko and the Caliente youth center must submit an application to the commission on educational technology that describes the needs of the center for educational technology and the proposed use of the money for educational technology. The center must provide any additional information requested by the commission.

5. To receive a grant of money pursuant to subsection 1, a public library must submit an application to the commission on educational technology that describes the need of the library for educational technology and the proposed use of the money for educational technology. The library shall provide any additional information requested by the commission.

6. A school district that receives money pursuant to this section shall:

(a) Account for the money separately.

(b) Use the money to supplement and not replace the money that the school district would otherwise expend for educational technology.

7. A school district that receives money pursuant to this section shall not use the money to:

(a) Settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district and the school district.

(b) Adjust the schedules of salaries and benefits of the employees of the school district.

8. Each school district that receives money pursuant to this section shall provide to the commission on educational technology and the department of education, on or before January 1, 1999, a written report in the format required by the department of education. The report must include a statement of the amount of money distributed to the school district pursuant to this section, a record of the manner in which the money was expended, the purpose of each such expenditure and any other expenditures for similar purposes from other money available to the school district.

9. The department of education shall, on or before February 1, 1999, submit a written summary to the governor, the commission on educational technology and the director of the legislative counsel bureau for transmission to the 70th session of the Nevada legislature which contains:

(a) The name of each school district that received money; and

(b) A compilation of the reports submitted to the department of education pursuant to subsection 8.

10. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon as all payments of money committed have been made.

11. The sums appropriated by subsection 2 are available for either fiscal year. Any balance remaining of those sums must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 62. 1. There is hereby appropriated from the state general fund to the department of education to pay the salaries, travel, administrative and equipment expenses of one professional employee and one clerical employee responsible for carrying out, administering, monitoring and evaluating the effectiveness of programs of educational technology pursuant to section 61 of this act:

For the fiscal year 1997-1998 \$81,150

For the fiscal year 1998-1999 \$84,500

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 63. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 64. 1. This section and section 63 of this act become effective upon passage and approval.

2. Section 27 of this act becomes effective upon passage and approval for purposes of appointing members to the commission on educational technology, created pursuant to section 27 of this act, and on July 1, 1997, for all other purposes.

3. Section 37 of this act becomes effective upon passage and approval for purposes of appointing members to the legislative committee on education, created pursuant to section 37 of this act, and on July 1, 1997, for all other purposes.

4. Section 43 of this act becomes effective upon passage and approval for purposes of appointing members to the council to establish academic standards for public schools, created pursuant to section 43 of this act, and on July 1, 1997, for all other purposes, and expires by limitation on June 30, 2001.

5. Sections 20 to 26, inclusive, 28 to 36, inclusive, 38 to 42, inclusive, and 46 to 62, inclusive, of this act become effective on July 1, 1997.

6. Sections 44 and 45 of this act become effective on July 1, 1997, and expire by limitation on June 30, 2003.

7. Sections 1 to 19, inclusive, of this act become effective on January 1, 1998.

ABSTRACT

LEGISLATIVE COMMITTEE ON EDUCATION (NRS 218.5352)

The 1997 Legislature enacted Senate Bill 482 (Chapter 473, *Statutes of Nevada*), creating a new statutory committee — the Legislative Committee on Education. The bill, known as the Nevada Education Reform Act (NERA), establishes a permanent eight-member Legislative Committee on Education to provide for legislative review of the reform process. The committee is charged with reviewing statewide programs in accountability, the automated student record (SMART) program, class-size reduction, and any other fiscal or policy concerns associated with public education in the state.

The committee held a total of ten meetings, three in 1997 and seven in 1998. Members received a series of policy briefings concerning national and state education reform activities, including the benefits of establishing rigorous academic standards; the importance of higher standards for improving the performance of “at-risk” students; issues associated with teaching to higher academic standards; testing issues; and successful state methods of sustaining educational reform. Committee members also were briefed about Nevada’s current accountability and school improvement programs. As required by statute, the committee adopted a list of recommended remedial education programs that have proven to be successful in increasing the academic achievement of pupils and forwarded that list to the State Board of Education.

The Committee on Education also received regular progress reports from two other entities created by NERA: (1) the Council to Establish Academic Standards in Public Education; and (2) the Commission on Educational Technology. The committee members approved clear statements of policy to guide the efforts of the standards council and the technology commission. In addition, the committee approved various consultant contracts for both the standards council and the technology commission to facilitate the work of those bodies.

The committee directed that a series of regional workshops be conducted on teaching to higher standards to provide information and recommendations for future meetings. Workshops were held in Elko, Fallon, Reno, and Las Vegas. Key findings included: (1) educators and teachers are unaware of the standards initiative; (2) teacher subject-matter knowledge is a key to success in teaching to higher standards; and (3) various models may be used to accomplish this goal.

Members of the committee reviewed a number of proposals with regard to public education in Nevada, including issues involving academic standards, accountability, teacher quality, and testing and assessment. Major recommendations adopted include proposals to: (1) establish regional teacher professional development centers linked to the new student academic standards; (2) appropriate funds to provide for remedial programs for students in low-performing schools; (3) encourage teachers to become certified by the National Board for Professional Teaching Standards; (4) revise teacher evaluation and probationary periods for employment; (5) revise

teacher licensing provisions and changes to the makeup of the teacher licensing board; (6) link academic standards to future school district curricular and fiscal decisions; (7) strengthen security for the proficiency testing program; and (8) make technical changes and revise deadlines within Nevada's program of school accountability.

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE ON EDUCATION (NRS 218.5352)

The following is a summary of the recommendations for bill draft requests (BDRs) adopted by the Legislative Committee on Education for transmittal to the 1999 Legislative Session:

1. Appropriate funding for the next biennium to establish and equip four regional centers for professional development within the school districts to train teachers and administrators. Such training would focus upon: the new standards for public schools established by the Council on Academic Standards; measuring pupil achievement and analyzing and interpreting test scores; teaching higher-level content areas; and teaching basic skills, such as reading instruction using phonics and basic mathematics computation skills. Each center will be governed by a board of directors consisting of the superintendents of the school districts within the region, or their designees; master teachers identified by their superintendents; and representatives of higher education. **(BDR S-243)**
2. Appropriate \$20,000 to the State Department of Education for the purpose of reimbursing up to \$2,000 of the related costs incurred by a teacher in gaining national certification by the National Board for Professional Teaching Standards (NBPTS). Teachers wishing to obtain such reimbursement must file a statement of intent with the district at least one year prior to anticipated certification. Upon completion and certification, the school district shall notify the Department to reimburse the teacher up to \$2,000 of the costs directly related to applying for and receiving NBPTS certification. **(BDR S-244)**
3. Require, by statute, that school districts provide an additional 5 percent increased salary differential to classroom teachers employed by the district who are certified by the National Board for Professional Teaching Standards (NBPTS), as long as a teacher maintains NBPTS certification. **(BDR 34-250)**
4. Amend statutes to require that school districts must provide fully licensed teachers with full credit when calculating seniority on the salary scale for their years of out-of-state teaching experience in states for which a reciprocal license agreement exists or, in the absence of such an agreement, for a license-holder in a state approved for this purpose by the Commission on Professional Standards in Education. The commission shall establish, by regulation, uniform criteria to be used to evaluate a state's licensing standards. This measure would be effective for teachers hired after July 1, 1999. **(BDR 34-251)**
5. Amend statutes to require that experienced teachers who teach and remain teaching in schools designated as demonstrating inadequate achievement under NRS 385.363, *et seq.*, or schools that are considered at risk of failure will receive one year of credit toward retirement for every five years of service. The program should also apply to teachers in

at-risk schools in subject areas in which a high need or shortage has been identified, such as math or science. **(BDR 34-252)**

6. Establish incentives to attract teachers in subject areas in which a high need or shortage exists and to establish programs to attract individuals with expertise in these areas into the field of teaching, including speech pathologists, psychologists, and occupational and physical therapists. **(BDR 34-252)**
7. Amend statutes to lengthen the probationary period for educators to three years. Under current law, tenure is granted after one to two years, depending upon whether a notice of a second year of probation is made. **(BDR 34-241)**
8. Amend statutes to require that annual evaluations of probationary and post probationary teachers shall include at least 180 and 120 minutes, respectively, of direct observation by the evaluator of the teacher engaged in classroom instruction. **(BDR 34-241)**
9. Adopt a resolution encouraging the Board of Regents of the University and Community College System of Nevada to share information with school districts on the academic performance of the districts' high school graduates within the college and university system. Further, provide that the shared information shall include data on the readiness of incoming freshmen and the academic deficiencies of students majoring in English, mathematics, and the sciences. School districts are encouraged to provide feedback to the colleges of education in this state concerning the strengths and weaknesses of Nevada teachers trained in those institutions and employed by the districts. **(BDR R-862)**
10. Amend statutes to establish a tiered licensing system whereby a beginning teacher may receive a preliminary license, be evaluated for needed content area instruction, and be required to successfully complete additional course work prior to receiving full licensure. Such a program would be modeled upon the state of Utah's practices for training and licensing its science teachers. The Commission on Professional Standards in Education would be responsible for adopting regulations to carry out the tiered licensing system. **(BDR 34-241)**
11. Amend statutes to require that elementary teachers study phonics instruction. **(BDR 34-241)**
12. Adopt a resolution to encourage the Commission on Professional Standards in Education to raise the passing score for the teacher competency tests administered for licensure in Nevada. **(BDR R-865)**

13. Require that the Commission on Professional Standards in Education, by January 1, 2000, adopt regulations to establish a middle school license for teachers in schools in which core subject areas are taught by different teachers. Further require that by the school year 2001-2002, teachers in grades 6 through 9 who are providing instruction for a majority of their teaching day in a single core subject (English, history, mathematics, or science) must be licensed to teach that subject. **(BDR 34-241)**
14. Amend statutes to revise the appointment and composition of the Commission on Professional Standards in Education to include members who are not educators. Amend the statutes to retain a nine-member Commission, with five members to be appointed by the Governor and no more than three of the five may be educators. The remaining four are appointed by the Legislature. The Majority Leader of the Senate and the Speaker of the Assembly each appoint one educator and one person who is not an educator, such as a business representative or parent. **(BDR 34-245)**
15. Amend Chapter 473 of the *Statutes of Nevada 1997* (Senate Bill 482, the Nevada Education Reform Act) to add "technology" to the requirement to develop content and performance standards for computer education. Change the term "social studies" to "history, geography, economics, and civics (government)" in the requirement that standards be established in the second phase of the work program of the Council to Establish Academic Standards. **(BDR S-863)**
16. Include a statement in the Committee's final report to the 1999 Session of the Nevada Legislature encouraging school districts to conduct immediate, in-depth curriculum audits of existing district curricula using the academic standards approved by the Council to Establish Academic Standards. Such an audit should identify any necessary changes in what is taught and the associated need for professional development.
17. Include a statement in the Committee's final report to the 1999 Session of the Nevada Legislature, encouraging the State Board of Education to review the practice of allowing certain vocational education courses to substitute for core academic units of credit. Further, the Board is encouraged to adjust the units of credit needed to graduate from high school to require additional mathematics courses.
18. Include a statement in the Committee's final report to the 1999 Session of the Nevada Legislature that school districts shall ensure that remediation programs include the new state academic standards approved by the Council to Establish Academic Standards.
19. Include a statement in the Committee's final report to the 1999 Session of the Nevada Legislature encouraging the State Board of Education and the school districts to end the practice of "social promotion." Such policies allow students to progress to the next grade level without regard to whether they received passing grades or (in the primary grades) whether they have mastered basic skills, such as reading.

20. Include a statement in the Committee's final report requesting that the State Department of Education and the school districts report to the Committee on Education after the 1999 Legislative Session, concerning the manner in which district and state department expenditures support the standards approved by the Council to Establish Academic Standards. Such information shall include professional development activities, selection of instructional materials, and curriculum audits, among other factors. The Department shall utilize the information provided by the districts and its own data on state-level expenditures to evaluate the degree to which and the manner in which funding is targeted in support of the standards.
21. Appropriate funding to the State Department of Education for the continued development, administration, and central scoring of the eleventh grade high school proficiency examination "in-house" within the State Department of Education. Further, establish an advisory board for the eleventh grade proficiency test to oversee the continuous development of the test and ensure the incorporation into the test of the academic standards approved by the Council to Establish Academic Standards. The advisory board shall consist of representatives of school districts, parents, business and industry representatives, the Budget Division, and legislators. **(BDR S-247)**
22. Amend statutes to increase, from ten to fifteen, the number of days that the principal has to certify that parents have been notified by the principal of their child's test results. Current law provides that the principal must make this certification within ten days following his receipt of the results. **(BDR 34-246)**
23. Require, by statute, that school districts administer the statewide proficiency exams in grades 4, 8, and 10 in the spring. Under current statutes the exams must be administered at the same time, with the State Board of Education prescribing that time; the board has selected a date in the fall. **(BDR 34-973)**
24. Amend statutes to include specific references to test security breaches for Nevada's proficiency testing program as grounds for revocation of professional licenses and grounds for dismissal from employment. Such violations may be implied under unprofessional conduct provisions within those sections, but test security breaches are not specifically referenced. **(BDR 34-246)**
25. Amend statutes to add school district superintendents, curriculum directors, and test directors to the list of those allowed to review the statewide proficiency examinations. **(BDR 34-246)**
26. Amend A.B. 523 (Chapter 568, *Statutes of Nevada*) of the 1997 Session to correct an error. The duty of certifying that test results have been transmitted to each school within the required time frame should be the responsibility of the superintendent *of each school*

district, not the superintendent of public instruction, as stated in the final version of the bill. (BDR 34-246)

27. Amend statutes concerning Nevada's achievement and proficiency examinations to clarify a specific exemption from the mandated proficiency examinations. The law should allow an exemption from the mandated proficiency examinations for any pupil whose primary language is not English if that pupil demonstrates a lack of proficiency in the English language as measured on an assessment of proficiency in the English language designated by the department. Current wording could be interpreted to allow an exemption to a pupil who was performing below the average for his grade level, even a pupil whose native tongue is English or one who has developed proficiency in English as a second language. (BDR 34-246)
28. Amend statutes concerning Nevada's achievement and proficiency examinations to clarify that pupils with disabilities may take the mandated proficiency examinations with accommodations that are *not approved* by the test publisher; however, their scores shall not be included in the average scores for the school, district, or state. Average scores for the school, district, and state include only the scores of pupils tested with no accommodations or pupils with disabilities tested with accommodations that *are approved* by the test publisher. (BDR 34-246)
29. Amend the statutes concerning Nevada's program of public school accountability to remove the requirement that schools be ranked as demonstrating high, adequate, or inadequate achievement, based upon teacher attendance, but continue to require each school to report this information in the school, district, and statewide accountability reports. (BDR 34-248)
30. Amend the statutes concerning Nevada's program of public school accountability as follows (BDR 34-248):
 - Change the term that designates schools as demonstrating "inadequate" achievement to schools "needing improvement."
 - Amend NRS 385.365 to define schools demonstrating high achievement as those in which at least half of the students score at or above the 76th percentile; current law states the 75th percentile; rename this highest-achieving category — schools demonstrating "exemplary" achievement.
 - Add a fourth category of schools demonstrating high academic achievement. Such schools are defined as those having at least 40 percent of their students scoring at or above the 76th percentile.

- Require that the report of the independent evaluation of school accountability programs be made available to school districts. Further, require that each school district must, upon reviewing the comments and reports from the independent evaluation, submit a report to the Legislative Bureau of Educational Accountability and Program Evaluation concerning the actions the district has taken or plans to take in response to that report. Such a report shall include those recommendations together with progress to date concerning recommendations from previous reports.
 - Amend statutes to require an explanation of any difference in the number of pupils who took the examinations and the number of pupils enrolled, rather than pupils in attendance, in that period.
 - Amend statutes to require that incidents involving the use or possession of alcohol be reported separately from those involving other controlled substances. Require school accountability reports to include the number of pupils who are habitual discipline problems, as defined in NRS 392.140.
 - Amend statutes to include “other recognized parent groups,” along with the Nevada Parent Teachers Association, among the groups with which the Superintendent of Public Instruction may consult concerning the school accountability program.
31. Appropriate funding for programs of remedial education for schools designated as “needing improvement” (inadequate achievement) when more than 40 percent of the pupils in the school receive an average score at or below the 25th percentile on all of the four subjects tested (language arts, math, reading, and science). These funds would also be available for schools that were not designated as “needing improvement” but had more than 40 percent of the pupils receiving an average score at or below the 25th percentile on three of the four subjects tested. **(BDR 34-248)**
 32. Amend the school accountability statutes, to restore the requirement that the number of pupils retained each year be reported by grade and by school within the school accountability reports. **(BDR 34-248)**
 33. Amend the school accountability statutes to require school districts to report teachers who are teaching outside the field in which they are licensed only if they are teaching courses in the core curriculum areas (English, mathematics, science, and social studies). Current law requires the school district to report “a comparison of the types of classes that each teacher has been assigned to teach with the qualifications and licensure of the teacher.” **(BDR 34-248)**
 34. Amend the time line for school accountability program. Senate Bill 482 provided that the first designation of schools’ achievement levels is made on or before December 15, 1998. Amendments to realign the dates in the law with the revised time schedule (designed to

maximize the use of funding within a fiscal year) include, without limitation, the following **(BDR 34-248)**:

- Change, from December 15 to April 1 of each school year, the date when schools are designated on the basis of their pupils' achievement;
 - Change, from February 15 to May 1, the due date to submit plans for improving the achievement of pupils in schools designated as "needing improvement";
 - Change, from January 15 to April 10, the date by which the State Department of Education shall establish a panel to supervise the academic probation of a school that has received two or more consecutive designations of "needing improvement";
 - Change, from February 15 to May 1, the date by which the State Department of Education must submit a list of waivers from panel supervision;
 - Change, from April 1 to November 1, the due date of the written report of the panel that analyzes the problems and factors that contributed to the designation of the school as one "needing improvement" and the date by which the panel must determine whether the Superintendent of Public Instruction shall appoint an administrator; and
 - Change, from May 1 to December 1, the date by which the Superintendent of Public Instruction shall appoint an administrator, as recommended by a panel.
35. Amend the school accountability law to require a school that demonstrated adequate achievement but tested fewer than 90 percent of the required pupils to submit a written explanation of the reason these pupils were not tested and a written plan to increase the percentage or number tested. Further, require the school to retest its pupils at school district expense. If such a situation occurs in two consecutive years, the school would be considered a school "needing improvement," and the State Department of Education would prepare a plan for improvement for that school and monitor administration of the state-mandated tests in that school. If the situation recurs the third consecutive year, the school would be placed on academic probation. Schools so categorized would not be eligible for special appropriations earmarked for remedial education programs. **(BDR 34-248)**
36. Amend state law to clarify that the average daily attendance in schools earning a designation of "exemplary" shall be *at least* 95 percent, rather than *more than* 95 percent. Similarly, the average daily attendance in schools designated as having "high achievement" shall be *at least* 93 percent and those designated as having "adequate achievement" shall be *at least* 90 percent, rather than *more than* 90 percent. **(BDR 34-248)**

37. Amend state law to specify that a school designated as “needing improvement” must adopt an approved remedial program and that the school district must ensure that each child who fails to demonstrate at least adequate achievement on required, statewide examinations shall receive appropriate remedial education. **(BDR 34-248)**
38. Include a statement in the Committee’s final report that any future bills appropriating funds to the State Department of Education for distribution among the schools or school districts for remedial programs required under the provisions of the Nevada Education Reform Act, will include language requiring the Department to conduct the necessary review, analysis, and selection of applications for the remediation funds. Further, the Department shall make appropriate recommendations on the allocation of the funds to the State Board of Examiners and the Interim Finance Committee. Further, the State Department of Education, after consulting with the Budget Division and the Fiscal Analysis Division will develop the application forms for those funds.
39. Amend statutes to allow for a balance in the school district’s revenue stabilization fund to be 30 percent (versus the existing 10 percent) of expenditures from the school district’s general fund from the previous year, limited to 10 percent annually until it reaches a limit of 30 percent over three years. Further, cap the total at \$2 million and limit this provision to rural school districts that are dependent upon net proceeds of minerals. **(BDR 31-864)**
40. Amend statutes to allow boards of trustees of school districts to negotiate with licensed employees of the school district with regard to the use of accumulated sick leave for early retirement, not to exceed one year. **(BDR 34-866)**

BULLETIN 99-5

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

S.C.R. 2 — 1997 Session

Members

Assemblyman Brian E. Sandoval, Chair*
Senator Lawrence E. Jacobsen
Senator Mark A. James
Senator Michael A. Schneider
Assemblywoman Marcia de Braga
Assemblywoman Vivian L. Freeman

*Until his resignation from the Legislature to accept
an appointment to the Nevada Gaming Commission.

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FILE NUMBER 15

SENATE 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 the orderly growth and development 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 that 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 efforts of those federal and state agencies that have 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 reviewed the programs and activities of the Tahoe Regional Planning Agency on previous occasions; and

WHEREAS, Assembly Concurrent Resolution No. 4 of the 68th 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 SENATE OF THE STATE OF NEVADA, THE ASSEMBLY 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 communicate with 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 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 Legislative Commission shall submit a report of its findings and any recommendations for legislation to the 70th session of the Nevada Legislature; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to each member of the California delegation to the Tahoe Regional Planning Agency, the President pro Tempore of the Senate of the State of California and the Speaker of the Assembly of the State of California.

ABSTRACT

CONTINUED REVIEW OF THE TAHOE REGIONAL PLANNING AGENCY (S.C.R. 2)

The 1997 Nevada Legislature adopted Senate Concurrent Resolution No. 2 (File No. 15, *Statutes of Nevada 1997*), 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 programs of federal and state agencies having authority to regulate activities in the Lake Tahoe Basin.

The committee held four hearings in the Basin. The committee members participated in a relatively extensive, on-the-ground review of projects and issues in the Nevada portion of 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 adopted 11 recommendations relating primarily to implementation of the basinwide Environmental Improvement Program (EIP). The EIP outlines projects needed in the Basin and funding necessary to implement these projects, and it categorizes the activities as being the responsibilities of the States of Nevada and California, the Federal Government, local governments in the Basin, and the private sector. Major recommendations include:

- Enacting legislation which (1) declares that funds to implement Nevada's commitment to protection of the natural environment of the Lake Tahoe Basin are to be provided each biennium through legislative appropriations, revenue from bonds issued pursuant to this measure, or a combination of these mechanisms; and (2) authorizes issuance of up to \$56.4 million in general obligation bonds over an eight-year period as necessary to fulfill this commitment.
- Expressing support for state agency budget requests relating to ongoing programs in the Lake Tahoe Basin.
- Urging relevant state agencies to use inmate and volunteer labor to the greatest extent possible for activities in the Basin.
- Urging agencies responsible for review of the TRPA's budget requests in Nevada and California to establish an official mechanism to coordinate this budget review and approval process.

SUMMARY OF RECOMMENDATIONS

CONTINUED REVIEW OF THE TAHOE REGIONAL PLANNING AGENCY (S.C.R. 2)

Following is a summary of the recommendations adopted by the Legislative Commission's Committee To Continue the Review of the Tahoe Regional Planning Agency at its meeting of June 12, 1998. These recommendations will be forwarded to the Legislative Commission and subsequently to the 1999 Session of the Nevada Legislature, when appropriate.

BACKGROUND INFORMATION

In recent years, the Committee To Continue the Review of the TRPA has recommended that the emphasis in the Lake Tahoe Basin shift from *planning* per se to the *implementation* of projects and programs. The Presidential Forum in 1997 fostered this trend, and the basinwide Environmental Improvement Program (EIP) was subsequently compiled to outline the specific projects and funding needed to implement these projects as assigned to the States of Nevada and California, the Federal Government, local governments in the Basin, and the private sector.

Thus, most of the following recommendations relate to implementation of the EIP in some manner and also address revenue or funding needs.

RECOMMENDATIONS CONCERNING IMPLEMENTATION OF THE EIP

Recommendations Relating to State Agencies

1. Enact legislation containing the following major elements to provide funding for the State of Nevada's ten-year commitment to implementation of the EIP and protection of the Lake Tahoe Basin (**BDR S-314**):
 - a. A preamble providing information concerning Nevada's commitment to protection of the Lake Tahoe Basin and the funding needs as outlined in the EIP;
 - b. Creation of a Fund to Protect Lake Tahoe to be administered by the Division of State Lands and through which grants would be provided to local governments and state agencies to implement projects to protect the natural environment of the Lake Tahoe Basin;
 - c. A declaration that funds to implement Nevada's commitment to protection of the natural environment of the Lake Tahoe Basin are to be provided each biennium through appropriations made by the Legislature, revenue from bonds issued pursuant to this measure, or a combination of these mechanisms, and direction for the Administrator of

the Division of State Lands to submit to the Legislature biennially a funding request proposing the specific method by which the State of Nevada will fulfill this commitment; and

- d. Authorization of the State Board of Finance to issue up to \$56.4 million in general obligation bonds as necessary from time to time over the eight-year period through Fiscal Year 2006-2007 to provide grants to local governments and state agencies for the protection of the natural environment of the Lake Tahoe Basin.
2. Include in the final report a statement of support and transmit letters to the Senate Committee on Finance and the Assembly Committee on Ways and Means expressing support for state agency budget requests relating to ongoing programs in the Lake Tahoe Basin, such as forest health management, maintenance of highway facilities associated with environmental protection, protection of water quality, erosion control, and stream restoration.
3. Include in the final report a statement of support for state agencies receiving adequate travel funding and policy support to participate in broad-based partnership efforts to facilitate implementation of the EIP.
4. Urge, by resolution, relevant state agencies to use inmate and volunteer labor to the greatest extent possible in the construction and maintenance of projects and facilities in the Lake Tahoe Basin, and urge the Nevada Division of Forestry to provide the necessary crews dedicated specifically to these activities. **(BDR R-315)**
5. Transmit letters to the Executive and Legislative agencies responsible for review of the TRPA's budget requests in Nevada and California urging these entities to establish an official mechanism to coordinate the process for review and approval of these requests, and urging appropriate staff of Nevada's Department of Administration to initiate these actions.

Recommendations Specifically Related to Transportation Issues

6. Urge, by resolution, relevant agencies at the state and federal government levels to support funding of projects to address parking issues along State Highway 28 in the Lake Tahoe Basin through the Scenic Byways Program in the Federal Transportation Equity Act for the Twenty-First Century (TEA-21) or other applicable sources of revenue, and specifically urge these agencies to provide assistance in obtaining funds for projects like the joint retention basin/parking facilities proposal submitted originally by Carson City. **(BDR R-316)**
7. Transmit letters to the Nevada Department of Transportation and the Regional Transportation Commissions in Clark and Washoe Counties urging them to provide their expertise and technical assistance to the TRPA and other interested parties in their efforts to implement the designation of Metropolitan Planning Organization in a timely fashion.

8. Include in the final report a statement of support for the mission of the Tahoe Transportation District (TTD) as provided in the Bistate Compact suggesting that the District:
 - a. Conduct a thorough evaluation of its programs and financial situation; and
 - b. Report its findings and recommendations to state and local entities interested in transportation issues in the Tahoe Basin, as well as the relevant committees of the Nevada and California Legislatures, if appropriate.

Possible Sources of Funding for Broad-based Environmental Efforts

9. Include in the final report a statement of support for the goals of the “Alternative Revenue Sources Study” being conducted by a consultant for the TRPA recommending that:
 - a. The results of the study to be reported to the Governors and appropriate legislative committees in Nevada and California; and
 - b. These entities give serious consideration to the preferred package of alternatives for funding the implementation of environmental projects in the Lake Tahoe Basin.

**RECOMMENDATIONS CONCERNING THE FUTURE OF THE
LEGISLATIVE COMMISSION’S COMMITTEE
TO CONTINUE THE REVIEW OF THE TRPA**

10. Continue, by resolution, the existence of the Committee (during the interim after the 1999 Legislative Session) in a similar manner as prescribed in Senate Concurrent Resolution No. 2 (File No. 15, *Statutes of Nevada 1997*). **(BDR R-317)**
11. Request funds from the Legislative Commission to support a trip by the Committee to Sacramento, California, in order to discuss with legislators from that state issues and programs of mutual interest, including the Nevada Committee’s adopted recommendations.

BULLETIN 99-6

**FEES, FINES, FORFEITURES, AND ADMINISTRATIVE ASSESSMENTS
IMPOSED AND COLLECTED BY COURTS**

S.C.R. 10 — 1997 Session

Members

Assemblyman Bernie Anderson, Chair
Senator Kathy Augustine
Senator Mark A. James
Senator Dina Titus
Assemblywoman Barbara E. Buckley
Assemblyman John C. Carpenter
Assemblywoman Gene Wines Segerblom

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Senate Concurrent Resolution No. 10 — Committee on
Legislative Affairs and Operations

FILE NUMBER 141

SENATE CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study concerning the fees, fines, forfeitures and administrative assessments which are imposed and collected by the courts of the State of Nevada.

WHEREAS, The courts of this state, pursuant to authority set forth in the *Nevada Revised Statutes*, impose and collect a growing number of fees, fines, forfeitures and administrative assessments; and

WHEREAS, It has become apparent that differing interpretations of the terms “fee,” “fine,” “forfeiture” and “administrative assessment” may affect the lawfully permissible uses to which money obtained from each of those sources may be put following collection by a court of this state; and

WHEREAS, The residents of the State of Nevada have an interest in ensuring that money collected by the courts of this state in the form of fees, fines, forfeitures and administrative assessments is expended only in accordance with the constitution and laws of this state; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study concerning the fees, fines, forfeitures and administrative assessments which are imposed and collected by the courts of the State of Nevada; and be it further

RESOLVED, That the Legislative Commission shall appoint a subcommittee to conduct the study which must include an analysis of:

1. The authority pursuant to which the courts of this state impose and collect fees, fines, forfeitures and administrative assessments and the differing purposes, if any, for the imposition and collection of each;

2. Whether the courts are collecting all the fees, fines, forfeitures and administrative assessments imposed and, if not, recommend procedures to ensure that all fees, fines, forfeitures and administrative assessments imposed are collected;

3. Statutory language, court decisions and other relevant authorities to determine how the courts and agencies of this state should properly characterize and use the terms “fee,” “fine,” “forfeiture” and “administrative assessment”; and

4. The permissible uses to which money collected in the form of fees, fines, forfeitures and administrative assessments imposed by the courts of this state may be put; 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 its findings and any recommendations for legislation to the 70th session of the Nevada Legislature.

ABSTRACT

FEES, FINES, FORFEITURES, AND ADMINISTRATIVE ASSESSMENTS IMPOSED AND COLLECTED BY COURTS (S.C.R. 10)

The Nevada Legislature passed Senate Concurrent Resolution No. 10 (File No. 141, *Statutes of Nevada 1997*, p. 3718) during the 69th Legislative Session directing the Legislative Commission to appoint a Subcommittee to conduct an interim study concerning the fees, fines, forfeitures, and administrative assessments which are imposed and collected by the courts of the State of Nevada. The Legislative Commission appointed a Subcommittee of seven Legislators (four Assemblymen and three Senators) to carry out the provisions of the resolution.

The Subcommittee held four meetings, including a work session, during the course of the study. Two meetings were held in Carson City and two meetings were held in Las Vegas. 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 testimony and correspondence from experts, members of the judiciary and their staff, the Administrative Office of the Courts, the Office of the Attorney General, district attorneys, law enforcement agencies, local governments and other members of the public. These persons offered information and suggestions concerning the current practices of courts, law enforcement and local government with respect to the imposition and collection of fees, fines, forfeitures and administrative assessments in this state. In addition, an expert in the area of collection procedures from the National Center for State Courts gave a presentation during the third meeting of the Subcommittee concerning national efforts to improve collections.

At its final meeting and work session, the Subcommittee adopted six recommendations, including four bill draft requests for consideration by the 1999 Legislature. The recommendations address the following major topics:

- Accounting procedures used by state courts;
- Treatment of money paid for a traffic citation in lieu of appearing in court; and
- Collection procedures used by courts.

SUMMARY OF RECOMMENDATIONS

FEES, FINES, FORFEITURES, AND ADMINISTRATIVE ASSESSMENTS IMPOSED AND COLLECTED BY COURTS (S.C.R. 10)

This summary presents the recommendations approved by the Legislative Commission's Subcommittee on Fees, Fines, Forfeitures, and Administrative Assessments Imposed and Collected by Courts (S.C.R. 10). These proposed actions will be forwarded to the Legislative Commission for its acceptance and recommendations for legislation will be submitted for consideration to the 70th Session of the Nevada Legislature.

RECOMMENDATIONS CONCERNING ACCOUNTING PROCEDURES USED BY STATE COURTS

1. Draft a resolution encouraging the Administrative Office of the Courts to develop standardized accounting procedures among the courts and to develop a minimum standard of technology within the courts to create more consistency among the courts to ensure that accurate audits may be conducted and the integrity and credibility of the judiciary maintained. **(BDR R-176)**
2. Draft a letter from the Subcommittee to the Director of the Administrative Office of the Courts requesting a report back by December 1, 1998, detailing the progress that has been made towards standardization and technology.

RECOMMENDATION CONCERNING TREATING MONEY PAID FOR A TRAFFIC CITATION IN LIEU OF APPEARING IN COURT AS BAIL FORFEITURE

3. Amend NRS to clarify that money paid on a traffic citation in lieu of appearing in court must be treated as a fine for the purposes of revenue, regardless of the manner in which the payment is characterized on the citation. Provide that the amount required to be paid by a defendant who mails in a traffic citation in lieu of appearing in court as specified on the traffic citation must include any administrative assessment that would be required if the defendant appeared in court. The payment of the administrative assessment must be included in addition to the amount paid as a fine on the traffic citation. Prohibit any entity from designating or treating payment for a misdemeanor traffic citation in lieu of appearing in court as a bail forfeiture. **(BDR 43-175)**

**RECOMMENDATIONS CONCERNING
COLLECTION PROCEDURES USED BY COURTS**

4. Amend NRS to authorize courts to accept payment for fees and fines by credit card and to charge a defendant who makes payment in such a manner an amount equal to the service charge incurred by the court, but not to exceed 4 percent of the total amount charged. **(BDR 1-178)**
5. Amend NRS to provide that a person who has failed to pay a fee or fine to a court in this state may not renew his motor vehicle registration or his driver's license until payment is complete. **(BDR 43-177)**
6. Draft a letter to the Director of the Administrative Office of the Courts and include a statement in the final report of the Subcommittee encouraging the Administrative Office of the Courts to assist courts to improve collections by establishing standardized procedures, providing education and support to judges and developing methods for quality assurance within the courts. This should include the creation of a task force consisting of judges, court personnel and representatives of the Administrative Office of the Courts. The letter will request a report back by December 1, 1998, detailing the progress that has been made toward these goals.

BULLETIN 99-7

**CONSTRUCTION AND MAINTENANCE OF
HIGHWAYS AND ROADS**

S.C.R. 53 — 1997 Session

Members

Assemblyman P.M. "Roy" Neighbors, Chair

Senator Ernest E. Adler

Senator Lawrence E. Jacobsen

Senator Bill R. O'Donnell

Senator Dean A. Rhoads

Assemblyman Mark E. Amodei

Assemblyman David R. Parks

Assemblyman Bob Price

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Senate Concurrent Resolution No. 53 — Committee on
Legislative Affairs and Operations

FILE NUMBER 143

SENATE CONCURRENT RESOLUTION — Directing the Legislative Commission to conduct an interim study of the construction and maintenance of highways.

WHEREAS, During the 67th Session of the Nevada Legislature, in 1993, Assembly Bill No. 378 was enacted requiring the Legislative Commission to conduct an interim study concerning the financing of the construction and maintenance of highways and roads in this state; and

WHEREAS, As a result of that study, recommendations for legislation were prepared by the Legislative Counsel Bureau and included in Bulletin No. 95-2, September 1994; and

WHEREAS, Two years later, the current tax and funding structures report significant shortfalls, lack stability, are inadequate and continue to be insufficient for the construction and maintenance of roads and highways in this state; and

WHEREAS, The need for the construction and maintenance of these highways and roads has escalated in the past 2 years to a point where consideration must be given to addressing this critical component of the state's infrastructure; 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 construction and maintenance of the highways and roads in this state; and be it further

RESOLVED, That the Legislative Commission shall appoint a committee that consists of:

1. Four members of the Senate, with two members appointed from the standing committee on transportation and two members appointed from the standing committee on taxation; and
2. Four members of the Assembly, with two members appointed from the standing committee on transportation and two members appointed from the standing committee on taxation; and be it further

RESOLVED, That the study must include:

1. A review of the findings and recommendations for legislation of the 1994 interim study and whether such recommendations were implemented by the 68th Session of the Nevada Legislature;
2. A review of federal, state and local revenue sources to identify possible new sources of money to meet the shortfalls;
3. Consideration of the effect on the State of Nevada of the several options for highway reauthorization that are currently being considered by Congress;
4. An examination of the policies that could be changed to make more efficient use of current revenue sources; and
5. An examination of the innovative funding opportunities that are used in other states, such as partnerships between public and private entities; 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 Legislative Commission report the results of its study and any recommended legislation to the 70th session of the Nevada Legislature.

ABSTRACT

CONSTRUCTION AND MAINTENANCE OF HIGHWAYS AND ROADS (S.C.R. 53)

The 69th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 53 (File No. 143, *Statutes of Nevada 1997*), which directed the Legislature to appoint a committee to study the construction and maintenance of highways and roads. The committee consisted of eight members: four members of the Senate (two members from the Senate Committee on Transportation and two members from the Senate Committee on Taxation), and four members from the Assembly (two members from the Assembly Committee on Transportation and two members from the Assembly Committee on Taxation).

The committee was charged with the following responsibilities:

- Conduct a review of the findings and recommendations from the Legislative Commission's Committee to Study the Financing of the Construction, Maintenance and Repair of Highways and Roads (Assembly Bill 378, Chapter 586, *Statutes of Nevada 1993*).
- Review federal, state, and local revenue to identify new sources of funding.
- Consider the effect on Nevada of proposals for highway reauthorization currently being considered by the United States Congress.
- Examine ways to more efficiently use current revenue sources.
- Analyze innovative funding opportunities that are used by other states.

The committee met in Elko, Las Vegas, Pahrump and Reno, hearing testimony from representatives of Nevada's Department of Transportation; Nevada's Division of the Federal Highway Administration, the United States Department of Transportation; regional transportation commissions; and other interested parties. The committee reviewed projected needs for highway expenditures and the financial resources available to meet those needs. These sources included state and local taxes and fees, as well as federal highway funds.

The committee adopted 14 recommendations addressing issues in the following areas:

- Improve the collection of existing fees and taxes;
- Place some revenues that are now deposited in the State General Fund in the State Highway Fund; and

- Reduce the use of State Highway Fund revenues for purposes other than construction and maintenance.

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMISSION'S COMMITTEE TO STUDY THE CONSTRUCTION AND MAINTENANCE OF HIGHWAYS AND ROADS (S.C.R. 53)

This summary presents the recommendations approved by the Legislative Commission's Committee to Study the Construction and Maintenance of Highways and Roads.

1. Include a statement in the committee's final report recommending that the Legislature fund the remaining costs of Project Genesis from the State General Fund rather than the State Highway Fund.
2. Include a statement in the final report recommending that the Legislature return all user fees to the State Highway Fund including the \$1 fee for the purchase of a new tire.
3. Recommend that the proceeds of the sales and use taxes collected on new and used vehicles be deposited in the State Highway Fund rather than the State General Fund. Implement this change over a ten-year period by transferring 10 percent of the revenue annually. **(BDR 32-211)**
4. Recommend that the Legislature require that Nevada's Department of Transportation assist the rural counties in developing a computerized pavement management system. **(BDR S-209)**
5. Require that Nevada's Department of Motor Vehicles and Public Safety report to the Legislature by March 1 in each legislative session year regarding the implementation of the dyed fuels program. **(BDR 32-213)**
6. Include a statement in the final report requesting that the Department of Motor Vehicles and Public Safety expedite negotiations between the tribal government and the State of Nevada regarding regulations affecting special fuel tax enforcement.
7. Recommend that the Department of Motor Vehicles and Public Safety conduct a study of the costs incurred to administer drivers' licenses as well as motor vehicle registration programs to determine whether the current fees cover administration costs. **(BDR S-215)**
8. Include a statement in the final report recommending that the Legislative Commission designate a map room in the Legislative building in which maps of Nevada's transportation system could be made available for the perusal of the legislators and the public.
9. Include a statement in the final report requesting that Nevada's Department of Transportation study the problem of service station closures in rural areas where other

sources of fuel are not available, and report back to the Legislature regarding the proposed solutions.

10. Amend Chapters 365 and 372 of *Nevada Revised Statutes* (NRS) to change the point at which the tax is collected to the terminal rack level, as is now the case with collections of the special fuel tax. **(BDR 32-212)**
11. Amend NRS 482.313 to require that proceeds of the state fee on short-term leases of passenger vehicles be deposited in the State Highway Fund, rather than the State General Fund. **(BDR 43-214)**
12. Amend NRS 366.197 to delete the reference to liquefied petroleum gas in the conversion formula. **(BDR 32-216)**
13. Amend subsection 2 of NRS 484.743, which limits the fee for issuing overweight permits to the amount required to cover the cost of administering the permit system, and allow the Board of Directors of Nevada's Department of Transportation to establish a fee schedule that reflects the highway damage incurred from overweight vehicles. **(BDR 43-217)**
14. Include a statement in the final report requesting that Nevada's Department of Taxation take measures to reduce gasoline tax evasion, such as conducting field audits of taxpayers.

BULLETIN 99-8

**FEASIBILITY OF ADOPTING A PROGRAM OF
OUTPATIENT CIVIL COMMITMENT FOR THE MENTALLY ILL**

S.C.R. 60 — 1997 Session

Members

Assemblywoman Vivian L. Freeman
Senator Raymond D. Rawson
Senator John B. Regan
Senator Randolph J. Townsend
Senator Maurice E. Washington
Assemblywoman Merle A. Berman
Assemblyman Donald G. Gustavson
Assemblyman David E. Humke
Assemblyman Harry Mortenson

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Senate Concurrent Resolution No. 60 — Committee on
Commerce and Labor

FILE NUMBER 146

SENATE CONCURRENT RESOLUTION — Requiring the Legislative Commission to conduct an interim study of the statutes of this state and other states that establish criteria for determining whether a person is mentally ill and of the feasibility of adopting a program of outpatient civil commitment for persons who are mentally ill.

WHEREAS, Certain persons in the State of Nevada suffer from mental disorders that render them dangerous to themselves and the public; and

WHEREAS, The existing laws in the State of Nevada do not currently address participation in programs of outpatient civil commitment for persons whose mental illness renders them dangerous or unable to care for themselves; and

WHEREAS, There is a clear need for the involuntary treatment of certain mentally ill persons who are unable to make informed decisions regarding treatment and who show evidence of a significant probability of continued mental or emotional deterioration unless treatment is provided; and

WHEREAS, If feasible, a program of outpatient civil commitment for mentally ill persons in this state could address this need; and

WHEREAS, Other states have instituted various programs of civil commitment that may serve as models for a program in this state; and

WHEREAS, The establishment of a program of outpatient civil commitment further requires the development of a training program for all judges and magistrates performing duties related to civil commitment process; and

WHEREAS, The establishment of a program of outpatient civil commitment requires the development of legal parameters to ensure the protection of the rights of mentally ill persons to avoid negative effects on those persons through inappropriate interference with or interruption of the established treatment plans of those persons; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to appoint an interim committee, composed of members of the Assembly and members of the Senate, to conduct an interim study concerning the feasibility of adopting a program of outpatient civil commitment for mentally ill residents of this state with the objective of helping mentally ill residents to lead more productive lives; and be it further

RESOLVED, That the study include, without limitation, an examination, review and evaluation of:

1. The statutes of this state and other states, including, without limitation, the provisions of chapter 433A of NRS, that establish criteria for determining whether a person is mentally ill for the purposes of evaluation, treatment and outpatient civil commitment;
2. The types and rates of success of the various programs of outpatient civil commitment for mentally ill residents in other states;

3. The feasibility of adopting a program of outpatient civil commitment for mentally ill residents in this state;

4. The development of programs of training for judges, magistrates and other professionals involved in the administration of such a program; and

5. The expected benefits of such a program to the public and to the mentally ill residents who are committed to the program; and be it further

RESOLVED, That any recommended legislation proposed by the committee must be approved by a majority of the members of the Assembly appointed to the committee and a majority of the members of the Senate 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 70th session of the Nevada Legislature.

ABSTRACT

FEASIBILITY OF ADOPTING A PROGRAM OF OUTPATIENT CIVIL COMMITMENT FOR THE MENTALLY ILL (S.C.R. 60)

The 69th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 60 (File No. 146, *Statutes of Nevada 1997*, page 3724), which directed the Legislative Commission to conduct an interim study regarding the possibility of instituting a program of outpatient civil commitment for the mentally ill. The commission appointed a committee of nine legislators (four Senators and five Assembly members) to carry out the provision of the resolution.

The committee held five meetings, including a work session, during the course of the study. Two of the meetings were in Las Vegas, and the other three meetings 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 the interim study, the committee received extensive expert and public testimony regarding the mentally ill and available programs and services for this population. The committee reviewed various laws and outpatient treatment programs in other states, and it considered the results of research conducted by psychologists and psychiatrists who are prominent in the field of mental illness and outpatient civil commitment. It obtained correspondence and testimony from advocacy groups, concerned citizens, district attorneys, judges, law enforcement officers, and representatives of state mental health agencies.

At its final meeting and work session, the committee adopted six recommendations, including three bill draft requests (BDRs), for consideration by the 1999 Legislature. The recommendations address the following major topics:

- Convalescent leave protocol for persons who have been involuntarily committed to a mental health facility;
- Criteria for judges to consider when determining if an individual should be involuntarily committed;
- Interim study regarding mental health issues, generally;
- Expansion of community-based, outpatient programs;
- Mobile crisis units; and
- Educational programs.

SUMMARY OF RECOMMENDATIONS

FEASIBILITY OF ADOPTING A PROGRAM OF OUTPATIENT CIVIL COMMITMENT FOR THE MENTALLY ILL (S.C.R. 60)

This summary presents the recommendations approved by the Legislative Commission's Committee to Study the Feasibility of Adopting a Program of Outpatient Civil Commitment for the Mentally Ill (S.C.R. 60). The committee submits these proposals to the 70th Session of the Nevada Legislature.

RECOMMENDATIONS REQUIRING LEGISLATIVE ACTION

Convalescent Leave Protocol

1. Amend *Nevada Revised Statutes* (NRS) 433A.370, 433A.380, and 433A.390 to allow for persons who have been involuntarily committed to a mental health facility to be placed on convalescent or conditional leave for a period not to exceed six months. This proposal is designed to allow for a patient's release from the hospital into a community setting and provides for case manager intervention and possible rehospitalization if necessary. **(BDR 39-169)**

Involuntary Commitment Proceedings

2. Draft and enact legislation that authorizes judges to consider past mentally ill behavior when determining if an individual should be involuntarily committed. Additionally, upon involuntary commitment, recommend that the mentally ill individual be required to participate in a treatment program. **(BDR 39-171)**

Formation of a Mental Health Interim Committee

3. Draft and enact legislation to direct the Legislative Commission to appoint an interim committee to continue the study of the mental health services provided in this state. **(BDR R-170)**

RECOMMENDATIONS CONCERNING FUNDING OF MENTAL HEALTH SERVICES AND PROGRAMS

Expansion of Community-based, Outpatient Programs

4. Include a statement in the final report supporting the vision of the Division of Mental Hygiene and Mental Retardation (Division) of the Department of Human Resources to continue to expand community-based, outpatient programs and services for the mentally ill. These services include, but would not be limited to, community outreach; case management; crisis

intervention; educational and vocational services; halfway or transitional housing; medication clinics; treatment for individuals with co-occurring mental illness and substance abuse problems (dual diagnosis) provided in conjunction with the Bureau of Alcohol and Drug Abuse of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation; and Programs for Assertive Community Treatment (PACT). Additionally, encourage the Division to conduct a series of evaluations on the above-referenced community-based programs to better gauge efficiency and effectiveness.

Medication Crisis Units

5. Include a statement in the final report encouraging the Division to consider the possibility of establishing a mobile medication unit to assist noninstitutionalized mentally ill individuals with medication requirements. Additionally, the Division is encouraged to work with local governmental and private entities regarding the establishment of such a unit.

Educational Programs

6. Include a statement in the final report encouraging the Division and the Division of Child and Family Services in the Department of Human Resources to develop training programs, particularly for professionals who work with children, regarding mental illness and its warning signs.

BULLETIN 99-9

FAMILY COURTS

A.C.R. 32 — 1997 Session

Members

Assemblywoman Barbara E. Buckley, Chair
Senator Ernest E. Adler
Senator John C. Porter
Senator Dina Titus
Senator Maurice E. Washington
Assemblywoman Ellen M. Koivisto
Assemblywoman Genie Ohrenschall
Assemblywoman Sandra J. Tiffany

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Assembly Concurrent Resolution No. 32 — Committee on
Elections, Procedures, and Ethics

FILE NUMBER 140

ASSEMBLY CONCURRENT RESOLUTION — Directing the Legislative Commission to conduct an interim study of family court systems.

WHEREAS, In 1991, the Nevada Legislature created family courts as a division of the district court in Clark and Washoe counties; and

WHEREAS, The family courts were established to handle legal problems encountered by families in a timely and efficient manner; and

WHEREAS, Contrary to the intended result, the families who have used the family courts have experienced needless delays and court orders that are not enforced, resulting in considerable stress and financial problems for the families; and

WHEREAS, Testimony has indicated that certain family court judges have taken approximately 2 years to decide cases involving child custody; and

WHEREAS, The caseload in the family courts has increased as much as 30 percent during the past 4 years; and

WHEREAS, In 1996, the family courts had approximately one and one-half times as many cases as the district courts, while the family courts had only half as many judges to carry this increased caseload; and

WHEREAS, There has been an apparent reluctance by the staff and judges of family courts to collect and provide information concerning the performance and efficiency of the family courts; and

WHEREAS, It appears that the family courts lack the resources required to adjudicate in a timely manner all of the cases involving divorce, child custody and support disputes, guardianship disputes, juvenile delinquency, adoption, paternity issues and domestic violence; and

WHEREAS, Additional information is required to help resolve these concerns and to assist the family court system to become more efficient and effective; 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 composed of four members of the Senate and four members of the Assembly to conduct an interim study of the family courts in this state; and be it further

RESOLVED, That at least one of the legislators appointed to the subcommittee must be a resident of a county whose population is less than 100,000; and be it further

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

RESOLVED, That the subcommittee make a concerted effort to hear testimony from persons and on behalf of governmental agencies involved in or affected by the family court system, such as:

1. The former members of the Clark County Family Court Implementation Committee;
2. County family services agency;
3. Family Courts and Services Center;

4. Court Appointed Special Advocate (CASA);
 5. Family Mediation and Assessment Center (FMAC);
 6. Child protective services agency;
 7. Child Haven;
 8. Family Violence Center;
 9. Persons familiar with probate and guardianship programs;
 10. Persons familiar with the Uniform Reciprocal Enforcement of Support Act (URESAs)
- relating to paternity and family support;
11. Court interpreters;
 12. Persons who operate drug court programs;
 13. Administrators of the Family Courts; and
 14. Neighborhood Justice Centers; and be it further

RESOLVED, That the study must include, but is not limited to, an evaluation of:

1. The organization and operation of family courts, including a review of the structure and administration of the family courts with consideration given to such factors as caseloads, facilities, staff resources, information technology and public access to court records;
2. The jurisdiction of family courts;
3. The time required to render decisions in family courts, particularly for cases concerning divorce and child custody, and possible actions that would expedite those proceedings;
4. The role of mediation and other alternative methods used in the resolution of disputes in family law matters, including an analysis and evaluation of laws in the State of California that require mediation before parties are allowed access to family courts;
5. Whether more programs and services should be made available to parents obtaining divorces to ease the transition for the affected children and methods to improve the access to existing programs and services;
6. Reports produced by the courts, including the preparation of task-oriented statistics;
7. The standardization of procedures and the consistency in decisions and judgments among the departments of the family court;
8. The involvement of the Family Mediation and Assessment Center;
9. The effectiveness of the administrators and staff of the family court; and
10. The referral of disputes to alternative methods of resolving disputes; and be it further

RESOLVED, That the subcommittee shall consult with the members of the advisory committee that is hereby created to assist the subcommittee to study the family courts in this state; and be it further

RESOLVED, That the advisory committee, consisting of six members, must be appointed as follows:

1. One member appointed by the presiding judge of the Second Judicial District to represent the Family Court of the Second Judicial District and one member appointed by the presiding judge of the Eighth Judicial District to represent the Family Court of the Eighth Judicial District, both of whom have knowledge and experience in the administration of a family court;
2. One member of the Family Law Section of the State Bar of Nevada appointed by the State Bar of Nevada;
3. One member who is a deputy district attorney appointed by the District Attorney of Washoe County and one member who is a deputy district attorney appointed by the District

Attorney of Clark County, both of whom have knowledge and experience in family court matters; and

4. One member who has knowledge and experience in the collection of data and the processing of information appointed by the National Council of Juvenile and Family Court Judges, and be it further

RESOLVED, That the members of the advisory committee serve without salary and are not entitled to receive a per diem allowance or reimbursement for travel expenses; and be it further

RESOLVED, That the appointment of the members to the advisory committee must be made as soon as practicable after July 1, 1997; and be it further

RESOLVED, That except for the initial members, the term of office of each member of the advisory committee is 2 years and begins on July 1 of each odd-numbered year; 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 its findings and any recommendations for legislation to the 70th session of the Nevada Legislature.

ABSTRACT

FAMILY COURTS (A.C.R. 32)

The 69th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 32, (File No. 140, *Statutes of Nevada 1997*, page 3716), which directed the Legislative Commission to conduct an interim study of the family courts in Nevada.

The Legislative Commission appointed a subcommittee of eight legislators, consisting of four members of the Assembly and four members of the Senate, to complete the study. A six-member advisory committee also assisted the subcommittee with its work. The subcommittee held five meetings in Las Vegas. All of the meetings were simultaneously video conferenced between Las Vegas and Carson City.

The subcommittee reviewed a multitude of issues involving the family courts, including the history regarding the creation of the family courts, the current operation and organization of the family courts, the timeliness of decision-making, the standardization of court procedures, the issue of rotation of judges in and out of family courts, the caseload of the family courts and their personnel needs, the role of a chief judge, the resolution of litigants' grievances, and the need for legal help for users of the family courts. Judges and staff of the family courts, litigants and their families, attorneys specializing in family law, nationally recognized experts on family courts, members of the advisory committee, and other interested parties offered their insight and suggestions on ways to improve the family court.

At the work session held on June 3, 1998, the subcommittee approved 23 recommendations, including proposals relating to:

- The rotation of judges in and out of family courts on a trial basis;
- Expansion of the responsibility of the chief judge to ensure uniformity of procedures, timeliness of decision-making, and effective resolution of litigants' grievances;
- The addition of five family court judges to the Eighth Judicial District Court in Clark County;
- The need for funding by the Clark County Board of County Commissioners of a self-help clinic for pro se family court litigants;
- Monitoring of the family court caseload by the Legislature;

- Adoption of various court procedures designed to improve the timely processing and resolution of cases; and
- The need to prevent the making of false allegations to receive an unwarranted temporary protective order.

SUMMARY OF RECOMMENDATIONS

FAMILY COURTS (A.C.R. 32)

The Legislative Commission's Subcommittee to Study Family Courts recommends the following:

ROTATION AND ASSIGNMENT OF JUDGES

1. Amend NRS to allow the Chief Judges of the Second and Eighth Judicial District Courts to rotate judges to and from the family court by assigning and reassigning a certain number of judges to be judges of the family court, if they consent to being rotated. Also allow the Chief Judges to assign and reassign, as needed, judges who are not assigned to be judges of the family court to be temporary judges of the family court. Change the alphabetical designations of the departments of the family court to numerical designations. Provide that the sections of the act concerning the rotation of judges expire by limitation on July 1, 2001, and require the Chief Judge of each judicial district to submit to the Director of the Legislative Counsel Bureau for distribution at the next regular session of the Legislature a report that includes the court's recommendation as to whether rotation of judges should be continued after July 1, 2001. **(BDR 1-373)**

ROLE OF THE CHIEF JUDGE

2. Amend NRS to require the Chief Judge of the Second Judicial District Court and the Chief Judge of the Eighth Judicial District Court to ensure that procedures in the family court are applied as uniformly as practicable, to ensure that cases and other proceedings in the family court are considered and decided in a timely manner, and to establish procedures for addressing grievances which are submitted to the Chief Judge by a party in a case or other proceeding in the family court and which concern matters other than substantive issues of law or challenges to a decision of the court, such as the administration of the case or the temperament of the judge. **(BDR 1-374)**
3. Include a statement in the Subcommittee's report indicating that the Subcommittee recognizes it may be appropriate for the Legislature to consider whether the duties of the Chief Judge with respect to the family court proposed in Recommendation Number 2 of the Subcommittee's report should be expanded to apply to the other divisions of the court.

ADDITIONAL FAMILY COURT JUDGES FOR THE EIGHTH JUDICIAL DISTRICT COURT

4. Include a statement in the Subcommittee's report indicating that the Subcommittee supports the addition of five judges to the family division of the Eighth Judicial District Court.

**ACCESS TO FAMILY COURTS BY
LITIGANTS NOT REPRESENTED BY AN ATTORNEY**

5. Include a statement in the Subcommittee's report urging the Board of County Commissioners of Clark County to provide funding for a pro per self-help clinic for family court litigants or a separate pro per office staffed with individuals who are trained to assist pro per litigants in family law matters.
6. Include a statement in the Subcommittee's report commending the Second Judicial District Court and the Board of County Commissioners of Washoe County for their efforts in establishing the position of "Family Law Facilitator" to assist pro per litigants in the family court.
7. Include a statement in the Subcommittee's report urging the Second Judicial District Court and the Eighth Judicial District Court to coordinate their efforts in ensuring that pro per litigants have access to justice in the family courts.

LEGISLATIVE MONITORING OF THE FAMILY COURT CASELOAD

8. Amend NRS 3.025 to require the Chief Judge of the Second Judicial District Court and the Chief Judge of the Eighth Judicial District Court to submit to the Director of the Legislative Counsel Bureau the written report that each Chief Judge must currently submit to the Clerk of the Supreme Court each month concerning the number and type of cases assigned to, considered by, submitted to, and decided by each district judge in the preceding month and the number of full judicial days in the preceding month each district judge appeared in court or in chambers to perform his judicial duties. **(BDR 1-377)**

COORDINATION OF CASES

9. Adopt a resolution urging the family courts to coordinate and integrate as fully as possible all case files in the family court which pertain to the same parties or children but which are reviewed by multiple persons or agencies because they involve multiple issues, such as domestic violence, child support, and abused or neglected children, and to ensure that the parties or children in such cases are directed to the appropriate agencies and services of the court in a timely manner. Include in the resolution a statement that it was the original intent of the founders of the family court system for such coordination and integration to be implemented in the family court and for the parties and children involved in such cases to be directed to appropriate services in a timely manner. Include in the resolution a statement that the Chief Judge of the Second Judicial District Court and the Chief Judge of the Eighth Judicial District Court should submit to the Director of the Legislative Counsel Bureau for distribution at the next regular session of the Legislature a report that includes a summary of any actions that have been or will be taken by the court to coordinate and integrate as fully as possible such case files and any suggestions for necessary legislation to assist the court in coordinating and integrating as fully as possible such case files. **(BDR R-376)**

CASE MANAGEMENT AND TRACKING

10. Include a statement in the Subcommittee's report urging the Board of County Commissioners of Clark County to continue to provide funding to the Eighth Judicial District Court for integrated computer software and for training of employees in the use of that software to assist in case management, including the coordination of cases, and tracking of the timeliness of cases.
11. Include a statement in the Subcommittee's report commending the Board of County Commissioners of Washoe County for providing funding to the Second Judicial District Court for integrated computer software and for training of employees in the use of that software to assist in case management, including the coordination of cases, and tracking of the timeliness of cases.
12. Include a statement in the Subcommittee's report, which indicates that the Subcommittee is concerned about the coordination of efforts between the Eighth Judicial District Court and the County Clerk with respect to the exchange of information, data, and records between those bodies and urges that efforts be made to promote cooperation and coordination in order to ensure that requested information is accessible and that the court system is accountable for its actions.

ASSESSMENTS

13. Include a statement in the Subcommittee's report requesting that the Eighth Judicial District Court determine whether there exists a need for the Family Mediation Center to perform assessments for litigants and their families who are indigent or otherwise financially unable to pay for an outsourced, private assessment and, if there is such a need, what priority should be given to the funding of such a program in light of the need for funding of programs for the use of guardians ad litem and court appointed special advocates.

MEDIATION

14. Include a statement in the Subcommittee's report urging the family courts to make reasonable efforts to inform litigants, whether through posting or personal delivery of a notice or other means, that they may seek private mediation of unresolved issues in their cases if they desire.
15. Include a statement in the Subcommittee's report indicating that the Subcommittee believes it is beneficial to have mediation, which is already mandatory under current law for most cases involving the custody of children, begin as quickly as practicable to aid in the timely resolution of cases in family court and recommends that the court appoint a mediator within 30 days after the filing of an answer.

SETTLEMENT CONFERENCES

16. Include a statement in the Subcommittee's report urging the Eighth Judicial District Court to adopt, and the Supreme Court of Nevada to approve, the following changes to the *Eighth Judicial District Court Rules* (EDCR):
 - (a) Amend the EDCR to require that a judge of the family court, in every case, set a date for a mandatory settlement conference when the parties appear in court to set a date for trial, and require that the settlement conference be scheduled to be held as soon as practicable.
 - (b) Amend the EDCR to require that the mandatory settlement conference be presided over by the judge of the family court who is assigned to the case or by a settlement judge.

FAMILY COURT PROCEDURES

Adherence to Established Procedures

17. Include a statement in the Subcommittee's report urging the family courts to be vigilant about ensuring and enforcing strict adherence with the rules of procedure established for the courts.

Standardization of Procedures

18. Include a statement in the Subcommittee's report urging the Eighth Judicial District Court to establish for judges of the family court a bench book of standardized court procedures.

Setting a Date for Trial

19. Include a statement in the Subcommittee's report urging the Eighth Judicial District Court to adopt, and the Supreme Court of Nevada to approve, the following changes to the EDCR:
 - (a) Amend the EDCR to require, in cases filed in family court, that after the answer is filed by the defendant, the case file be immediately sent to the family court judge assigned to the case and that an order be automatically generated to bring the parties into court, not later than 10 days after the answer is filed, to set a date for trial.
 - (b) Amend the EDCR to require, in cases filed in family court, that the date for trial be set to occur not later than 6 months after the date of service of the complaint, unless good cause is shown to set the trial for a later date.

Other Procedures

20. Include a statement in the Subcommittee's report noting that the Subcommittee has received the following suggested changes to the procedures in family court from a wide variety of persons, including judges, attorneys, litigants, and other interested persons, and wishes to forward them, without expressing an opinion as to their merit, to the family courts and to the Supreme Court of Nevada for their examination and consideration:
- (a) Filing and Service of the Complaint — Amend *Nevada Rules of Civil Procedure* (N.R.C.P.) 4 to require, in cases filed in family court, that the plaintiff serve the complaint upon the defendant not later than 90 days after filing the complaint.
 - (b) Early Case Conference — Adopt the following changes to the N.R.C.P.:
 - (1) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties hold the early case conference sooner than is currently set forth in the rule.
 - (2) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties produce all documents requested at the early case conference not later than 30 days after the early case conference.
 - (3) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties file the mandatory early case conference report or reports sooner than is currently set forth in the rule.
 - (4) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties file the mandatory early case conference report or reports before the court is permitted to consider any substantive motions other than motions for extraordinary or emergency relief.
 - (5) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties attend a mandatory conference with the discovery commissioner if the early case conference report or reports are not filed within 60 days of filing the answer.
 - (6) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the court enter an automatic show cause order after 45 days if the early case conference has not been conducted or the early case conference report or reports have not been filed.
 - (7) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the discovery commissioner issue a summons for and impose fines upon the parties if the early case conference report or reports are not filed timely.

- (8) Amend N.R.C.P. 16.1 to provide for stricter requirements, in cases filed in family court, for the disclosure of financial information at the early case conference.
 - (9) Amend N.R.C.P. 16.1 to require, in cases filed in family court, automatic sanctions against parties who do not comply with N.R.C.P. 16.1.
 - (10) Amend N.R.C.P. 16.1 to allow the parties, in cases filed in family court, to conduct the early case conference telephonically.
 - (11) Adopt standardized forms to address the requirements of N.R.C.P. 16.1 and the conduct of the early case conference in cases filed in family court.
- (c) Discovery — Adopt the following changes to the Nevada Rules of Civil Procedure:
- (1) Amend the N.R.C.P. to require, in cases filed in family court, that the parties report to the discovery commissioner after the early case conference to set the time period that is needed for discovery.
 - (2) Amend the N.R.C.P. to reduce the time period during which discovery is permitted to be conducted in cases filed in family court.
- (d) Deciding Motions — Adopt the following changes to the EDCR:
- (1) Amend the EDCR to require that motions in the family court be heard not later than 15 days after the last response to the motion is filed.
 - (2) Amend the EDCR to establish a uniform procedure in the family court for obtaining orders shortening time.
 - (3) Amend the EDCR to require that all motions in the family court be decided without oral argument, unless the court determines that oral argument is necessary.
 - (4) Amend the EDCR to limit oral argument on motions in the family court to five minutes per side, unless unusual circumstances are present or the court determines that the motion warrants a longer period of oral argument.
 - (5) Amend the EDCR to require that judges of the family court render decisions on the bench, whenever possible, rather than taking matters under advisement or submission. If a judge takes a matter under advisement or submission, place a limitation on the time that the matter may be held by the judge and require the judge to produce a written decision on the matter.

- (e) Submission and Signing of the Decree or Order After Trial — Adopt the following changes to the EDCR:
- (1) Amend the EDCR to require, in cases filed in family court, that a proposed final decree or order be prepared by a party and be submitted to the judge of the family court not later than 30 days after the trial is completed.
 - (2) Amend the EDCR to require that a judge of the family court sign a proposed final decree or order not later than 30 days after it is submitted, unless the judge returns the proposed decree or order to a party for modifications.
 - (3) Amend the EDCR to require that a judge of the family court be notified when the time for filing a notice of appeal from a final decree or order has expired without action by either party.

EX PARTE COMMUNICATIONS

21. Include a statement in the Subcommittee's report urging judges in the family court to be cognizant of and strictly adhere to the prohibition against improper ex parte communication contained within the *Code of Judicial Conduct*.

GUARDIANS AD LITEM AND COURT APPOINTED SPECIAL ADVOCATES

22. Include a statement in the Subcommittee's report urging increased funding for the use of guardians ad litem and court appointed special advocates in cases filed in family court to ensure that the voices of children are heard.

TEMPORARY PROTECTIVE ORDERS

23. Amend NRS to provide that if the court finds by clear and convincing evidence that a person has submitted a false affidavit to obtain a temporary protective order, the court shall award reasonable attorney's fees and costs to the party against whom the order was sought. If the parties have a child and any visitation was missed by the party against whom the order was sought as the result of the order, the court shall order make-up visitation. The fact that a party submitted a false affidavit to obtain a temporary protective order must be considered as a factor in determining the custody of a child. **(BDR 3-378)**

BULLETIN 99-10

SPECIAL EDUCATION AND STUDENT DISCIPLINE

A.C.R. 44 — 1997 Session

Members

Assemblywoman Chris Giunchigliani, Chair
Senator Kathy Augustine
Senator Michael A. Schneider
Senator Maurice E. Washington
Assemblyman Mark A. Manendo
Assemblywoman Kathy A. Von Tobel

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Assembly Concurrent Resolution No. 44 — Assemblymen Williams, Cegavske, Gustavson, Collins, Chowning, Koivisto, Manendo, Ohrenschall, Von Tobel, Hickey and de Braga

FILE NUMBER 156

ASSEMBLY CONCURRENT RESOLUTION — Directing the Legislative Commission to appoint a committee to conduct an interim study of the various needs of pupils in the public schools in this state.

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 six members selected as follows:

1. Three members of the Senate, two of whom served during the 69th legislative session on the Senate Standing Committee on Human Resources and Facilities; and

2. Three members of the Assembly, two of whom served during the 69th legislative session on the Assembly Standing Committee on Education, to conduct an interim study of the various needs of pupils in the public schools in this state; and be it further

RESOLVED, That the committee may, to assist in conducting the interim study, appoint a nonvoting technical advisory board which must include, without limitation:

1. At least one classroom teacher who currently teaches at a public school within this state;

2. At least one special education teacher who currently teaches at a public school within this state;

3. At least one person who currently serves as a principal at a public school within this state; and

4. At least one parent of a pupil who currently attends a public school within this state; and be it further

RESOLVED, That the study must include:

1. A review and evaluation of the methods for disciplining pupils currently used in the public schools in this state, including, without limitation, the methods by which the public schools respond to criminal activity on school grounds by pupils who are enrolled in the public schools;

2. A review and evaluation of the methods currently used in the public schools in this state for disciplining pupils with disabilities or other special needs who are participating in programs of special education, including, without limitation, the suspension of such pupils within a 10-day period, and methods to improve the effectiveness of disciplining those pupils that are in compliance with the Individuals with Disabilities Education Act (20 U.S.C. §§ 1400, *et seq.*);

3. An evaluation of the degree of consistency in enforcing the rules of behavior required of pupils and whether the punishment prescribed for violations of the rules is consistently applied and commensurate with the violations;

4. An evaluation of methods to increase the degree of consistency in the enforcement of the rules of behavior required of pupils and the punishment prescribed for violations of the rules;

5. A review and evaluation of disciplinary measures that will reduce disruptive and other unacceptable behavior of pupils during school hours, including, without limitation, disciplinary measures that may be enforced during school hours, such as suspensions, detentions and alternative programs of instruction for pupils;

6. A review and evaluation of the methods by which public schools communicate with the parents or legal guardian of a pupil concerning disciplinary problems of the pupil and consideration of methods to improve the communication;

7. A review and evaluation of methods to improve the reports of incidents involving weapons or violence in the public schools that are required to be reported pursuant to NRS 385.347;

8. A review and evaluation of the number of pupils with disabilities and other special needs per classroom and the work load of those pupils, including recommendations for modification of the class size or work load that the committee considers necessary;

9. A review and evaluation of the diagnosis and placement of all pupils with disabilities and other special needs, including, without limitation, diagnosis and placement of pupils:

(a) With fetal alcohol syndrome;

(b) With brain disorders; or

(c) Who were born with an addiction to a controlled substance or drug;

10. A review and evaluation of whether appropriate programs are available for pupils with fetal alcohol syndrome, with brain disorders and who were born with an addiction to a controlled substance or drug and recommendations to improve those programs;

11. A review and evaluation of the methods used by the public schools to incorporate pupils with disabilities and other special needs into the regular classroom and the effect of the incorporation on special education programs, regular classroom instruction and the number of pupils per classroom; and

12. A review and evaluation of any other methods for public schools to improve their ability to meet the various needs of pupils who are enrolled in the public schools in this state; and be it further

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

RESOLVED, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 70th session of the Nevada Legislature.

ABSTRACT

SPECIAL EDUCATION AND STUDENT DISCIPLINE (A.C.R. 44)

The 1997 Nevada Legislature adopted Assembly Concurrent Resolution No. 44 (File No. 156, *Statutes of Nevada 1997*) which directed the Legislative Commission to conduct an interim study of special education and student discipline in the state's public schools.

The Legislative Commission appointed a subcommittee of six legislators to complete the study. The subcommittee held eight meetings, six in Las Vegas and two in Carson City. All of the meetings, including the meeting at which the subcommittee voted on its final recommendations, were video conferenced between Carson City and Las Vegas.

The subcommittee received extensive expert and public testimony concerning the following issues: the method for funding special education; special education programs and services offered by school districts and the State Department of Education; the requirements imposed on state and local education agencies by the Federal Government regarding special education; recruitment needs for special education teachers and staff; the problems with and impact of legislation enacted in 1997 concerning truancy and student discipline; and training needs for teachers, administrators, and support staff.

Testimony and correspondence were obtained from concerned citizens, parents of students with disabilities, teachers, staff from the State Department of Education, school district officials, the Nevada State Education Association, faculty members from the University of Nevada, Las Vegas, College of Education, parent-teacher associations, representatives from Clark County Legal Services, the Clark County District Attorney's Office, and the Commission on Professional Standards in Education.

The subcommittee adopted 18 recommendations addressing issues in the following areas:

- Special education funding;
- Special education programs and services;
- Student discipline;
- Truancy;
- Teacher and staff training; and
- Other matters relating to education.

SUMMARY OF RECOMMENDATIONS

SPECIAL EDUCATION AND STUDENT DISCIPLINE (A.C. R. 44)

This summary presents the recommendations approved by the Legislative Commission's Subcommittee to Study Special Education and Student Discipline (A.C.R. 44). The subcommittee will submit these proposals to the 70th Session of the Nevada Legislature.

SPECIAL EDUCATION FUNDING

1. Send a letter to all Nevada school districts asking for information on how special education unit funding is spent to provide special education departments with needed equipment and textbooks; and what recourse teachers or departments have if they are not receiving that funding from school-site administrators. Districts will be asked to provide this information to the subcommittee chairman and to Legislative Counsel Bureau staff.
2. Draft and enact legislation, in the form of a resolution, asking the 1999 Nevada Legislature to fully fund the cost of special education services beginning with the 1999-2000 school year. **(BDR R-323)**

SPECIAL EDUCATION PROGRAMS AND SERVICES

3. Draft and enact legislation requiring the State Department of Education to develop uniform Individual Education Plan (IEP) forms (including the computerization of these forms) and related documents; and require local school districts to use such forms and documents. The legislation would require the use of national standards to identify disabilities and direct the department to provide statewide professional development on how to assess/evaluate students with disabilities. **(BDR 34-318)**
4. Send a letter to the Superintendent of Public Instruction asking that the State Department of Education's task force on the revision of the *Nevada Administrative Code* concerning caseloads and class sizes consider the following recommended levels.
 - a. Caseloads: speech and language pathologist at 40; resource room staff at 18; early childhood staff at 20; other middle school specialized programs at 12; and other elementary specialized programs at 6.
 - b. Class size:
 - (1) Elementary school: all specialized programs at 6; specialized early childhood programs except autistic and severe emotional handicap at 10; severe emotional handicap, autistic, early childhood, and severe/profound at 4; and resource room at 10. All classes, except for the resource room, should have a full-time teacher assistant.

- (2) Secondary school: autistic/severe/profound and severe emotional handicap at 6; all other specialized programs at 10; and resource room at 12. All classes, except for the resource room, should have a full-time teacher assistant.
- (3) General education: classrooms with a cooperative teacher must be capped at 10 enrolled special education students; classrooms with a consultative teacher must be capped at 6 enrolled special education students; and a weighted formula of 1.5 will be assigned to all special education students included in a general education classroom.
5. Draft and enact legislation, in the form of a resolution, encouraging the State Department of Education to establish an advisory group comprised of teachers, administrators, parents, department staff, and Legislative Counsel Bureau staff to determine alternative criteria by which a student with disabilities may graduate with a Standard Diploma. In addition, the advisory group should make recommendations to the State Board of Education concerning the allowable use of calculators, spell checkers, oral testing, and other tools deemed appropriate by the student's IEP for special education students who take the proficiency test required by the Board for graduation from high school. **(BDR R-320)**
6. Send a letter to the Superintendent of Public Instruction asking her to develop a list of appropriate screening tools to diagnose conduct disorders in students. This list should be made available to a school district upon its request. The list should be developed in cooperation with staff in the Douglas County School District.
7. Send a letter to the state social service agencies that assist special needs students asking such agencies to notify a school district before a child with special needs is brought back into the school district from a placement pursuant to Chapter 395 of *Nevada Revised Statutes* (NRS), to determine if a program exists to meet the student's needs, and to ascertain the fiscal impact of such a placement. The subcommittee also recommends that these social service agencies notify the State Board of Education when such a placement is made so it can explore funding through the discretionary grant programs of the Department of Education to help provide services for these students.

STUDENT DISCIPLINE

8. Amend Chapter 392 of NRS to require schools to notify parents at least seven days before their child is deemed a habitual disciplinary problem as defined by NRS 392.4655. The amendment will allow schools to develop a behavior program for students, request that students and parents attend a counseling or parenting program, and/or assess contract penalties of up to \$100. A student who commits a subsequent violation shall be deemed a habitual disciplinary problem under NRS 392.4655. **(BDR 34-324)**

TRUANCY

9. Amend NRS 392.130 to clarify that “any part of a school day” for the purposes of determining truancy refers only to unexcused absences. In addition, require school districts to adopt policies whereby an excused absence for part of the school day will not be counted as an absence for the full day. **(BDR 34-319)**
10. Amend NRS 392.142 to: (1) remove the requirement that school principals must report each habitual truant to the appropriate law enforcement agencies; (2) require a school principal to refer students to a school attendance review board when directly requested by a parent or legal guardian; and (3) include the provisions of Sections 11 and 12 of the Second Reprint of Assembly Bill 486 (Chapter 583, *Statutes of Nevada 1997*). **(BDR 34-319)**
11. Amend NRS 62.224 so that for a first habitual truancy offense, the court shall suspend a driver’s license for at least 30 days but not more than two years; and for a second offense, at least 90 days but not more than two years. Also amend NRS 62.224 to allow the “judge or his authorized representative” to issue orders for fines or driver’s license suspensions; this will allow the court to handle the expected increase in case loads in these areas resulting from the changes made by Assembly Bill 486 (Chapter 583, *Statutes of Nevada 1997*). **(BDR 34-319)**
12. Amend paragraph (g) of NRS 385.347 so that the records of the attendance and truancy of pupils in all grades are reported rather than the annual rate of attendance and truancy. **(BDR 34-319)**

TEACHER AND STAFF TRAINING

13. Send a letter to the Legislative Committee on Education asking the Committee to expand its bill draft request concerning the establishment of four regional training centers to include the following: all the training mandated by the state; the training currently provided by school districts; training in special education for special education teachers, regular education teachers, and parents of special needs students; and computer/technology training. The letter will ask the Committee to make these centers true professional development centers.
14. Draft and enact legislation providing a one-shot appropriation to the Board of Regents of the University and Community College System of Nevada for the establishment of a teacher corp program. **(BDR S-325)**

OTHER MATTERS RELATING TO EDUCATION

15. Amend NRS 392.330(b) by inserting “reduced fare” before the word tickets and delete everything after the word pupils. **(BDR 34-326)**

16. Draft and enact legislation to provide funding, through a state appropriation, for tuition-free summer and inter-session programs for all students. **(BDR 34-321)**
17. Amend Chapter 392 of NRS to require the State Department of Education to notify school districts of all legislation passed by the Nevada Legislature effecting public schools and all regulations enacted by the State Board of Education within 30 days of the effective date; and require school districts to communicate the same information to parents, teachers, deans, and educational support staff within 30 days of receipt of the notification from the State Department of Education. Such notification must be understandable in English or Spanish. **(BDR 34-322)**
18. Send a letter to the Legislative Commission asking it to explore imposing penalties on state agencies, school districts, and other governmental entities if such organizations do not implement legislation when it becomes effective.

BULLETIN 99-11

SYSTEM OF JUVENILE JUSTICE IN THE STATE OF NEVADA

A.C.R. 57 — 1997 Session

Members

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Senator Valerie Wiener, Vice Chair
Senator Ernest E. Adler
Senator Mark A. James
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Assemblyman David E. Humke
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Assembly Concurrent Resolution No. 57 — Committee on
Elections, Procedures, and Ethics

FILE NUMBER 152

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

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

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

1. The uniformity of the administration of the juvenile justice system among the counties of this state and the cost to the counties;
2. The cost to the counties to administer the system of juvenile justice;
3. The use of alternatives to traditional methods of adjudication of children alleged to be delinquent or in need of supervision, including, but not limited to, the use of teen courts and community sentencing panels;
4. The practices and procedures of juvenile courts regarding the assignment of children who are adjudicated delinquent or in need of supervision to facilities for confinement, detention or care;
5. The facilities for confinement, detention or care of children who are adjudicated delinquent or in need of supervision in this state, including, but not limited to, the certification or licensure of such facilities, the capacity and condition of such facilities, the ability of such facilities to provide for the separation of violent and nonviolent children or any other appropriate separation of children in such facilities and the costs associated with the maintenance of such facilities; and
6. The penalties associated with the commission of delinquent acts by children and the application of such penalties; 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 Legislative Commission submit a report of the study and any recommendations for legislation to the 70th session of the Nevada Legislature.

ABSTRACT

SYSTEM OF JUVENILE JUSTICE IN THE STATE OF NEVADA (A.C.R. 57)

The 69th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 57 (File 152, *Statutes of Nevada 1997*, page 3735) which directed the Legislative Commission to conduct an interim study of the system of juvenile justice in the state of Nevada. The commission appointed a subcommittee of eight legislators (four members of the Assembly and four members of the Senate) to carry out the provisions of the resolution. Additionally, the subcommittee received Legislative Commission approval to appoint three nonvoting advisory members and one alternate advisory member to the subcommittee.

The subcommittee held six meetings, including a work session, during the course of the study. All six meetings were public hearings held at the Legislative Building in Carson City and were simultaneously video conferenced to the Grant Sawyer State Office Building in Las Vegas. Additionally, the subcommittee split into smaller subcommittees which held a total of four community meetings in Las Vegas, Reno, Carson City and Fallon.

During the course of the interim study, the subcommittee received extensive expert and public testimony regarding the juvenile justice system in Nevada. The subcommittee reviewed numerous laws and programs which outlined the various responsibilities of the state of Nevada's Division of Child and Family Services, Nevada's 17 counties and the juvenile court system in addressing the juvenile justice population. The subcommittee reviewed innovative juvenile justice programs implemented in other states, substance abuse issues involving juveniles, alternative education programs for juveniles, and the relationship between law enforcement and the juvenile justice system.

The subcommittee obtained testimony and correspondence from prominent juvenile justice consultants, concerned citizens, district attorneys, juvenile court judges, juvenile probation officers, police officers, school district representatives, substance abuse prevention and treatment program professionals, and representatives of state juvenile justice and mental health agencies. State and local juvenile justice practitioners contributed information and suggestions throughout the study.

At its final meeting and work session, the subcommittee considered and adopted 15 recommendations, including two bill draft requests (BDRs) for presentation to the 1999 Legislature. The recommendations address the following major topics:

- Assessment instruments, intermediate sanctions, and interventions;
- Substance abuse issues/evaluation of drug courts;
- New juvenile offender facility;

- State-county relationship;
- Statewide gang survey;
- School violence and alternative education programs;
- Deferral of action on county district attorney statutory amendments;
- Standards of operation for juvenile facilities;
- Juvenile offender mental health needs;
- School attendance, truancy, and social workers in schools; and
- Future juvenile justice interim study.

In most cases, each recommendation authorizes a “letter of request” to various organizations requesting their assistance and cooperation in completing the task(s) identified in the recommendation.

SUMMARY OF RECOMMENDATIONS

SYSTEM OF JUVENILE JUSTICE IN THE STATE OF NEVADA (A.C.R. 57)

This summary presents the recommendations approved by the Legislative Commission's Subcommittee to Study the System of Juvenile Justice in Nevada (A.C.R. 57). The subcommittee submits these proposals to the 70th Session of the Nevada Legislature.

ASSESSMENT INSTRUMENTS, INTERMEDIATE SANCTIONS, AND INTERVENTIONS

1. Need for Consistent Placement Instruments

The committee recommends that the development of: a detention placement instrument; a probation community placement instrument; and a corrections placement instrument be undertaken as a joint effort by the Juvenile Justice Commission, the Juvenile Justice Commission's Work Study Group, and the Nevada Association of Juvenile Justice Administrators. Also, it was recommended this endeavor include the pursuit of technical assistance from the National Council of Juvenile and Family Court Judges and a final report containing the completed instruments be submitted to the 1999 Legislature by February 1, 1999.

2. Need to Create Intermediate Sanctions and Interventions

The committee recommends that the creation of additional intermediate sanctions and corresponding interventions be undertaken through a joint effort of the Juvenile Justice Commission and its Work Study Group and the Nevada Association of Juvenile Justice Administrators. The effort shall involve technical assistance from the National Council on Crime and Delinquency through cooperation with the National Council of Juvenile and Family Court Judges. Programs administered by the Nevada Army National Guard, including Project Challenge, Camp Walkabout and Friends for Life, as well as programs operated through Youth Service Providers of Nevada should also be considered in the effort to create additional intermediate sanctions and corresponding interventions.

This task will also involve assistance from the National Council on Crime and Delinquency in evaluating the Community Corrections Block Grant Program, the Transitional Community Re-Integration Program and the Juvenile Justice Data Collection System, all administered by the Division of Child and Family Services, as well as an update of the 1992 National Council on Crime and Delinquency Needs Assessment for Nevada. The committee also recommends a bill draft request with an appropriation for National Council on Crime and Delinquency assistance to update the 1992 needs assessment, to be used in the event other funding mechanisms are not successfully identified. (BDR S-223)

One or two recommendations for alternative sanctions should be completed by November 1, 1998, and submitted to the Division of Child and Family Services, the Department of Administration, Budget Division, and the Legislative Counsel Bureau, Fiscal Analysis Division. The Budget Director shall review the recommendations for possible inclusion in the 1999-2001 *Executive Budget* and for possible consideration by the 1999 Legislature. The remaining recommended alternative sanctions, the updated National Council on Crime and Delinquency needs assessment and the evaluation of the Division of Child and Family Services' data collection system should be presented to the next interim committee to study juvenile justice to be formed after the conclusion of the 1999 Legislative Session.

Findings on the evaluation of the Division of Child and Family Services' Community Corrections Block Grant Program and the Transitional Community Re-Integration Program should be developed and submitted to the Division of Child and Family Services, the Department of Administration, Budget Division, and the Legislative Counsel Bureau, Fiscal Analysis Division by November 1, 1998, for consideration in preparation of the 1999-2001 *Executive Budget*.

SUBSTANCE ABUSE ISSUES/EVALUATION OF DRUG COURTS

3. Assess Existing Drug Treatment Programs

The committee recommends that a work group be formed consisting of representatives from the Bureau of Alcohol and Drug Abuse, the Division of Child and Family Services, the Division of Mental Hygiene/Mental Retardation, schools, and the Governor's Commission on Substance Abuse, Education, Prevention, Enforcement, and Treatment, to assess existing substance abuse programs for juveniles and their families in Nevada. The assessment shall include substance abuse programs, as well as prevention, education, treatment, and aftercare efforts. The work group should pursue technical assistance through cooperation with the National Council of Juvenile and Family Court Judges.

The work group's final report, or at a minimum, a status report, should be submitted to the 1999 Legislature by February 1, 1999, to allow sufficient time for review and consideration by members of the Legislature of the work group's findings and recommendations.

The committee also recommends that the substance abuse component of the "Communities That Care" program be considered by the Bureau of Alcohol and Drug Abuse for statewide implementation immediately, with the entire program being considered for implementation in the next two-year period.

The committee recommends that the Bureau of Alcohol and Drug Abuse seek enhanced funding for substance abuse prevention and treatment efforts and that consideration be given to seek a more equitable balance in the distribution of funding between adult and juvenile programs.

4. Assess Existing Drug Court Models in Clark and Washoe Counties

The committee recommends that existing drug court models in Clark and Washoe Counties be assessed for their effectiveness and evaluated for possible replication and expansion in other Nevada jurisdictions. Judge Deborah Schumacher, Judge Charles McGee, and Judge Gerald Hardcastle will lead this effort in conjunction with technical assistance from the National Council of Juvenile and Family Court Judges. A report of the assessment shall be provided to members of the 1999 Legislature by March 1, 1999.

NEW JUVENILE OFFENDER FACILITY

5. Complete New Serious and Chronic Juvenile Offender Facility

The committee recommends that a status report prepared by the Department of Administration and the Division of Child and Family Services on the new secure serious and chronic juvenile offender facility, authorized by Senate Bill 495 (Chapter 563, *Statutes of Nevada*), approved by the 1997 Legislature, be submitted in conjunction with Recommendation Number 1, regarding the development of the detention placement instrument, the probation community placement instrument, and the corrections placement instrument. The status report should be submitted with the final report on the completed instruments to the 1999 Legislature by February 1, 1999, and include as part of the report the findings from the Tennessee study comparing the operation of privatized and state operated juvenile facilities and findings from similar studies by other states.

STATE-COUNTY RELATIONSHIP

6. Restructure State-County Relationship

The committee recommends that the Division of Child and Family Services act as the lead agency in a collaborative effort with county governments to develop potential recommendations for a similar model to the Reclaim Ohio Program for Nevada and to also consider restructuring Nevada's state-county relationship. The Division of Child and Family Services will report on formal recommendations to restructure the relationship at the first meeting of the next interim committee to study juvenile justice issues anticipated to be formed after the conclusion of the 1999 Legislature.

STATEWIDE GANG SURVEY

7. Conduct Statewide Gang Survey

The committee recommends that statewide law enforcement agencies, in conjunction with the Nevada District Attorney's Association and the Nevada Association of Juvenile Justice Administrators, assess the extent and nature of both juvenile and adult gang activity in Nevada. This group's review should include the development of recommendations on the apprehension and prosecution of gang members including an evaluation of the effectiveness of Nevada's Racketeer

Influenced and Corrupt Organizations (RICO) statutes in prosecuting gang members. The review should also assess prevention and intervention efforts and identify alternative programs which could be implemented to reduce gang membership.

Reasons why at-risk youth either get involved or do not get involved with gangs should be explored. The effort should also include input from youth who were exposed to or involved with gang activity. This input should specifically address intervention and prevention recommendations.

A report on the assessment of gang activity related issues and recommendations on how best to deal with this issue should be completed by February 1, 1999, and should contain as much information as can be gathered and submitted by that date. The report should be submitted to the Director of the Legislative Counsel Bureau for distribution to all members of the 1999 Legislature. A follow-up report containing additional analysis and information should be submitted by October 1, 1999, and presented to the first meeting of the next interim committee to study juvenile justice issues anticipated to be formed after the conclusion of the 1999 Legislature.

SCHOOL VIOLENCE AND ALTERNATIVE EDUCATION PROGRAMS

8. Conduct School Violence Assessment

The committee recommends that a request be made to the State Board of Education asking that an assessment be conducted of Nevada's school districts on school violence. The survey could poll students, teachers, and administrators, assess security measures and procedures in place, assess gang problems in schools and solicit recommendations to improve security, reduce violence, and protect students. The State Board of Education should take the lead role in conjunction with the Nevada Association of Juvenile Justice Administrators and the Juvenile Justice Commission's Work Study Group. Technical assistance should be pursued and obtained from the National Council of Juvenile and Family Court Judges.

The State Board of Education and the Association of Juvenile Justice Administrators, representing both Nevada State Youth Parole and local county probation departments, should be encouraged to develop better communication and cooperation between them with respect to juveniles.

The report on the assessment of school violence should be completed by February 1, 1999, and should contain as much information as can be gathered and submitted by that date. The report should be submitted to the Director of the Legislative Counsel Bureau for distribution to all members of the 1999 Legislature. A follow-up report containing additional information, analysis, and recommendations should be submitted to the first meeting of the next interim committee to study juvenile justice issues, which is anticipated to be formed after the conclusion of the 1999 Legislature.

9. Alternative Programs Offered by Local School Districts

The committee recommends that a letter be sent to the Nevada State Board of Education asking them to survey all of the school districts in Nevada to determine what types of alternative education programs are available. The survey could possibly be reviewed and considered by the next interim committee on juvenile justice after the 1999 Legislative Session.

Additionally, a copy of the letter should be sent to the chairmen of the Legislative Committee on Education (S.B. 482, of the 1997 Legislative Session) and the Interim Study on Special Education and Student Discipline (A.C.R. 44, of the 1997 Legislative Session) to inform them of the recommendation approved by the Committee to Study the System of Juvenile Justice in Nevada.

DEFERRAL OF ACTION ON COUNTY DISTRICT ATTORNEY STATUTORY AMENDMENTS

10. Amend the *Nevada Revised Statutes* per Recommendations from County District Attorneys

The committee agreed to defer all the amendments to statute recommended by the district attorneys as itemized in Recommendation Number 10 to the district attorneys to follow the normal legislative process. The Legislative Counsel Bureau Legal Division is to prepare a letter to the Nevada District Attorney's Association informing it of the committee's recommendation.

STANDARDS OF OPERATION FOR JUVENILE FACILITIES

11. Consider Developing Standards of Operation for Juvenile Facilities

The committee recommends that the Association of Juvenile Justice Administrators undertake the development of standards of operation for juvenile detention and juvenile correctional facilities. The term "standards of operation" includes both standards for staff employed in juvenile facilities such as minimum qualifications, training, and educational standards and also operating standards for juvenile facilities. Juvenile facilities are defined as those operated by the state and counties, and also includes those privately contracted for juvenile correctional care. The Division of Child and Family Services is represented in the Juvenile Justice Administrators group and would ensure that state facilities are included in the study. The Juvenile Justice Administrators shall provide a report to the next interim committee on juvenile justice in the fall of 1999.

JUVENILE OFFENDER MENTAL HEALTH NEEDS

12. Evaluate Mental Health Needs for the Juvenile Offender Population

The committee recommends that the Department of Human Resources, Director's Office, function as the lead agency for the Division of Child and Family Services, Mental Hygiene/Mental Retardation, and the Juvenile Justice Commission to complete an across-the-board needs

assessment of mental health needs and services for children and youth at both the state and local level. A progress report shall be provided to the 1999 Legislature by March 1, 1999, with a complete report being provided to the next interim committee on the study of juvenile justice. The findings in the report should be based on verifiable data and information.

The committee requested that the report also contain information on how mental health services interface with juvenile justice programs and facilities on both the state and local level, including a review of qualifications of mental health treatment staff in juvenile detention and correctional facilities, and recommended changes and improvements. The report should also contain a review of dually diagnosed juveniles (delinquent and having mental health problems) to ensure they are being handled adequately.

Regarding the draft memorandum of understanding designed to coordinate the provision of services to families between Mental Hygiene/Mental Retardation and the Division of Child and Family Services, it is requested that the two divisions jointly provide a status report on the eventual finalization of that document to be provided to the 1999 Legislature by March 1, 1999. The report should indicate how well the agreement is working and if there is anything remaining to be accomplished. Additionally, a review of the status of the separation of juvenile mental health services provided by the Division of Child and Family Services and the Division of Mental Hygiene/Mental Retardation should be examined for effectiveness.

Concerning the evaluation of whether an integrated data system should be developed to track youth across all agencies (both state and local), the committee requests that the Division of Mental Hygiene/Mental Retardation, the Division of Child and Family Services, and the Juvenile Justice Commission assess the current level of compatibility between data processing systems within state and local government relating to the tracking of juveniles.

This assessment should include all major data processing systems including, but not limited to, Statewide Management of Automated Record Transfer (SMART), Unified Nevada Information Technology for Youth (UNITY), Automated Information Management System (AIMS), etc. Recommendations should also be developed on what steps are necessary to make the current data processing systems within state and local jurisdictions more compatible. In addition, the work group could consider the feasibility of developing an integrated data system to track youth across all agencies, both state and local. A report on the work group's activity and progress in this area should be provided in the fall of 1999 to the next interim committee on the study of juvenile justice.

SCHOOL ATTENDANCE, TRUANCY, AND SOCIAL WORKERS IN SCHOOLS

13. Evaluate the Need to Establish Truancy Centers

The committee recommends requesting that the State Department of Education work with the local advisory boards created in each county to review school attendance to identify factors which

contribute to delinquency and to also make recommendations concerning programs which are most effective in reducing truancy.

14. Should Professional Social Workers Be Employed by Local School Districts?

The committee recommends deferring Recommendation Number 14 to the Interim Study on Special Education and Student Discipline (A.C.R. 44, of the 1997 Legislative Session), which considered a similar recommendation at their final meeting and work session.

FUTURE JUVENILE JUSTICE INTERIM STUDY

15. Should the Committee Recommend a Resolution to Create an Interim Study Committee on Juvenile Justice After the Adjournment of the 1999 Legislature?

The committee requests a bill be drafted to create an interim study committee on juvenile justice upon the adjournment of the 1999 Legislative Session. **(BDR R-224)**

BULLETIN 99-12

**LEGISLATIVE COMMITTEE ON
HEALTH CARE**

NRS 439B.200

Members

Senator Raymond D. Rawson, Chair
Assemblywoman Vivian L. Freeman, Vice Chair
Senator Bernice Mathews
Senator Maurice E. Washington
Assemblywoman Barbara E. Buckley
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NEVADA REVISED STATUTES

LEGISLATIVE COMMITTEE ON HEALTH CARE

NRS 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)

The Legislative Committee on Health Care, in compliance with *Nevada Revised Statutes* 439B.200 through 439B.240, oversees a broad spectrum of issues related to the quality, access, and cost of health care for all Nevadans. The committee was established in 1987 to provide continuous oversight of matters relating to health care.

The committee met 12 times, and it authorized an additional 5 subcommittee meetings. Meeting sites alternated between Carson City and Las Vegas. Two subcommittees met in Carson City, while three meetings of another subcommittee were held in Las Vegas. All public hearings except the initial one were conducted through simultaneous video conferences.

In addition to the requirements in the *Nevada Revised Statutes*, the 1997 Legislature adopted two measures directing the committee to study certain issues. Assembly Concurrent Resolution No. 28 (File No. 151, *Statutes of Nevada 1997*) directed the committee to study the long-term health care needs of the residents of the State of Nevada, and to study the availability of insurance for health care. The other mandate for the committee is found in Sections 84 through 86 of Senate Bill 427 (Chapter 550, *Statutes of Nevada 1997*). The committee was charged with monitoring the organizational development of the Division of Health Care Financing and Policy of the Department of Human Resources and with reporting its recommendations concerning the progress of the department in implementing the mandatory Medicaid managed care program. In addition, the bill directed the committee to conduct a study to evaluate expanding access to health care in Nevada.

An integral task undertaken by the committee during this period was to commission an update of the 1992 study of persons not covered by health insurance. In addition, at two work sessions of the committee, the members adopted 40 recommendations, 26 of them are bill draft requests, covering the following topics: long-term care and long-term care insurance; hospice and pain management; a physical fitness training program for senior citizens; federal health care and social programs; Medicaid eligibility, enrollment, and outreach; Nevada Check-Up, a children's health insurance program; personal care services for the aged and disabled; Medicaid waiver services and alternative living arrangements; a Medicaid "buy-in" program; "aging in place"; an insurance ombudsman; and the establishment of a division of minority health.

SUMMARY OF RECOMMENDATIONS

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

LONG-TERM CARE ISSUES

1. Provide, by statute, that the Welfare Division, Nevada's Department of Human Resources, conduct a study of the feasibility of developing a certified nursing assistant training program for recipients of the division's Temporary Assistance for Needy Families program. The study, in cooperation with the Nevada Health Care Association, should: (a) assess the number of certified nursing assistant slots needed in Nevada and whether former and current recipients of welfare cash assistance have the skills to appropriately meet the certified nursing assistant need for nursing homes; (b) identify the necessity of child care for these certified nursing assistant trainees; (c) identify methods to encourage nursing homes to provide child care for such personnel; and (d) include an assessment of other personnel needs of nursing homes that might be filled by appropriately trained former and current recipients of welfare cash assistance. The results of this study should be reported to the Legislative Committee on Health Care, which may review findings of the study and report its recommendation regarding such findings to the Interim Finance Committee. **(BDR S-491)**
2. Provide, by statute, that the Department of Human Resources conduct a study of nursing facility staffing and reimbursement in relation to the federal "Resource Utilization Groups III" system and its effect on long-term care facilities that are impacted by this system. The results of the study should be reported to the Legislative Committee on Health Care, which may review the findings of the study and report its recommendation regarding such findings to the Interim Finance Committee. **(BDR S-486)**
3. Include a statement in the final report of the committee that encourages the Division of Health Care Financing and Policy, Department of Human Resources, to index, on a yearly basis, its health care facility provider reimbursement rates, and to make its annual budget estimates in accordance with the health care component of the consumer price index.
4. Include a statement in the final report of the committee to encourage the Division of Health Care Financing and Policy, Department of Human Resources, to review the allowable billing period for Medicaid providers to submit claims to determine whether the current billing period has an adverse effect on long-term care facilities. This review may include establishing a billing review system that prevents the division from immediately rejecting claims for minor or trivial omissions or errors made by long-term care providers in their federally required "3049 Authorization to Bill" forms. Further, the long-term care industry should document any problems in this area to determine the extent of denied claims.

5. Provide, by concurrent resolution, that the Legislative Commission conduct an interim study to assess two items related to long-term care: (a) the feasibility of developing a demonstration waiver of certain federal requirements (similar to the Medicaid waiver in the State of Minnesota); and (b) to assess alternatives to long-term care. The waiver study should assess a system that combines and integrates Medicare acute care benefits with Medicaid's long-term care coverage, and it should analyze methods to minimize the need for the frail elderly to impoverish themselves as a condition of eligibility for long-term care benefits. The study of alternatives to long-term care should, among other things: (a) identify the alternatives to long-term care for individuals needing such care; (b) analyze the cost of each type of care; (c) discuss the advantages and disadvantages to the quality of life for patients in each type of facility; (d) identify the personnel requirements in each type of facility; and (e) determine feasible methods to fund care for individuals in each type of facility. **(BDR R-482)**

6. Adopt a resolution, include a statement in the final report of the committee, and send a letter to the Department of Human Resources encouraging the department to develop a "continuous quality improvement" approach to measure the well-being of long-term care patients, and to measure satisfaction with their care in nursing home facilities. The results of the assessment should be reported to the Legislative Committee on Health Care, which may review the findings and report its recommendation regarding such findings to the Interim Finance Committee. **(BDR R-483)**

7. Adopt a resolution encouraging the Bureau of Licensure and Certification, Health Division, Nevada's Department of Human Resources, to publish, at least annually, nursing facility survey results in a format that allows members of the general public to determine the quality of care that a facility provides to its patients. **(BDR R-487)**

8. Include a statement in the final report of the committee expressing the support of the committee that the Bureau of Licensure and Certification, Health Division, Department of Human Resources, give preference in hiring of nursing facility surveyors to those that have professional long-term care giver experience. The bureau should be encouraged to establish this hiring practice for all nursing facility surveyors hired after July 1, 1999.

9. Amend *Nevada Revised Statutes* (NRS) 449.0105, and NRS 449.249 through NRS 449.2496, inclusive, to delete the requirement that a home for individual residential care be permitted to register, and instead require that such a home be licensed as a medical or other related facility pursuant to this chapter. **(BDR 40-485)**

Long-term Care Insurance

10. Make an appropriation to the Committee on Benefits, Risk Management Division, Department of Administration, to purchase long-term care insurance coverage for current and retired state employees. Such coverage should include the following benefits:

- Adult day care;
- Alzheimer’s disease and other organic brain disorders;
- Bed holds for individuals in nursing homes (subject to limitation);
- Care advisor coordination (subject to limitation);
- Consumer choice of waiting periods;
- Daily benefit amounts and policy maximums that are flexible;
- Durable medical equipment (subject to limitation);
- Home and community-based care that includes all levels of care;
- Hospice care (subject to limitation);
- Hospitalization not required to access benefits;
- Inflation protection;
- Informal care (subject to limitation);
- No waiting periods or exclusions for preexisting conditions;
- Nursing home coverage that includes all levels of care;
- Policies that are guaranteed renewable for life;
- Premiums that are waived under certain circumstances; and
- Respite care (subject to limitation).

For active employees, the plan will: (a) meet expenses up to \$100 per day for nursing home, assisted living, or home care with no policy lifetime maximum and an elimination period of 90 days; (b) be guaranteed issue at standard rates for employees under age 65; and (c) be issued subject to underwriting approval at the appropriate rate class (preferred standard or two substandard classes) for employees 65 years of age and older. For retired employees between the ages of 65 and 85, the plan will: (a) meet expenses incurred for nursing home or assisted living for up to \$100 per day; (b) meet expenses incurred for home care, up to \$60 per day; (c) have a policy lifetime maximum benefit of \$109,500 with an elimination period of 90 days; and (d) be issued subject to underwriting approval at the appropriate rate class (preferred standard or two substandard classes) for retired employees 65 years of age and older or affiliated persons.

Such coverage shall qualify as a long-term care insurance product that enables a consumer to benefit from the tax implications contained in the Health Insurance Portability and Accountability Act of 1996 (*Public Law* 104-191). This will be a one-time appropriation after which time the Committee on Benefits must establish the level of participation required by active and retired state employees, and employees of participating public agencies. **(BDR 23-1131)**

HOSPICE AND PAIN MANAGEMENT ISSUES

11. Include a statement in the final report of the committee that encourages: (a) health care provider training programs in Nevada to add pain management courses to their curricula; (b) physicians to routinely record pain intensity levels on patients’ vital sign charts, when feasible; (c) physicians and other health care providers to make more frequent and earlier referrals to hospice care; (d) the Bureau of Licensure and Certification, Health Division, Department of Human Resources, to eliminate impediments that inhibit the ability of

organizations it regulates to deliver high quality hospice care in the home, and in home-like settings; and (e) a society that views death as part of life by educating the public about end-of-life decisions and creating a stronger awareness that all Nevadans have certain rights provided by law.

PHYSICAL FITNESS TRAINING PROGRAM FOR SENIOR CITIZENS

12. Include a statement in the final report of the committee that encourages certain entities to promote the benefits of a physical fitness training program for senior citizens. The recommendation asks that members and licensees of the following organizations be made aware of this program with the assistance of the American Association of Retired Persons: (a) the Aging Services Division, Department of Human Resources; (b) the Health Division, Department of Human Resources; (c) the University and Community College System of Nevada; (d) the State Board of Medical Examiners; (e) the State Board of Nursing; (f) the State Board of Physical Therapy Examiners; (g) the Great Basin Primary Care Association; (h) the Nevada Association of Health Plans; (i) the Nevada Association of Hospitals and Health Systems; (j) the Nevada Health Care Association; (k) the Nevada Nurses Association; (l) the Nevada Rural Hospital Association; (m) the Nevada State Medical Association; and (n) the public.

FEDERAL HEALTH CARE AND SOCIAL PROGRAM ISSUES

13. Include a statement in the final report of the committee and send a letter to Nevada's Congressional Delegation asking these members to introduce and/or support federal legislation to expedite eligibility determinations for individuals who apply to federally sponsored social welfare programs such as Medicare, Supplemental Security Income, and Social Security Disability Income. This action is needed to alleviate the financial, medical, and mental health burden on individuals who are waiting for benefits from these programs.
14. Include a statement in the final report of the committee and send a letter to Nevada's Congressional Delegation urging these members to introduce and/or support federal legislation that requires manufacturers of prescription drugs and pharmacists to label products, "STEROID," that contain any steroid ingredients. Also, the statement and letter should urge the Board of Medical Examiners and the State Board of Pharmacy to promote public awareness of the adverse effects of steroids in prescription medications. This campaign should emphasize that physicians and pharmacists adhere to manufacturer's recommendations for precautions and testing with regard to individual products.
15. Include a statement in the final report of the committee and send a letter urging Nevada's Congressional Delegation to encourage the administrator of the Health Care Financing Administration, United States Department of Health and Human Services, to expedite the adoption of regulations relating to Medicare and the coverage of diabetes.

MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAM ISSUES

Eligibility Determination and Outreach Activities

16. Provide, by statute, that the Division of Health Care Financing and Policy, Department of Human Resources, develop a single application to determine eligibility for the Medicaid and Nevada Check-Up programs. Additionally, the division should permit a worker who makes determinations for Medicaid eligibility to determine a person's eligibility for the Nevada Check-Up program. This legislation should be effective as of July 1, 1999. **(BDR 38-498)**
17. Provide, by statute, that the Department of Human Resources be prohibited from requiring that the personal assets of a person applying to the Child Health Assurance Program, Nevada Medicaid, be used to determine such person's eligibility for the program. **(BDR 38-489)**
18. Adopt a resolution directing the Department of Human Resources to comply with the Omnibus Budget Reconciliation Act of 1990, Section 1902(a)(55) of the Social Security Act, *Public Law 101-508*. Such compliance should include: (a) placing Medicaid eligibility workers at all federally qualified health centers and disproportionate share hospitals in the state; or (b) ensuring that appropriate staff at federally qualified health centers and disproportionate share hospitals are trained to perform Medicaid intake and that the health center or hospital is compensated by the department for the amount of time its staff spends conducting eligibility intake activities for the Medicaid program. **(BDR R-1132)**
19. Adopt a resolution directing the Department of Human Resources to contract with community-based organizations and essential community providers, as determined by the Department of Human Resources, for certain eligibility and outreach services in Nevada Check-Up, the children's health insurance program in the state. Criteria that is developed for the contractors should take into account: (a) the historical relationships that have been established with low-income families by these community-based organizations and essential community providers; (b) the strengths of the particular organizations or providers; and (c) the client demographics that determine whether outreach activities are appropriate in a particular area. Such contracts may be used for: (a) hiring full-time or part-time eligibility and outreach intake staff to work with families who potentially may be eligible for Nevada Check-Up, the children's health insurance program in the state; (b) funding to permit the agency to hire and train indigenous outreach workers who are paid by the hour to conduct specifically targeted outreach efforts in communities; (c) an administrative fee of \$25 for each child who is successfully enrolled in Nevada Check-Up paid to essential community providers; and (d) an administrative fee of \$25 for each child who is successfully enrolled in Nevada Check-Up paid to an agency, to use at its discretion, and to train volunteers to conduct limited outreach activities at locations the organizations or providers have designated that permit access to low-income families. **(BDR R-1133)**

20. Include a statement in the final report of the committee expressing the support of the committee to the Division of Health Care Financing and Policy, Department of Human Resources, to permit automatic enrollment in Nevada Check-Up, if the family applies to the program and pays the necessary fees, for all children who are eligible for the Women, Infants, and Children program, within the restrictions of relevant federal guidelines.
21. Include a statement in the final report of the committee and send a letter expressing the support of the committee that the Division of Health Care Financing and Policy, Department of Human Resources, adopt automatic assignment procedures for individuals who do not select a Medicaid managed care plan. The procedure should take into account the health care providers that have traditionally served such individuals.
22. Adopt a resolution that directs the Department of Human Resources to access the maximum amount of one-time funding at the enhanced federal financial participation rate of 90 percent, which is available to the state to complement the federal Temporary Assistance for Needy Families program. The funding should take the form of grants to community-based organizations. Such organizations will be required to submit plans designating their outreach strategies for persons who are no longer receiving Temporary Assistance for Needy Families cash assistance and others who potentially may be eligible to enable them to maintain Medicaid coverage for themselves and their children. **(BDR R-1134)**
23. Include a statement in the final report of the committee that expresses the support of the committee for the Department of Human Resources to access the maximum amount of funding available to the state through the federal Temporary Assistance for Needy Families to conduct its enrollment and outreach efforts for the Nevada Check-Up program, the children's health insurance program in the state, if such funding becomes available from the Federal Government.
24. Provide, by statute, that the Division of Health Care Financing and Policy, Department of Human Resources, facilitate the enrollment of Native American children in Nevada Check-Up by using tribal or other organizations that work collaboratively with Nevada tribes. Upon the qualification of eligible children, such children should be enrolled immediately, and Indian Health Service and tribal health clinics should be included in the provider networks that deliver services to these children. Further, amend Chapter 233A of NRS to create a Nevada Check-Up Indian Advisory Council as a subcommittee of the Nevada Indian Commission. The subcommittee will make recommendations to the commission, and the commission is required to take action on such recommendations by either approving or disapproving them. Upon approval of the recommendations, the commission shall advise the division of its concerns and offer solutions to resolve such issues related to Nevada Check-Up. The Advisory Council will consist of three members who are appointed by the commission. The appointed members need not be members of the commission. Members who serve on the Advisory Council serve without compensation, and the council should meet at least one time each year. **(BDR 38-495)**

Study Items

25. Provide, by statute, that the Division of Health Care Financing and Policy, Department of Human Resources, conduct a study of the advantages, disadvantages, cost, personnel, and financial arrangements that are needed for the state to adopt the federal option in Title XIX of the Social Security Act, which grants Medicaid coverage to individuals who are considered “medically needy” pursuant to the federal definition of this term. Among other things, the study will assess an incremental approach to this program by targeting persons who are disabled and who must wait for two years before they are eligible for Medicare coverage. The results of this study should be reported to the Legislative Committee on Health Care, which may review the study and report its recommendation regarding the study findings to the Interim Finance Committee. **(BDR S-488)**
26. Provide, by statute, that the Division of Health Care Financing and Policy, Department of Human Resources, conduct a study of the advantages, disadvantages, cost, and personnel needed to adopt the federal option in Title XIX of the Social Security Act, which grants presumptive eligibility to pregnant women and children. The study will assess the feasibility of presumptive eligibility determinations in both Medicaid and Nevada Check-Up. The results of this study should be reported to the Legislative Committee on Health Care, which may review the study and report its recommendation regarding the study findings to the Interim Finance Committee. **(BDR S-490)**
27. Provide, by concurrent resolution, that the Legislative Commission conduct an interim study of Medicaid managed care, including participants in the Child Health Assurance Program. The study must include an assessment of the impact upon recipients of the program for Temporary Assistance for Needy Families. Also, the study will address, among other things: (a) the quality of health care provided to participants; (b) whether participants are able to access specialist providers and, if so, if patients are seen in a timely fashion; (c) whether participants are required to visit health care providers that are located in their immediate geographic areas; (d) whether participants are able to receive prescription medications in a timely fashion; (e) whether participant complaints are resolved, and in what fashion they are resolved; (f) whether the Division of Health Care Financing and Policy, Department of Human Resources, conducts a timely analysis of its utilization data, including whether essential community providers are harmed by the shift to managed care; and (g) any other criteria that will enable the Legislature to determine whether the managed care program is appropriately serving participants and is permitting the state to adequately control the Medicaid budget. Finally, as part of the study, the interim committee must define “essential community provider.” **(BDR R-493)**
28. Appropriate funds to the Legislative Committee on Health Care for a consultant to conduct a feasibility study to determine whether Nevada’s Department of Human Resources could implement a cost-efficient evaluation of the quality of care it delivers to Medicaid recipients who are not in a managed care program. The study will: (a) assess methods to produce regular evaluations of quality assurance; (b) consider available evaluation tools in both the

public and private sectors to assess the satisfaction of services delivered in Medicaid to persons who are aged and/or disabled; (c) consider existing data requirements of health care providers, licensed health care facilities, and managed care organizations in the current delivery system; and (d) make recommendations that will improve the ability of the department to conduct regular evaluations. The consultant shall report his progress in both a verbal and written report at each meeting of the Legislative Committee on Health Care, and he shall complete his findings by June 1, 2000. (BDR S-1126)

Quality Assurance Issues

29. Include a statement in the final report of the committee expressing that the committee supports implementing the Quality Assurance Measures for Children with Special Health Care Needs of the federal Maternal and Child Health Bureau in the Medicaid and Nevada Check-Up managed care programs, which are administered by the Division of Health Care Financing and Policy, Department of Human Resources.
30. Include a statement in the final report of the committee and send a letter to the chairmen of the Senate Committee on Finance and Assembly Committee on Ways and Means of the 1999 Legislature urging their support of the efforts of the Division of Health Care Financing and Policy, Department of Human Resources, for a sufficient number of technical consultants (or agency staff), and adequate computer hardware and software systems that will enable the division to perform timely analysis of encounter data for its managed care programs. Analysis of encounter data will enable the division to determine whether its health care programs are being utilized in an efficient and effective manner.

Program Coordination

31. Include a statement in the final report of the committee expressing that the committee supports coordinating program resources in the Department of Human Resources for children with chronic and disabling conditions. Such coordination would be helpful for children who have a need for program services that are beyond those offered in the Nevada Check-Up program, which is administered by the Division of Health Care Financing and Policy, Department of Human Resources.

Personal Care Services

32. Adopt a resolution that directs Nevada's Department of Human Resources to fully utilize personal care services for persons who receive Medicaid services, including the disabled. The resolution will: (a) stress the importance of providing services to a person in his home and in the community; (b) direct the department to develop a "client driven" approach to care for individuals who are disabled and using Medicaid services; (c) strongly encourage the department to promote personal care services for individuals as an alternative to hospitals and nursing homes, whenever feasible; (d) direct the department to develop solutions for the industrial insurance problem for individuals who act as personal care attendants;

(e) encourage the department to develop contract penalties for individuals and agencies that provide personal care attendant services and who fail to uphold the terms of their contracts; (f) direct the department to equalize the care and payment rates provided by personal care attendants and other noncertified or nonlicensed personnel with that of certified nursing assistants, including homemakers, to encourage private sector provision of such home delivered services; (g) encourage the department to decrease its reliance on providing state supported staff to provide any type of home delivered service for individuals in the state; (h) direct the department to use the criteria established in *Nevada Revised Statutes* 629.091 to recognize when a person is capable of providing personal assistant services and prohibit the department from establishing more stringent qualifications for a person to perform such services; and (i) direct the department to submit a budget to the following session of the Nevada Legislature that supports personal care services. The department shall report its progress quarterly in a written report to the chairman of the Legislative Committee on Health Care beginning September 1, 1999. **(BDR R-1125)**

Increasing Access to Medicaid Waiver Services

33. Adopt a resolution that directs Nevada's Department of Human Resources to increase access to and flexibility in its Medicaid waiver programs. The department should: (a) take efforts to eliminate waiting lists in waiver programs; (b) streamline the process of determining eligibility for waiver services; and (c) conduct regular evaluations to assess the satisfaction of clients who apply to waiver programs and who receive waiver services. The department shall report its progress quarterly in a written report to the chairman of the Legislative Committee on Health Care beginning September 1, 1999. **(BDR R-1127)**

Changing the Eligibility Level of Medicaid to 250 Percent of the Federal Poverty Level

34. Adopt a resolution that directs the Department of Human Resources to adopt the option in the Balanced Budget Act of 1997 to increase the income eligibility level for certain Medicaid applicants to 250 percent of the federal poverty level. **(BDR 38-1128)**

Alternative Living Arrangements

35. Adopt a resolution that directs the Department of Human Resources to permit an individual who is eligible for Medicaid and Medicaid waiver services to be placed in an assisted living facility when circumstances warrant such a placement. Further, the department must develop regulations, if feasible, to allow a facility that is not currently regulated in the state to participate as a Medicaid provider within the parameters of available options to do so as developed by the Health Care Financing Administration, United States Department of Health and Human Services. **(BDR R-1137)**

Establishing a Medicaid “Buy-in” Program

36. Adopt a resolution directing the Department of Human Resources to establish a Medicaid buy-in program in Nevada for individuals who currently meet the eligibility requirements of Medicaid and who become employed while receiving Medicaid benefits. The buy-in program must: (a) use a sliding-fee scale to determine the premium payment for each person who chooses to pay into the program; and (b) be cost neutral to the Medicaid budget. **(BDR 38-1129)**

“Aging in Place” Issue

37. Adopt a resolution directing Nevada’s Department of Human Resources to conduct a comprehensive evaluation of programs to promote aging in place for persons who are aged or disabled in Nevada. The evaluation must: (a) analyze the model that is the Program for All Inclusive Care of the Elderly and establish a system that incorporates its principles for care of the elderly in the state. This recommendation does not require the department to pursue the model demonstration program administered by the Health Care Financing Administration; (b) consider methods for the department to equalize the payment structure for home health services between the Medicaid and Medicare programs to decrease any disincentive to provide home health services to the Medicaid population; and (c) consider the implications of including medical social work as a Medicaid benefit. The department shall report its progress quarterly in a written report to the chairman of the Legislative Committee on Health Care beginning September 1, 1999. **(BDR R-1130)**

GENERAL HEALTH RELATED ISSUES

38. Provide an appropriation to the University of Nevada School of Medicine to establish a multidisciplinary diabetes care program for children and adolescents in Nevada who have Type I and Type II diabetes. The program must be established in partnership with Sunrise Medical Center and the University Medical Center of Southern Nevada. The program must include direct funding for two pediatric endocrinologists, two diabetologists, one nurse who is certified in diabetes education, a dietician, and a social worker. Funding for the program will come from the State General Fund for the first two years after which time the program must be funded entirely from donations and grants. The program will be authorized to submit bills for its expenses to health insurance plans for care provided to patients that have such insurance. **(BDR S-487)**
39. Provide, within statute, that the Division of Insurance, Department of Business and Industry, establish a managed care ombudsman program for participants in health insurance plans in Nevada. The ombudsman shall be independent of managed care organizations or insurers that are licensed in Nevada. The proposal will require the commissioner to establish the office of the health care ombudsman by contract with any nonprofit organization. The office will be administered by the state health care ombudsman, who must be an individual with expertise and experience in the fields of health care and advocacy.

- a. The health care ombudsman office must: (1) assist health insurance consumers with health insurance plan selection by providing information, referral, and assistance to individuals about means of obtaining health insurance coverage and services; (2) assist health insurance consumers to understand their rights and responsibilities under health insurance plans; (3) provide information to the public, agencies, legislators, and others regarding problems and concerns of health insurance consumers and make recommendations for resolving those problems and concerns; (4) identify, investigate, and resolve complaints on behalf of individual health insurance consumers and assist those consumers with the filing and pursuit of complaints and appeals; (5) analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies relating to health insurance consumers, and recommend changes it deems necessary; (6) facilitate public comment on laws, regulations, and policies, including policies and actions of health insurers; (7) promote the development of citizen and consumer organizations; (8) ensure that health insurance consumers have timely access to the services provided by the office; and (9) submit to the Legislature and to the Governor on or before January 1 of each year a report on the activities, performance, and fiscal accounts of the office during the preceding year.
- b. The state health care ombudsman may: (1) hire or contract with persons to fulfill the purposes of this chapter; and (2) review the health insurance records of a consumer who has provided written consent. Based on the written consent of the consumer, the consumer's guardian or legal representative, a health insurer should be required to: (1) provide the state ombudsman access to records relating to that consumer; (2) pursue administrative, judicial, and other remedies on behalf of any individual health insurance consumer, or group of consumers; (3) delegate to employees and contractors of the ombudsman any part of the state ombudsman's authority; (4) adopt policies and procedures necessary to carry out the provisions of this chapter; and (5) take any other actions necessary to fulfill the purposes of this chapter.
- c. All state agencies will be required to comply with reasonable requests from the state ombudsman for information and assistance. The division may adopt rules necessary to assure the cooperation of state agencies under this section.
- d. In the absence of written consent by a complainant or an individual utilizing the services of the office, or his or her guardian or legal representative, or by court order, the state ombudsman, its employees, and contractors must not disclose the identity of the complainant or individual.
- e. The state ombudsman, its employees, and contractors may not have any conflict of interest relating to the performance of their responsibilities under this chapter. For purposes of this section, a conflict of interest exists whenever the state ombudsman, its employees, contractors, or a person affiliated with the state ombudsman, its employees, and contractors: (1) have direct involvement in the licensing, certification, or accreditation of a health care facility, health insurer, or a health care provider;

- (2) have a direct ownership interest or investment interest in a health care facility, health insurer, or a health care provider; (3) are employed by, or participating in the management of a health care facility, health insurer, or a health care provider; or (4) receive or have the right to receive directly or indirectly, remuneration under a compensation arrangement with a health care facility, health insurer, or health care provider.
- f. The state ombudsman will be able to speak on behalf of the interests of health care and health insurance consumers, and to carry out all duties prescribed in this chapter without being subject to any disciplinary or retaliatory action. Nothing in this section shall limit the authority of the commissioner to enforce the terms of the contract.

Health care ombudsman implementation report. The administrator and the health care ombudsman shall report to the Interim Finance Committee and the Legislative Committee on Health Care on or before September 15, 1999, and periodically thereafter at the request of either committee. The report must provide the committee with an update on the status of implementation of the health care ombudsman program together with a description of the manner in which the health care ombudsman is, and should be in the future, coordinating his or her activities with existing ombudsman programs such as the Division of Aging, Department of Human Resources. **(BDR 18-492)**

- 40. Provide, within statute, for the establishment of a Division of Minority Health within Nevada's Department of Human Resources. The mission of the division will be to: (a) assume a leadership role in working or contracting with federal and state agencies, the state's university and community college system, private interest groups, local communities, private foundations, and other states' organizations of minority health to develop minority health initiatives, including bilingual communications; and (b) maximize the use of existing resources without duplicating existing efforts.

The duties of the division will be to: (a) provide a central information and referral source and serve as the primary state resource in coordinating, planning, and advocating access to minority health care services in Nevada; (b) coordinate conferences and other training opportunities to increase skills among state agencies and government staff in management and in the appreciation of cultural diversity; (c) pursue and administer grant funds for innovative projects for communities, groups, and individuals; (d) provide recommendations and training in improving minority recruitment in state agencies; (e) publicize minority health issues through the use of the media; (f) network with existing minority organizations; (g) solicit, receive, and spend grants, gifts, and donations from public and private sources; and (h) contract with public and private entities in the performance of its responsibilities.

The division will be funded from "stimulus funds" of state agencies with which the organization has established relationships and unobligated and unexpended federal funds and state appropriations. "Stimulus funds" would be derived from 2 percent of the funding used by state agencies that provide health and social services to minorities. "Stimulus funds" may

appear in one of four forms: (a) appropriated federal funds that are spent at the discretion of the division, or are spent on specific activities within the scope of a project of the state agency receiving the federal dollars, which are passed through to the division (e.g., Centers for Disease Control funds for the prevention of Human Immunodeficiency Virus [HIV] would be targeted to the division's efforts to address HIV primary and secondary prevention in minorities); (b) state of the art equipment and supplies assigned from the purchasing pools of other agencies to the division, subject to the same provisions as item one; (c) full-time equivalencies from respective agencies (in full or part); and (d) State General Fund dollars appropriated directly to the division, or moved to the division from another state agency receiving these funds.

After the first two years of operation, the appropriate minimum level of ongoing support from the State General Fund for the division must be determined, and patterns of revenue/grant dollar sharing between the division and other agencies must be established. Moreover, mechanisms to assume unobligated and unexpended federal funds and state appropriations from partner agencies must be firmly in place.

Further, the division will submit a biennial report, not later than March 1 of each odd-numbered year, to the Legislature regarding its activities, findings, and recommendations related to minority health issues.

Executive Director: Appointment; qualifications; classification; restrictions on other employment. The division will have an executive director who will be appointed by the Governor. The qualified person must have successful experience in the administration and promotion of a program comparable to that provided by this proposal. The executive director of the division is in the unclassified service of the state. Except as otherwise provided in the *Nevada Revised Statutes*, the executive director of the division shall devote his entire time to the duties of his office and shall not follow any other gainful employment or occupation.

Executive Director: Duties. The executive director of the division will: (a) be jointly responsible to the Governor and the Legislature; (b) direct and supervise all the technical and administrative activities of the division; (c) attend all advisory committee meetings and act as secretary, keeping minutes of the proceedings; (d) report to the Governor and Legislature all matters concerning the administration of the office; (e) request the advice of the advisory committee regarding matters of policy, but be responsible, unless otherwise provided by law, for the conduct of the administrative functions of the division; (f) compile, with the approval of the advisory committee for submission to the Governor and Legislature, a biennial report regarding the work of the division and such other matters as he may consider desirable; (g) serve as contracting officer to receive funds from the Federal Government or other sources for such studies, grant and funding initiatives, and community-based program activities as the division deems necessary; (h) attend all meetings of any special study committee appointed by the Governor or conceived by the Legislature pursuant to this act and act as secretary, keeping minutes of the proceedings; and (i) perform

any lawful act which he considers necessary or desirable to carry out the purposes and provisions of this chapter.

Executive Director: Appointment of staff. The executive director of the division may appoint such professional, technical, clerical, and operational staff as the execution of his duties and the operation of the division may require. At minimum, the division must be comprised of a professional staff liaison, a budget analyst, and a management assistant. The "professional staff liaison" shall be responsible to maintain active communication between the division and members of the minority communities, state and local government programs serving these communities, and community-based nonprofit providers of services to minorities. The "budget analyst" must be able to interact with other state agency personnel to develop financial and program resources for the division, monitor grants and contracts with local agencies and organizations, and, as directed by the executive director, monitor and manage the fiscal matters of the division, including the managing and processing of service and travel reimbursements to members of the advisory committee. The "management assistant" will be the office manager of the division, and must conduct all business to maintain the efficient operation of the division's clerical and support duties, including the hiring of appropriate support staff to meet division needs, as well as the orderly interaction of the division with the public, other state and local agencies, the Office of the Governor, and the Legislature.

The oversight committee shall be comprised of a minimum of 15 members to be appointed by the Governor to renewable two-year terms. The chairman of the committee must be elected by the members at its first meeting of each new year. Four members each of the committee shall be comprised of persons who are representatives of the following groups: African American, Asian/Pacific Islander, Hispanic, Native American, and Philippine. The members shall represent a geographic cross section of these groups in Nevada. One member shall be appointed by the Nevada State Senate and the Nevada State Assembly, respectively. One member shall be appointed by the Governor. The duties of the committee will be to: (a) advise, generally, and assist the organization on achieving its mission; (b) promote health and the prevention of disease among members of minority groups; (c) review special initiative funding provided by the organization to community-based public and private programs serving the health and disease prevention needs of minorities; (d) consolidate policy development and public initiative activities; and (e) approve all public reports developed by the division for distribution to the Federal Government, the Governor, or the Legislature.

Salary and expenses of advisory committee members; payment of claims. Advisory committee members who are not in the regular employ of the state are entitled to receive a salary of not more than \$80, as fixed by the commission, for each day spent on the work of the advisory committee. Advisory committee members who are in the regular employ of the state shall serve without additional salary. While engaged in the business of the advisory committee, each member and employee of the division is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Claims for payment of all expenses incurred by the advisory committee, including the salaries and expenses of its members, must be made on vouchers and paid as other claims against the state are paid.

Powers of advisory committee. The advisory committee may develop subcommittees of the advisory committee and its membership may include noncommittee members whenever necessary or appropriate to assist and advise the advisory committee in the performance of its duties and responsibilities under this act. **(BDR 18-494)**

BULLETIN 99-13

**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 P. M. "Roy" Neighbors
R. Lee Chapman, Elko County Commissioner

Alternates

Assemblyman John C. Carpenter
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NEVADA REVISED STATUTES

LEGISLATIVE COMMITTEE ON PUBLIC LANDS

NRS 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 are set forth in Chapter 218 of the *Nevada Revised Statutes*. Created in 1983, this body is responsible for reviewing and commenting on proposed and existing laws and regulations that affect the 61 million acres of federally managed lands in Nevada. The committee also provides a forum for the discussion of public lands matters with federal, state, and local officials; representatives of special interest organizations; and other interested individuals.

A report of the committee's activities during the 1997-1998 interim period has been prepared. This document reviews public lands legislation passed during the 1997 Nevada Legislative Session and summarizes the topics considered and acted upon by the committee during the 1997-1998 legislative interim. The Legislative Committee on Public Lands held a total of seven regular meetings throughout Nevada and traveled twice to Washington, D.C., to meet with various elected officials, congressional staff, and federal agency officials involved in public lands policy matters.

The committee considered or discussed over 55 public lands-related issues during its nine meetings. Topics of particular interest during this interim period included: Bureau of Land Management activities; county and city public land issues; elk management issues; the Endangered Species Act; federal legislation regarding public lands and natural resources; United States Forest Service activities; grazing; the Humboldt River Basin; interbasin transfer of water; the Interior Columbia Basin Ecosystem Management Project; military issues; mining; the *Nevada Statewide Policy Plan for Public Lands*; noxious weed abatement; public/private land exchanges; recreational opportunities; regional haze regulations; vehicle access and right-of-way issues on public lands; water issues; wild horses and burros; and wilderness issues.

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 six bills and resolutions for consideration by the 1999 Nevada Legislature. The subjects of these requests concern the interbasin transfer of water, noxious weed abatement, the U.S. Environmental Protection Agency's proposed regional haze regulations, payments in lieu of taxes (PILT), and federal land management and planning. In addition, the members approved one committee resolution and voted to send several letters regarding many public lands-related topics to Nevada's Congressional Delegation, various standing committees of the Nevada Legislature, and to a number of federal and state agencies.

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE ON PUBLIC LANDS (NRS 218.5363)

This summary presents the recommendations approved by Nevada's Legislative Committee on Public Lands during the 1997-1998 legislative interim and at its final meeting on October 23, 1998, in Reno. The corresponding bill draft request (BDR) number follows each recommendation for legislation.

RECOMMENDATIONS FOR LEGISLATION

1. Enact legislation regarding the interbasin transfer of water. In particular, Nevada's Legislative Committee on Public Lands recommends that the Nevada Legislature **(BDR 48-922)**:
 - a. Include, in legislation pertaining to the interbasin transfer of water, a provision stipulating that a pending application for the interbasin transfer of groundwater not approved or rejected by the State Engineer within five years from the final action date for filing protests, be subordinated to a subsequently filed application(s) for groundwater use in the basin of origin, except where relevant court actions are pending;
 - b. Include, in legislation pertaining to the interbasin transfer of water, a provision stipulating that the State Engineer must reject an application for water if the approval of the application would be inconsistent with the protection of the identified water needs for current and future development in the basin of origin; and
 - c. Include in legislation pertaining to the interbasin transfer of water that consideration for approval or rejection of groundwater applications must be given to factors including, but not limited to, the economy, environment, and quality of life in the basin of origin.
2. Enact legislation creating and funding the position of a scientist in Nevada's Division of Agriculture to address noxious and invasive weed issues in Nevada. The funding request shall be an annual legislative appropriation of \$66,000. The legislation shall state that the scientist's duties include **(BDR 49-923)**:
 - a. Investigating the available biological control agents designed to control invasive and noxious weeds;

- b. Documenting the effectiveness of these agents in the control of invasive plants and noxious weeds; and
 - c. Developing strategies for the management of noxious weeds in the state.
3. Express strong disapproval, by resolution, of the United States Environmental Protection Agency's Proposed Regional Haze Regulations, by expressing disappointment with the unrealistic nature of the regulations and emphasizing the financial burdens that compliance with the regulations would place on Nevada. The resolution shall encourage productive communication between federal land managers (agencies), state agencies, the mining industry, the utility industry, and others in addressing air quality issues. **(BDR R-921)**
4. Urge, by resolution, Nevada's Congressional Delegation to introduce legislation providing for the disposal of public lands in central and northern Nevada in a manner similar to the manner provided in the Southern Nevada Public Land Management Act of 1998. **(BDR R-920)**
5. Express support, by resolution, for payments in the form of land under the federal Payment in Lieu of Taxes (PILT) program. **(BDR R-919)**
6. Urge, by resolution, Nevada's Congressional Delegation to request federal legislation amending the Federal Land Policy and Management Act of 1976 (FLPMA) to require the Secretaries of Agriculture and the Interior to identify and map certain rights-of-way across land administered by the Federal Government. **(BDR R-918)**

RECOMMENDATIONS FOR COMMITTEE ACTION

The members of Nevada's Legislative Committee on Public Lands voted to adopt the following committee resolution:

7. *Resolution No. 98-1* urges the U.S. Congress to enact legislation terminating the Interior Columbia Basin Ecosystem Management Project (ICBEMP) and to "refrain from any further appropriation of money to federal agencies for the project." This resolution was filed with the ICBEMP project office to serve as an official comment from the committee on the project.

The members of Nevada's Legislative Committee on Public Lands voted to send the following letters to:

8. Nevada's U.S. Senators Richard H. Bryan and Harry Reid urging support for H.R. 2493, the Forage Improvement Act of 1997;

9. The Chairmen of the Senate Committee on Finance and the Assembly Committee on Ways and Means requesting consideration of BDR No. 524, which makes a \$250,000 appropriation from the State General Fund to the Humboldt River Basin Water Authority for the study of water management opportunities within the Humboldt River Basin;
10. The Bureau of Land Management (BLM), the United States Forest Service (USFS), and the Lincoln County Board of Commissioners supporting a Lincoln County resolution calling for a “demonstration project for harvesting the pinyon juniper woodland” in certain areas of Lincoln County;
11. Nevada’s Congressional Delegation, the Chairmen of the U.S. Senate Committee on Energy and Natural Resources and the U.S. House of Representatives Committee on Resources, the Secretaries of the Departments of Agriculture and Interior, the Chief of the USFS, and the Director of the BLM, expressing support for a request from the Nevada Miners and Prospectors Association to amend FLPMA to require the Secretaries of Agriculture and the Interior to identify and map certain rights-of-way across land administered by the Federal Government;
12. The Council of State Governments-West (CSG-West), encouraging the Public Lands Policy Committee of the CSG-West to create a forum before which public lands matters critical to the western United States can be addressed and from which a regionwide platform on these issues will emerge. One anticipated goal of this forum will be to define a “plate” of issues that will serve as a means to introduce legislation in the U.S. Congress that addresses concerns regarding federal air, land, and water in the West;
13. The appropriate chairmen of the legislative committees initially hearing BDR 18-102 during the 1999 Legislative Session. The BDR proposes to reestablish Nevada’s Division of Agriculture and Nevada’s Division of Minerals as state agencies;
14. The Budget Division of Nevada’s Department of Administration and the Chairmen of the Senate Committee on Finance and the Assembly Committee on Ways and Means supporting the Division of Water Resources’ request for two additional staff positions;
15. Nevada Governor Robert J. (Bob) Miller, the Budget Division of Nevada’s Department of Administration, and the Chairmen of the Senate Committee on Finance and the Assembly Committee on Ways and Means expressing support for a Division of State Lands budget request to continue funding for a federal lands planner employed in the division;
16. The appropriate chairmen of the legislative committees initially hearing BDR 26-521 during the 1999 Legislative Session. The BDR, submitted by the Nevada Association of Counties, proposes to amend *Nevada Revised Statutes* 321.739 by revising the provisions regarding governmental land transfers and related losses to county tax base;

17. The Secretaries of the Departments of Agriculture and Interior, the Director of the BLM, and the Chief of the USFS, requesting clarification of the term “environmentally sensitive lands” found in some federal laws and legislation;
18. The BLM, USFS, and other federal agencies involved in the flood control projects in the Pahrump Valley in southern Nevada, expressing support for flood mitigation efforts in the mountains surrounding the town of Pahrump;
19. The appropriate chairmen of the legislative committees initially hearing BDR No. 48-7 during the 1999 Legislative Session expressing support for the request. This BDR proposes to amend Nevada law regarding the interbasin transfer of water in a similar manner to BDR No. 48-922, which was sponsored by the Legislative Committee on Public Lands;
20. The Chairman of the Legislative Commission addressing the appointment of alternates to the Legislative Committee on Public Lands;
21. The Chairman of the Legislative Commission requesting funding for a total of ten meetings of the Legislative Committee on Public Lands during the 1999-2000 interim. Currently, the committee holds nine meetings during each legislative interim; and
22. The Chairman of the Legislative Commission urging the establishment and construction of a map room in the Legislative Building to house and display state and county maps for reference by legislators, staff, and the public.

BULLETIN 99-14

**LEGISLATIVE COMMITTEE ON
WORKERS' COMPENSATION**

NRS 218.5375

Members

Senator Ann O'Connell, Chair
Assemblyman Lynn C. Hettrick, Vice Chair
Senator Kathy Augustine
Senator Raymond C. Shaffer
Senator Randolph J. Townsend
Assemblywoman Sandra Krenzer
Assemblyman Dennis Nolan
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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 (Sections 119 through 123 of Chapter 587, *Statutes of Nevada 1995*, at pages 2162-2164). This legislation, as amended by Assembly Bill 609 (Section 61 of Chapter 410, *Statutes of Nevada 1997*, at page 1449), 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 and (b) determine the extent of any apparent insolvency of the system;
5. May conduct investigations and hold hearings in connection with carrying out its duties pursuant to this section; and
6. May direct the Legislative Counsel Bureau to assist in its research, investigations, hearings and reviews.

Committee membership is made up of four members of the Senate and four members of the Assembly. Members of the Committee shall elect a chair and vice chair from their members. This statutory committee is required to meet at least quarterly.

During the 1997-1998 interim, representatives of the Division of Insurance, the Division of Industrial Relations, the Employers Insurance Company of Nevada (EICON) (formerly the State Industrial Insurance System), the insurance industry, business, self-insured employers, and associations of self-insured employers testified before the Committee and focused on the implementation of three-way insurance, and the regulation of insurers and insurance products in the competitive three-way workers' compensation marketplace. Three-way insurance will allow the introduction of private insurance carriers into the workers' compensation market beginning July 1, 1999.

The Committee held ten public hearings between September 1997 and November 1998. The committee adopted 47 specific recommendations. The recommendations approved by the Committee addressed issues in the following primary areas:

1. Three-way workers' compensation insurance;
2. Regulation of the Employers Insurance Company of Nevada and private carriers under three-way insurance;
3. Owner-controlled insurance programs, which are specialized insurance agreements used for large construction projects;
4. Benefits and administration of the workers' compensation system, including recommendations relating to benefits to injured workers, the hearings and appeals process, fraud, and the subsequent injury funds;
5. Qualifications of associations of self-insured employers;
6. Coverage for heart and lung disease for retired police officers and firefighters;
7. Coverage for correctional officers who are exposed to contagious disease;
8. Permanent total disability; and
9. Subrogation of insurer to rights of injured employees.

Among the Committee's recommendations are several that address the regulation of Employers Insurance Company of Nevada under three-way insurance. The Committee approved recommendations which address the application of and exemption from certain provisions of the *Insurance Code* (Title 57 of *Nevada Revised Statutes*) to EICON. In addition, the Committee approved recommendations regarding the confidentiality of information, exemption of EICON from the State Personnel Act, and the ability of EICON to form alliances with private carriers and market other lines of insurance. The Committee also approved recommendations pertaining to the review of EICON's Account of Current Claims and Account of Extended Claims by the Commissioner of Insurance and the Legislature. Furthermore, the Committee recommended legislation to create a board of directors for EICON.

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)

This summary presents the recommendations approved by the Legislative Committee on Workers' Compensation. The Committee submits these proposals to the 70th Session of the Nevada Legislature.

THREE-WAY WORKERS' COMPENSATION INSURANCE

1. Enact legislation to expand the types of employer groups who can pool and allow private carriers to offer fully insured workers' compensation coverage to employer pools or groups. **(BDR 53-379)**
2. Amend *Nevada Revised Statutes* 616A.485 to provide that the books, records, and payrolls of an employer insured by a private carrier must be open to inspection by the private carrier providing workers' compensation insurance to that employer. Pursuant to NRS 616A.485, the Employers Insurance Company of Nevada (EICON) and the Division of Industrial Relations (DIR) currently have access to the books, records, and payroll of the employers. **(BDR 53-379)**
3. Amend NRS 616B.460 to change the requirement for an insurer to notify DIR of changes in the insurance status of employers from the current 24 hours to 15 days. **(BDR 53-379)**
4. Amend NRS 686B.1779 to clarify that the effective date of the competitive rating schedule is July 1, 2003, and not July 1, 1999. **(BDR 57-381)**
5. Amend subsection 6 of NRS 616B.012 to state the Administrator of DIR shall provide lists containing the names and addresses of employers or any other records he maintains (or the division is required by law to maintain) and the total wages paid by each employer to the Department of Taxation, upon request, for its use in verifying returns for the business tax. The Administrator may charge a reasonable fee to cover any related administrative expenses. **(BDR 53-694)**
6. For the information system being developed for three-way insurance, enact legislation to allow DIR to collect only basic claims information from associations of self-insured employers, EICON, private carriers, and self-insured employers. Specify that in carrying out its general responsibilities and regulatory activities, DIR may at a maximum collect only that information which is currently collected by DIR or EICON. The frequency of the requirement to report this information must be the same for associations of self-insured employers, EICON, private carriers, and self-insured employers. **(BDR 53-696)**

7. Amend subsection 1(b) of NRS 616C.175 by deleting the phrase “which aggravates, precipitates or accelerates his preexisting condition,” and changing the term “primary cause” to “preponderant cause.” Also amend subsection 2(b) of NRS 617.366 by changing the term “primary cause” to “preponderant cause.” **(BDR 53–386)**

**REGULATION OF EMPLOYERS INSURANCE COMPANY OF NEVADA
AND PRIVATE CARRIERS UNDER THREE-WAY INSURANCE**

Application of Certain Provisions of the *Insurance Code*

8. Make the following provisions of NRS specifically applicable to EICON **(BDR 53–396)**:
 - a. Provisions of Chapter 686A of NRS regarding fair trade practices;
 - b. NRS 616B.472 which provides that the Commissioner of Insurance may suspend the authority of an insurer to provide industrial insurance;
 - c. Provisions of Chapter 683A of NRS which require the use of licensed insurance agents to market and sell workers’ compensation insurance; and
 - d. NRS 679B.158 for the portion of the assessment which supports investigations and examinations to investigate fraud and ensure compliance with the fair trade practices act.
9. Specify that Chapter 686A of *Nevada Revised Statutes* is the exclusive jurisdiction of the Commissioner of Insurance, except to the extent it may affect DIR’s responsibility to regulate the payment of workers’ compensation benefits to claimants. Clarify that the authority of DIR in the area of claims practices specifically relates to the responsibility of insurers to pay benefits to injured workers. **(BDR 53–396)**

Confidentiality of Information

10. Amend NRS regarding the confidentiality of information of EICON **(BDR 53–382)**:
 - a. Make applicable to EICON the portions of Title 57 of NRS (the *Insurance Code*) relating to the confidentiality of information so that EICON and private carriers are subject to the same standards of confidentiality under three-way insurance; and
 - b. Enact legislation requiring EICON to open its records to the same extent as any other insurer. An exception would be provided to make information available to the Legislature.

Exemption from Certain Provisions of the *Insurance Code*

11. Specifically exempt all insurers who provide workers' compensation, including EICON, from NRS 680A.140, which requires an insurer to deposit cash or securities in order to be authorized to transact insurance in Nevada. This exemption would specifically relate to the provision of workers' compensation insurance and not other lines of insurance. **(BDR 57–396)**
12. Specifically exempt EICON from the following provisions of Title 57 of NRS **(BDR 57–396)**:
 - a. NRS 680A.060 stating that an insurer must have a certificate of authority to transact insurance in Nevada;
 - b. Subsection 1(a) of NRS 680A.180 and subsection 1(c) of NRS 680B.010 requiring an insurer to pay an annual continuation fee;
 - c. Subsection 1 of NRS 680A.250 stating that an insurer must appoint the Commissioner as its attorney to receive service of legal process before the Commissioner may authorize that insurer to transact insurance in Nevada; and
 - d. NRS 692C.260 and NRS 692C.270 requiring each insurer which is a member of an insurance holding company system to register with the Commissioner.

Exemption of EICON from the State Personnel Act

13. Enact legislation to exempt EICON from the State Personnel Act effective no later than July 1, 1999. Employees of EICON would have the option to remain in the State Personnel System or to select to become subject to a new comprehensive personnel system developed by EICON. **(BDR 53–382)**

Ability of EICON to Offer Other Lines of Insurance

14. Clarify NRS to allow EICON to form alliances with private carriers for the purpose of marketing other lines of insurance, so long as EICON does not take on the financial liability for any line of insurance other than workers' compensation. **(BDR 53–382)**

Review of EICON Claims by the Commissioner of Insurance and the Legislature

15. Amend subsection 2(a) of NRS 616B.083 to require EICON to report to the Commissioner of Insurance its financial statement and results of operations for the account for current claims in accordance with those accounting principles that are prescribed by the Commissioner and applied to other insurers providing coverage for workers' compensation and report to the Commissioner its financial statement and results of operations for the account for current

claims and the account for extended claims in accordance with generally accepted accounting principles in a fiscal year basis. **(BDR 53–382)**

16. Enact legislation to require EICON to report annually to the Legislative Committee on Workers' Compensation on the status of the \$650 million account for extended claims. Require that the report include the financial status of the account, the payments made for claims against the account, investment income, and projections of the adequacy of the account to cover claims incurred prior to July 1, 1995. **(BDR 53–382)**

Board of Directors

17. Enact legislation to create a board of directors for EICON, structured as follows **(BDR 53–393)**:
 - a. Employers Insurance Company of Nevada shall be under the direct supervision of a board of directors composed of nine members, each of which shall be a policyholder or an employee of a policyholder of EICON. The members of the board may not hold legislative or judicial positions in government. The board of directors shall consist of three members appointed by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate; three members appointed by the Speaker of the Assembly in consultation with the Minority Leader of the Assembly; and three members appointed by the Governor.
 - b. Board members shall serve for a term of four years and shall not be permitted to serve for more than two successive terms of appointment, except in the first year of the enactment of this law in which case one member from each class of appointments shall serve for two years and one member shall serve for six years. The original terms of appointment should be staggered with no board member serving less than two years. After the stagger is accomplished, no term should be for less than four years.
 - c. The term of each regular appointment shall commence on July 1 of the appointment year and expire on June 30 following four years of service.
 - d. Vacancies on the board amongst members appointed by the Legislature shall be filled by the Legislative Commission. Such appointments shall be for the remaining term of the vacancies, thereby preserving the staggered terms of the board members.
 - e. Service as a member of the board appointed by the Legislative Commission shall not be considered a term of appointment for the purposes of the limitation of two terms.
 - f. The board shall meet at least quarterly.

- g. The duties of the board shall be those prescribed in Chapters 616A through 616D, inclusive, and 617 of NRS. The board may adopt rules and procedures, not inconsistent with the law, as required for the conduct of its business. Any regulations adopted by the board shall be in compliance with Chapter 233B of NRS.
 - h. Board members shall be compensated by EICON for meetings at a rate of not less than \$80 per meeting day plus travel and per diem expenses. The board may set a rate of compensation for its members greater than \$80 per meeting day.
 - i. The board shall elect a chairman from amongst its members. The chairman shall serve for a term of one year and shall not be permitted to serve more than two successive one-year terms. The chairman shall be responsible for the conducting and scheduling of all meetings.
18. If a board is established, amend NRS 616B.062 regarding the appointment and function of the manager of EICON to read as follows **(BDR 53–393)**:
- a. The board shall appoint a manager to be in charge of the operation of the system;
 - b. The manager is the chief executive officer of the system and is responsible in consultation with the board for all duties of the system; and
 - c. The manager shall serve at the pleasure of the board.
19. If a board is established, amend NRS 616B.065 regarding the selection and classification of assistant managers of EICON to read as follows **(BDR 53–393)**:
- a. The manager shall select assistant managers whose appointments are effective upon the confirmation by the board of directors. Assistant managers are in the unclassified service of the state and are entitled to receive annual salaries fixed by the board.
 - b. The assistant managers shall serve at the pleasure of the manager, subject to the review of the board.

WRAP-UPS AND OWNER-CONTROLLED INSURANCE PROGRAMS (OCIPs)

20. Appoint a voluntary working group to develop specific recommendations to the Committee regarding the regulation of OCIPs. The working group would consider several topics, including the coverage, operations, and regulation of OCIPs. The working group would report back to the Committee by September 30, 1998, and would include at a minimum representatives of the Associated General Contractors, the insurance industry, insurance agents, labor, and the Commissioner of Insurance.

21. Amend NRS 686A.200 and NRS 686A. 220 to allow private carriers to write wrap-up, OCIP, and contractor-controlled insurance program (CCIP) coverage. **(BDR 53-384)**
22. Enact a provision in NRS to require that a contract for a wrap-up, OCIP, or CCIP include the following specific requirements **(BDR 53-384)**:
 - a. The project site must include all operations in the course or scope of the OCIP project, including all related off site operations;
 - b. A description of the on-site safety program shall be required. The owner, general contractor, or insurer must develop and implement a safety program that includes: minimum safety standards; safety meetings; safety training; site inspections; advising subcontractors on special hazards; and investigation of serious injuries. Any and all sites covered by wrap-up coverage must have a qualified safety and claims administrator on-site at all times when construction work is underway. The safety and claims administrator must not be assigned to a particular subcontractor or be, in any way, under the control or oversight of a subcontractor;
 - c. The owner, construction manager, general contractor, and all subcontractors working on the project must be listed as named insureds (A named insured is specified as the insured in an insurance policy. A business added to a policy, other than the named insured, is considered an additional insured.);
 - d. The owner or general contractor must be designated as responsible for loss control and claims handling programs, the designated claims administrator of the owner or general contractor shall be responsible for filing the C-1 and C-3 forms, coordinating direction of the injured worker to the appropriate clinic, handling all issues regarding the claim that can be managed at the worksite;
 - e. Penalties for failing to comply with the safety plan and claims procedures;
 - f. Duration, terms and conditions of coverage;
 - g. Insurance for completed operations and project coverages for a minimum of three years, except for residential projects which would be required to have five years of completed operations and project coverages;
 - h. A provision specifying that if work activity that has been performed on the site of the project covered by the wrap-up is moved in a manner that requires workers dedicated to the construction of the project covered by wrap-up insurance to work off the site of the project, the subcontractor will keep track of the payroll for those dedicated workers while they perform work off-site. The subcontractor will be reimbursed by the owner for the workers' compensation costs for those dedicated workers moved off-site;

- i. A provision specifying that workers dedicated to work on the project covered by the wrap-up who, by the nature of their job, must work off-site (e.g. delivery drivers, fabricators, etc.) will be the responsibility of the subcontractor. The subcontractor will be responsible for all safety, claims administration, and loss history as long as the insurance costs initially included in the bid are reimbursed by the owner;
 - j. A provision specifying that all employees who will work only on the site of the project covered by the wrap-up will be the responsibility of the owner. All safety, claims administration and lost history issues will be the responsibility of the owner of the site;
 - k. The individual or entity responsible for each section of the contract shall be identified; and
 - l. The names and qualifications of persons responsible for safety oversight on the project.
23. Prohibit the withholding of periodic payments to subcontractors or members enrolled in a wrap-up, OCIP, or CCIP by the owner or general contractor if the subcontractor does not sign the C-3 form. **(BDR 53-384)**
 24. Enact a “file and approve” provision in NRS that would require a contract for a wrap-up, OCIP, or CCIP to be filed with the Division of Insurance 60 days prior to the start of the project. The Commissioner of Insurance would have 60 days after submission of the materials to review and approve or disapprove the contract. If no action is taken by the Commissioner within 60 days, the contract would be considered approved. **(BDR 53-384)**
 25. Amend NRS to specifically allow the following entities to participate in or sponsor wrap-up, OCIP, or CCIP agreements: private companies, including firms undertaking to construct a project(s) in Nevada; public bodies; and utilities. **(BDR 53-384)**
 26. Clarify in NRS that the insurer for the wrap-up, OCIP, or CCIP is liable for all workers’ compensation claims related to injuries that arise in the course of employment on the project which are covered by the wrap-up, OCIP, or CCIP contract, including future claims filed after the completion of the project. Provide in NRS that a subcontractor or enrolled member of the wrap-up, OCIP, or CCIP may not be made liable for payment of claims, including claims filed after the completion of the project, related to the OCIP. An enrolled member is a company that is covered under the wrap-up, OCIP, or CCIP agreement under the definition of enrolled member. This provision would apply for the time period of the wrap-up, OCIP, or CCIP agreement and after the completion of the project, including in situations in which the insurer and/or owner of the project are no longer present or conducting business in the State of Nevada. **(BDR 53-384)**
 27. Amend NRS to include the following educational requirements and notification requirements related to a wrap-up, OCIP, or CCIP **(BDR 53-384)**:

- a. The owner or general contractor must clearly notify subcontractors if a project is a proposed wrap-up, OCIP, or CCIP. This notification must be made in the document that requests bids in advance of the bid. The purpose of this notification is to allow subcontractors to bid the project with and without insurance costs, as well as with bid fees relating to the costs of loss control and claims administration.
 - b. The pre-bid conference must at a minimum include the following information: the general concept of a wrap-up, OCIP, or CCIP; the requirement for contractors to carry separate workers' compensation coverage for work not performed on the "project site"; the basic safety plan; and claims administration procedures.
28. Amend NRS to provide that the use of rolling wrap-ups, rolling OCIPs, or rolling CCIPs is not allowed until 2001. According to testimony, a rolling wrap-up is an agreement used for ongoing or continuous construction projects that are typically not site-specific or time limited. **(BDR 53-384)**
 29. Enact a provision in NRS to specify that a designated on-site safety official has to meet the appropriate qualifications in NRS 618.710 or have three to five years of on the job experience. **(BDR 53-384)**
 30. Enact a provision in NRS to require that no designated safety administrator can be qualified for more than one site covered by wrap-up coverage at a time. **(BDR 53-384)**

BENEFITS AND ADMINISTRATION OF THE WORKERS' COMPENSATION SYSTEM

Automatic Closure of Claims

31. Amend NRS 616C.235 to require insurers to notify certain claimants, by letter, of the circumstances under which a claim may be closed automatically (this is in addition to any forms currently used which may notify claimants of the provisions of NRS 616C.235). **(BDR 53-379)**

PPD Rating Evaluations

32. Amend subsection 4 of NRS 616C.490 regarding rating evaluations for permanent partial disability (PPD) to clarify that PPD ratings must be done using objective medical findings only. Specify that impairments cannot be rated based solely on subjective pain. **(BDR 53-386)**

Benefits

33. Amend NRS 616C.505 to remove the provision which limits payment for the transport of the body of a deceased employee beyond the continental limits of the United States. **(BDR 53–386)**

Hearings and Appeals Process

34. Amend subsection 2 of NRS 616C.340 to clarify that an appeals officer must have not only been licensed to practice in Nevada for two years, but must have experience in workers' compensation claims and proceedings. Each appeals officer must be an attorney who has been licensed to practice law before all the courts of this state and have actively practiced law in actions related to claims for compensation for at least two years. **(BDR 53–387)**
35. Amend NRS to require the chief of the hearings division to adopt regulations governing the conduct of Hearing Officers and Appeals Officers that will include the standards set forth in the *Nevada Code of Judicial Conduct*. **(BDR 53–387)**
36. Amend NRS to require that the performance of Appeals Officers be evaluated based on pertinent information including the criteria of timeliness and consistency. The Department of Administration shall compile the number of hearings on the merits each Appeals Officer conducts on a monthly basis throughout the Appeals Officer's term of office. The Department of Administration shall compile on a yearly basis the number of appeals filed with the district court and the Supreme Court from the decisions of each Appeals Officer during the Appeals Officer's term of office. The Department shall also compile the number of decisions for each Appeals Officer that are upheld and reversed at the district court and Supreme Court levels during the Appeals Officer's term of office. Cases that are pending at the time the data is compiled shall be noted as such. **(BDR 53–387)**
37. Enact legislation to make the following changes to the hearings and appeals process **(BDR 53–387)**:
 - a. Clarify that the responsibility of the Senior Appeals Officer over Appeals Officers includes the review and measurement of performance against standards, review of decisions for consistency and precedents, and responsibility for training.
 - b. Hearing Officers and Appeals Officers must write their own decisions and may not solicit or use draft decisions or proposed decisions received from parties to a case.
 - c. Include a provision in Chapter 616C of NRS that allows any party aggrieved by a decision of an Appeals Officer pursuant to NRS 616C.360 to appeal to a three-member panel of Appeals Officers within 15 days after the decision is rendered. The panel shall be appointed by the Senior Appeals Officer. The matter shall be set for hearing before the panel within 45 days of the receipt of the notice of appeal. The Appeals Officer who

renders the original decision shall not serve on the panel. The panel's review shall be limited to whether there was substantial evidence to support the original Appeals Officer's decision. The panel shall render its decision within 30 days. Any party aggrieved by a decision of the panel may appeal to the district court pursuant to NRS 616C.370.

Subsequent Injury Funds

38. Repeal the provisions of NRS related to all subsequent injury funds as of July 1, 1999. **(BDR 53-389)**

QUALIFICATIONS OF ASSOCIATIONS OF SELF-INSURED EMPLOYERS

39. Amend NRS 616B.386 to provide that an association of self-insured public or private employers that meets the criteria listed below may adopt internal policies that specify what type of documentation a proposed new member must submit to the association and the commissioner to demonstrate its financial solvency. Such an association must have **(BDR 53-934)**:
- a. Been certified by the Commissioner of Insurance for at least three consecutive years;
 - b. A combined tangible net worth of all the members of the association of at least \$5 million; and
 - c. At least 15 members.
40. Amend NRS 616B.386 to provide that an association of self-insured public or private employers that meets the criteria listed below may adopt internal policies setting the tangible net worth and manual premium for each proposed new member. Such an association must have **(BDR 53-934)**:
- a. Been certified by the Commissioner of Insurance for at least three consecutive years;
 - b. A combined tangible net worth of all the members of the association of at least \$5 million;
 - c. At least 15 members; and
 - d. Not had an informal meeting arranged for it by the Commissioner of Insurance pursuant to subsection 1 of NRS 616B.431 due to an issue of the association's solvency or an alleged violation of law within the previous 18 months or, if such a meeting has been arranged by the Commissioner within the last 18 months, there must have been a satisfactory resolution of the concerns which made the meeting necessary, as evidenced by a letter from the Commissioner.

**COVERAGE FOR HEART AND LUNG DISEASE FOR RETIRED
POLICE OFFICERS AND FIREFIGHTERS**

41. Amend NRS to limit the compensation for heart and lung disease of firefighters and police officers that occurs after the employees have retired or are no longer working as firefighters or police officers (BDR 53–925):
- a. Amend NRS 617.455 and NRS 617.457 to provide that the presumption in subsection 1 of each section applies to disabling heart or lung disease diagnosed after the termination of the person’s employment if the diagnosis occurs within a period which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying four months by the number of full years of his employment. For example, an employee with 30 years of service would have continued eligibility for compensation of heart and lung disease for 120 months (10 years) after the employee retires. Nevada law currently provides that diseases of the heart and lung of certain persons who have been employed as firefighters or police officers are presumed to arise out of and in the course of employment.
 - b. Amend subsection 6 NRS 617.455 and subsection 6 of 617.457 to add the following provision. These subsections currently state that failure to correct predisposing conditions which lead to heart or lung disease as ordered by a physician in the annual examination excludes the employee from benefits if the correction is within the ability of the employee.

Such annual physical examinations shall be required during the periods of extended eligibility provided in section 1. Failure to comply with the requirements for physical examinations shall result in the suspension of eligibility for the benefits provided by this section.
 - c. Amend NRS 617.455 and NRS 617.457 to provide that if a person is entitled to benefits under subsection 1 or 2, the firefighter or police officer shall not be entitled to temporary total disability benefits pursuant to NRS 616C.475. This provision would only apply to cases in which the person is retired or otherwise separated, voluntarily or otherwise, from employment or volunteer status as a police officer or firefighter before the claim is opened.
 - d. Amend NRS 617.455 and NRS 617.457 to provide that the last injurious exposure rule must be used to determine the insurer responsible for payment of benefits to the police officer or fireman who has retired or otherwise separated from employment as a police officer or fireman. The last injurious exposure rule imposes liability on the insurer of the employer that last exposed a person to conditions that could have caused the occupational disease.
 - e. Provide that a retired police officer or firefighter who meets the requirements of subsection 1 of NRS 617.455 or subsection 1 of 617.457 but who is receiving retirement

benefits at the time he is diagnosed with heart or lung disease would not be eligible for disability compensation (because his average monthly wage when retired is zero); such retired police officer or firefighter would still be eligible for medical benefits. Provide that a police officer or firefighter who meets the requirements of subsection 1 of NRS 617.455 or subsection 1 of 617.457, who is no longer working for the police department or fire department, but who is not receiving retirement benefits is eligible for disability compensation, as well as medical benefits. Specify that the average monthly wage for such a police officer or firefighter be taken from the last 12 weeks of employment with the police department or fire department who last exposed him to heart or lung disease. Specify that a police officer or firefighter who meets the requirements of subsection 1 of NRS 617.455 or subsection 1 of 617.457, who is eligible for retirement benefits but who has not yet elected to receive retirement benefits, is eligible for disability benefits, as well as medical benefits, but that if he later wants to elect to take his retirement benefits, he must choose between retirement benefits and disability benefits; he would remain eligible for medical benefits.

**COVERAGE FOR CORRECTIONAL OFFICERS WHO ARE
EXPOSED TO CONTAGIOUS DISEASE**

42. Amend NRS to cover correctional officers who are exposed to contagious disease (BDR 53-925):
- a. Amend subsection 2 of NRS 616A.035, which defines the term “accident benefits,” to include medical benefits as defined by NRS 617.130, and preventive care. Preventive treatment administered as a precaution to an employee who is exposed to a contagious disease while providing medical services, including emergency medical care, in the course and scope of his employment, and preventive treatment administered as a precaution to an employee of the Department of Prisons or the Mental Hygiene and Mental Retardation Division of the Department of Human Resources at facilities for mentally disordered offenders.
 - b. Add a new subsection 4 to NRS 616A.035 to specify that “preventive treatment” includes tests to determine if an employee has contracted the disease to which he was exposed.
 - c. Amend subsection 2 of NRS 616A.265, which provides what does and does not constitute an “injury by accident arising out of and in the course of employment.”
 - d. Create a new section in Chapter 616C concerning an employee of the Department of Prisons (DOP) who qualifies as a police officer pursuant to subsection 7 of NRS 617.135 or an employer of the Mental Hygiene and Mental Retardation Division (MH/MR) of the Department of Human Resources who qualifies as a police officer pursuant to subsection 9 of NRS 617.135 who is exposed to a contagious disease when battered by an offender or when responding to a physical altercation between offenders at an

institution or facility of the DOP or MH/MR in the course and scope of his employment and the battery or employee's response to the altercation is documented by the creation and maintenance of a report by DOP or MH/MR. If after retiring the employee develops a contagious disease, the employee's entitlement to workers' compensation would be limited to a certain period of time determined by the following formula (also adopted by the Committee on Workers' Compensation for determining retired firemen and police officer's entitlement to workers' compensation): after the diagnosis occurs within a period which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying four months by the number of full years of his employment.

PERMANENT TOTAL DISABILITY

43. Amend NRS 616C.435 by adding a new subsection to include the following concept **(BDR 53-386)**:

Except as provided in subsection 1, in no case may an insurer make a determination that an injured employee is permanently and totally disabled unless a physician has indicated in writing to the insurer that the preponderant cause of the injured employee's inability to effectively compete in the labor market is an industrial injury or an occupational disease.

SUBROGATION OF INSURER TO RIGHTS OF INJURED EMPLOYEES

44. Amend NRS 616C.215 to provide that if the insurer has not intervened and the parties cannot otherwise agree, any recovery obtained by an injured employee from a third party must be distributed according to the following formula: Attorney's fees and costs are to be paid first pursuant to the agreement between the injured worker and his attorney. From the remaining amount, the injured worker is guaranteed one-third, and the insurer receives the remaining amount or the amount of lien, whichever is less. Any amount remaining beyond the amount of the insurer's lien goes to the injured worker in addition to his guaranteed one-third share. **(BDR 53-1076)**
45. Revise provisions in NRS concerning notification to the insurer of action taken by an injured worker against a third party, and require full disclosure to the injured worker of anticipated settlement costs by the injured worker's attorney. **(BDR 53-1077)**

WORKERS' COMPENSATION FRAUD

46. Amend NRS 616D.300 to add a reference to Chapter 617. In addition, enact a provision in NRS to specify that the penalty for an injured worker falsely certifying that he has been continually disabled for the 14 days prior to the date of the check extends to injured workers receiving benefits pursuant to Chapter 617 of NRS. The new provision shall state **(BDR 53-384)**:

Every check issued by an insurer for workers' compensation benefits shall include the following restrictive endorsement:

By signing this check for temporary disability, permanent total disability or rehabilitation maintenance benefits, I hereby certify under penalty of perjury that I have been continuously disabled and unable to work in any occupation for the 14 days prior to the date of this check. I understand that any false statement to obtain benefits is a crime, punishable by up to a category D felony pursuant to NRS 616D.300.

Once such a check is issued, endorsed, and/or negotiated, it creates a rebuttable presumption that the named claimant received, endorsed, and/or negotiated the check.

APPLICABILITY OF CHAPTER 617 OF NRS

47. Amend provisions of Chapters 616A to 616D, inclusive, of NRS and other provisions of NRS to ensure that references to Chapter 617 ("Occupational Diseases") are included in all appropriate provisions. The addition of references to Chapter 617 would be made to clarify existing provisions, and only where it appears to be the original intent of the provision. Such references should not create a substantive change or expansion of a provision. **(BDR 53-1078)**

BULLETIN 99-15

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

NRS 459.0085

Members

Assemblyman Bob Price, Chair
Senator Mike McGinness, Vice Chair
Senator Lawrence E. Jacobsen
Senator Bill R. O'Donnell
Senator Raymond C. Shaffer
Assemblyman Patrick T. Hickey
Assemblyman John J. Lee
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NEVADA REVISED STATUTES

COMMITTEE ON HIGH-LEVEL RADIOACTIVE WASTE

NRS 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

LEGISLATURE'S 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* 459.0085. Created in 1985, the committee is responsible for performing legislative oversight responsibilities to the study and evaluation of:

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 to be recommended to the Legislature and the Legislative Commission.

The eight-member committee held three meetings, including a fact-finding trip to Washington, D.C., to meet with key Administrative staff and United States congressional members, in the 1997-1998 interim period. Committee members also participated in the High-Level Radioactive Waste Working Group of the National Conference of State Legislatures. In addition, members monitored meetings of: (1) the Nuclear Waste Technical Review Board; (2) the Advisory Committee on Nuclear Waste of the Nuclear Regulatory Commission (NRC); (3) the U.S. Department of Energy (DOE) concerning technical exchange and management; and (4) Nevada's Commission on Nuclear Projects.

In addition to performing its mandated oversight functions, the committee has followed the legal issues between the nuclear industry and the DOE regarding: (1) the DOE's failure to begin accepting spent nuclear fuel from the civilian power plants by January 1998, and (2) the progress of attempts in the U.S. Congress to make changes to the federal Nuclear Waste Policy Act of 1982, as amended.

No recommended legislation is being proposed at this time. However, the committee will be monitoring: (1) the legal encounters regarding DOE's failure to begin accepting spent nuclear fuel from the commercial nuclear power plants; (2) legislative changes to the Nuclear Waste Policy Act, which may be considered by the 106th Session of Congress; (3) the site characterization program at Yucca Mountain; (4) the progress and findings of the Yucca Mountain Environmental Impact Statement; and (5) other activities pertaining to the nation's high-level radioactive waste program. If appropriate and necessary, the committee will recommend action to the Nevada Legislature.

BULLETIN 99-16

**LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO
INVESTIGATE REGULATION OF MORTGAGE INVESTMENTS**

Members

Assemblyman David E. Goldwater, Chair
Senator Bill R. O'Donnell
Senator Raymond C. Shaffer
Senator Randolph J. Townsend
Assemblywoman Barbara K. Cegavske
Assemblyman Tom Collins

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ABSTRACT

LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO INVESTIGATE REGULATION OF MORTGAGE INVESTMENTS

On April 17, 1998, the Legislative Commission created the Subcommittee to Investigate Regulation of Mortgage Investments. This subcommittee was established to review the facts surrounding recent problems involving a failed mortgage company; to investigate the regulatory role of the Division of Financial Institutions, Department of Business and Industry, with respect to mortgage investments; and to make recommendations to the 70th Session of the Nevada Legislature regarding how to improve regulation of mortgage investments.

The Legislative Commission appointed six legislators (three Senators and three Assemblymen) to conduct the study. The subcommittee held four public hearings in Las Vegas (with video conference links to Carson City) and received testimony from investors, mortgage brokers, and representatives of the Office of the Attorney General and the Division of Financial Institutions. Much of the testimony dealt with actions taken by the Division of Financial Institutions in response to allegations of misconduct on the part of the Harley L. Harmon Mortgage Company. In addition, the subcommittee discussed several dozen recommendations designed to enhance regulation of the mortgage investment industry.

At its last two meetings, the subcommittee held work sessions to discuss proposals for consideration by the 1999 Legislature. Recommendations adopted by the subcommittee address the following major topics:

- Registration of Certain Mortgage Company Transactions;
- Administrative Sanctions and Criminal Penalties;
- Powers of Attorney;
- Disclosure Forms;
- Advertising and Other Disclosures;
- Licensing and Capital Requirements; and
- Staffing of Regulatory Agencies.

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

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO INVESTIGATE REGULATION OF MORTGAGE INVESTMENTS

Following are the recommendations approved by the Legislative Commission's Subcommittee to Investigate Regulation of Mortgage Investments.

RECOMMENDATIONS FOR LEGISLATION

The subcommittee recommends that the 70th Session of the Nevada Legislature take the following actions:

Registration of Certain Mortgage Company Transactions

1. Repeal subsection 21 of *Nevada Revised Statutes* (NRS) 90.530. This subsection currently exempts from registration with the Securities Division of the Office of the Secretary of State transactions involving promissory notes or fractional interests in such notes that are secured by a lien on real estate if the issuer is a mortgage company licensed by the Division of Financial Institutions, Department of Business and Industry. Include in the bill a provision that directs the administrator of the Securities Division to adopt regulations that will allow certain mortgage companies to be exempt from the registration requirements of NRS 90.460 and NRS 90.560. **(BDR 7-1203)**

Administrative Sanctions and Criminal Penalties

2. Amend Chapter 645B of NRS to revise provisions that relate to the suspension and revocation of licenses of certain mortgage companies and that provide for administrative sanctions and criminal penalties against certain mortgage companies. Specifically, establish a process by which a complaint against a mortgage company may be filed with the commissioner of financial institutions. Require that the commissioner investigate alleged violations unless the violation previously has been investigated. If, upon investigation, the commissioner determines that there are reasonable grounds to believe that a violation has occurred, the commissioner shall schedule a hearing concerning the alleged violation. In addition, the commissioner may investigate and conduct a hearing concerning any alleged violation whether or not a complaint has been filed. Require that a Federal National Mortgage Association approved mortgage company that engages in private fund solicitations be subject to administrative penalties if it violates any provision of Chapter 645B of NRS. Increase the maximum fine that may be imposed for certain violations of Chapter 645B of NRS, from \$500 to \$10,000. Make the imposition of a fine mandatory under certain circumstances, such as conducting business as a mortgage company without a license, failing to maintain records as required by NRS 645B.080, and violating the money handling provisions of NRS 645B.175. Require that the commissioner adopt by regulation a schedule of major and minor violations and specify the disciplinary action to be taken by the commissioner against

a person who commits certain violations. Give to the commissioner authority to order a summary suspension of a license if such a suspension is necessary to protect the public health, safety, or welfare. Give to the attorney general primary criminal and civil jurisdiction to investigate and prosecute a person who violates a provision of Chapter 645B of NRS or regulations adopted pursuant to Chapter 645B of NRS. Prohibit a payment preference by a mortgage company of one investor over another when each of those investors has the same beneficial interest in a property. Prohibit mortgage companies from guaranteeing the payment of interest or principal amounts of a loan. **(BDR 54-1204)**

Powers of Attorney

3. Amend Chapter 645B of NRS to permit a mortgage company to act on behalf of an investor pursuant to a power of attorney only if **(BDR 54-1204)**:
 - a. The power of attorney is executed for the sole purpose of servicing a single note in which the investor owns a beneficial interest; and
 - b. The provisions of the power of attorney:
 - (1) Have been approved by the commissioner of financial institutions; and
 - (2) Expressly prohibit the mortgage company from using money that the investor has loaned to or is entitled to receive from the borrower pursuant to the terms of the note for any purpose which is not directly related to servicing the note.

Disclosure

4. Amend NRS 645B.185 to add the following provisions **(BDR 54-1204)**:
 - a. The commissioner of financial institutions shall adopt by regulation standardized disclosure forms for investors.
 - b. The mortgage company must give the disclosure form to each investor before each investment, and the investor may not waive receipt of the disclosure form.
 - c. The disclosure form must be signed by the investor and a representative of the mortgage company, and a copy of the signed disclosure form must be retained by the mortgage company.
 - d. The disclosure form must include a statement explaining the risks of investing through the mortgage company, including, without limitation:
 - (1) The possibility that the borrower may default on the loan;

- (2) The nature of the losses that may result through foreclosure;
 - (3) The fact that payments of principal and interest are not guaranteed and that the investor may lose the entire amount of principal that he has invested;
 - (4) The fact that the mortgage company is not a depository financial institution and that the investment is not insured by any depository insurance; and
 - (5) Any other information required by the commissioner of financial institutions.
- e. The disclosure form must inform the investor whether the mortgage company has any direct or indirect interest in the borrower.
 - f. The disclosure form must inform the investor of whether the mortgage company is currently being investigated for any alleged violation of the provisions of Chapter 645B of NRS and must include a statement of the nature of any disciplinary action that has been taken against the mortgage company within the preceding 12 months.
5. Amend Chapter 645B of NRS to require a mortgage company that maintains trust accounts for the payment of investors to **(BDR 54-1204)**:
 - a. Identify each nonperforming loan that mortgage company is administering when the mortgage company submits its monthly report to the commissioner of financial institutions pursuant to NRS 645B.080; and
 - b. Report the status of each such nonperforming loan, on a monthly basis, to each investor who owns a beneficial interest in the loan.
 6. Amend NRS 645B.090 to **(BDR 54-1204)**:
 - a. Require the commissioner of financial institutions to disclose any information concerning a pending investigation against a mortgage company to any person who requests such information, unless the commissioner determines that the release of such information would impede or otherwise interfere with the investigation.
 - b. Require the commissioner of financial institutions to disclose the results of any completed investigations of a mortgage company that have been conducted within the preceding five years and to disclose the nature of any disciplinary action that has been taken against a mortgage company within the preceding five years to any person who requests such information, except that the commissioner may withhold from public inspection for such time as he considers necessary any information which in his judgment the public welfare or the welfare of any mortgage company requires to be so withheld.

7. Require that an escrow company or title company provide the lender at the time of closing of a loan an insured-closing letter, which guarantees that title insurance has been obtained. **(BDR 54-1204)**
8. Amend Chapter 645B of NRS to require that a mortgage company must provide, prior to closing, a written disclosure, which must be signed by the lender, of the exact priority of each loan. Further, every trust deed must clearly indicate the priority of the loan in which the investor's funds must be placed. In the event a mortgage company might want to subordinate an investor's priority, the mortgage company must obtain the lender's written approval and provide a copy of that approval to the investor and the Division of Financial Institutions. **(BDR 54-1204)**
9. Amend Chapter 645B of NRS by adding the following new provisions **(BDR 54-1204)**:
 - a. A mortgage company must disclose to persons considering the purchase of a beneficial interest in any loan secured by a deed of trust, a mortgage, or other instrument creating a lien on real property at the time of or in connection with the making or renewing of a loan whether the mortgage company, or any officers or directors of the mortgage company, is known by the mortgage company, or any of its officers or directors, to be under investigation by the commissioner or any other law enforcement agency for any allegation which, if true, would materially affect the risk associated with making the investment.
 - b. If the commissioner is conducting an investigation involving an alleged violation of the provisions of this chapter or regulations adopted thereunder, or is aware of an investigation by any other law enforcement agency, which, in his judgment, involves allegations which, if true, would materially affect the risk of an investment in a beneficial interest in a loan with the mortgage company, he may require the mortgage company subject to an investigation to make the disclosure required by subsection a. No right of action exists in favor of any person by any reason of any action or failure to act on the part of the commissioner or any of his officers, employees, or attorneys in carrying out the provisions of this section, or in giving or failing to give any information concerning an investigation conducted by the commissioner or any other law enforcement agency.

Advertising Disclosures

10. Amend NRS 645B.189 to provide that **(BDR 54-1204)**:
 - a. If a mortgage company maintains any accounts described in NRS 645B.175, the mortgage company shall include in each advertisement:
 - (1) The following statement: "Money invested through a mortgage company is not insured or guaranteed by the federal or state government. An investor is not guaranteed to recover or to be repaid any of the money he invests, an investor is

not guaranteed to earn or to be paid any interest or other return on the money he invests, and an investor may lose some or all of the money he invests"; and

- (2) Any other statement or information that is required by a regulation adopted pursuant to this chapter or an order of the commissioner.
 - b. If conveyed in printed form, including, without limitation, if displayed in printed form on a television or any other video screen, monitor, or device, the statement or information which is required pursuant to paragraph (a) must be printed in a size that is approved by the commissioner; and (b) if displayed in printed form on a television or any other video screen, monitor, or device, displayed for a period that is approved by the commissioner.
 - c. The commissioner may adopt any other regulations that are necessary to carry out the provisions of this section.

Licensing and Capital Requirements

11. Create licensing requirements for loan officers and other persons who arrange mortgage loans for a mortgage company (similar to existing licensing requirements for real estate agents). **(BDR 54-1204)**
12. Amend Chapter 645B of NRS to revise the requirements for a mortgage company license to include the following provisions **(BDR 54-1204)**:
 - a. A mortgage company that does not handle trust account funds must demonstrate a minimum net worth according to the following schedule:

As of October 1, 1999, \$25,000;
As of October 1, 2000, \$50,000;
As of October 1, 2001, \$75,000; and
On or after October 1, 2002, \$100,000.

If a mortgage company handles trust account funds, the mortgage company must demonstrate a minimum net worth of \$250,000.

In lieu of meeting a net worth requirement, a mortgage company may provide the Division of Financial Institutions with a cash deposit, a bond, or an irrevocable letter of credit in the required amount. This net worth requirement applies to an application for a new license or a renewal of an existing license;

- b. Amend Chapter 645B of NRS to provide that, for each loan, a mortgage company shall not release any amount of money to a borrower or his designee unless the amount of money released is equal to the total amount of money that is being loaned to the borrower

for such loan less any amount of money due to the mortgage company for the payment of any fee or service charge;

c. Amend NRS to provide that:

(1) A person may not be licensed as or, if exempt from licensing, may not conduct business as a construction control company, an escrow agency, a mortgage company, a title agent, or a title insurer if the person, the person's spouse, or any other person related to him within the second degree by blood or marriage owns or controls a majority of the voting stock or a controlling interest, directly or indirectly, in:

(a) A construction control company, an escrow agency, a mortgage company, a title agent, or a title insurer; or

(b) Any company that owns or controls a majority of the voting stock or a controlling interest, directly or indirectly, in a construction control company, an escrow agency, a mortgage company, a title agent, or a title insurer.

(2) The provisions of this section do not prohibit a person, the person's spouse, or any other person related to him within the second degree by blood or marriage from being licensed as, conducting business as, or owning or controlling the same construction control company, escrow agency, mortgage company, title agent, or title insurer, so long as such joint licensing, operation, ownership, or control extends to only one of these types of businesses; and

d. Amend Chapter 645B of NRS to expand the application process for a mortgage company license to include a basic business plan, a company policy and procedure manual, a collection policy, loan servicing procedures and restrictions, and underwriting standards.

13. Amend NRS to provide that a person who is subject to the provisions of Chapter 627 of NRS as a construction control company, Chapter 645A of NRS as an escrow agency, or Chapter 692A of NRS as a title agent or a title insurer, must file a bond of not less than \$250,000. **(BDR 54-1204)**

14. Amend Chapter 645B of NRS to provide that **(BDR 54-1204)**:

a. A mortgage company shall not charge a person a late fee, an additional amount of interest, or any other penalty if the payment is personally delivered to the mortgage company before 5 p.m. on the day that the payment is due;

b. If no offices of the mortgage company are open to customers on the day that the payment is due, the mortgage company shall not charge a person a late fee, an additional amount of interest, or any other penalty if the payment is personally delivered to the mortgage

company before 5 p.m. on the next day that an office of the mortgage company is open to customers;

- c. A mortgage company or a person may not agree to alter the foregoing provisions by contract or other agreement, unless the contract or other agreement:
 - (1) Is executed before the effective date of the bill;
 - (2) Is in writing; and
 - (3) Includes a provision that expressly establishes a specific time of day before which a person must deliver a payment to the mortgage company to avoid a late fee, an additional amount of interest, or any other penalty.

Staffing of Regulatory Agencies

- 15. Include in the subcommittee's final report a statement in support of additional funding for regulatory agencies of the mortgage investment industry for the purpose of increasing enforcement staff.

BULLETIN 99-17

**LEGISLATIVE COMMISSION'S
STAFF STUDY OF
BALLOT ACCESS BY MINOR POLITICAL PARTIES**

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ABSTRACT

LEGISLATIVE COMMISSION'S STAFF STUDY OF BALLOT ACCESS BY MINOR POLITICAL PARTIES

At its meeting on September 4, 1997, the Legislative Commission directed staff of the Legislative Counsel Bureau (LCB) to conduct a study to analyze the procedure that must be satisfied before a candidate's name may appear on an election ballot in the State of Nevada. This procedure is commonly referred to as a "ballot access system." The direction from the Commission to study Nevada's ballot access system was in response to a recommendation made by the Assembly Committee on Elections, Procedures, and Ethics during the 1997 Legislative Session. In accordance with this charge from the Commission, staff from the Legal and Research Divisions of LCB prepared a report of its study for consideration by the Commission and transmittal to the appropriate standing committee of the 70th Session of the Nevada Legislature.

Some members of the Nevada Legislature have expressed an interest in changing the laws governing Nevada's ballot access system. In particular, it has been suggested that the ballot access system in Nevada be amended to require candidates of minor political parties and independent candidates to declare their candidacies at the same time that candidates of major political parties are required to declare their candidacies. Currently, the deadline by which minor political party and independent candidates in Nevada must file their declaration of candidacies occurs 44 days after the deadline for major political party candidates. Some feel that this waiting period inhibits the ability of a candidate of a major political party to plan campaign strategies and fund-raising efforts. One reason for the objection to the waiting period is that under Nevada's current ballot access system, it does not become clear whether a primary election for major political party candidates will take place until after the filing deadline for minor political party and independent candidates occurs. This is thought to create uncertainty among candidates of major political parties. As a result, some members of the Nevada Legislature are interested in amending the provisions of *Nevada Revised Statutes* 293.260 to eliminate the uncertainty as to whether a major political party candidate must participate in a primary election. It has also been suggested that the filing deadlines for minor political party and independent candidates be changed to conform with the filing deadlines for major political party candidates in an attempt to uniformly treat the process of declaring candidacy by all candidates.

The staff study examines how the current ballot access system in the State of Nevada compares with the systems of other states and proposes changes that could be made to alleviate some of the concerns expressed by members of the Nevada Legislature. Specifically, the study: (1) examines the current ballot access system of this state; (2) presents findings and details on the ballot access systems of other states; (3) analyzes some of the constitutional issues that are raised when a state legislature attempts to establish or alter the structure of a ballot access system; and (4) presents some proposals for change designed to address concerns expressed by some members of the Nevada Legislature.

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMISSION'S STAFF STUDY OF BALLOT ACCESS BY MINOR POLITICAL PARTIES

Although no formal recommendations were made, staff presented and summarized, for consideration by the Legislative Commission, the following policy options that address concerns expressed by some members of the Nevada Legislature:

1. Amend *Nevada Revised Statutes* (NRS) 293.260 to require a primary election to occur for major political party candidates, regardless of whether any candidates of a minor political party have been nominated or independent candidates have filed for office. If no more than the number of candidates to be elected have filed for nomination for that office, the names of those candidates are omitted from the primary election ballot and placed on the general election ballot. This amendment to require a primary election for major political party candidates would also apply in instances where only one major political party has candidates for a particular office.
2. Amend the NRS to create a ballot access system similar to systems prescribed in the states of Hawaii and Washington, whereby all candidates for office are nominated at a primary election and all candidates are required to declare their candidacies by the same date.

BULLETIN NO. 99-18

**STAFF STUDY OF
CITY CHARTERS IN NEVADA**

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ABSTRACT

STAFF STUDY OF CITY CHARTERS IN NEVADA

At its meeting on September 4, 1997, the Legislative Commission directed staff of the Legislative Counsel Bureau (LCB) to conduct a study to evaluate the 13 existing city charters in Nevada to determine which provisions would benefit from a standardization of language and whether certain provisions are already in place, or would be more aptly placed, within the state law. This direction was in response to a recommendation made by the Assembly Committee on Elections, Procedures, and Ethics during the 1997 Legislative Session. Specifically, the Assembly Committee proposed a staff study instead of acting on Assembly Concurrent Resolution No. 38 of 1997, which would have directed the Commission to conduct a formal interim study.

In accordance with this charge from the Commission, staff of the Research Division of the LCB prepared a report of its study for consideration by the Commission and transmittal to the appropriate standing committees of the 70th Session of the Nevada Legislature.

In the preparation of this report, staff received guidance from Assemblyman Douglas A. Bache, Chairman of the 1997 Assembly Committee on Government Affairs, and assistance from acknowledged local government experts. These experts included: Marvin Leavitt, Director of Intergovernmental Relations and Policy Research for the City of Las Vegas; Barbara McKenzie, Legislative Coordinator for the City of Reno; and Thomas Grady, Executive Director of the Nevada League of Cities. In addition, staff relied on the *Model City Charter* published by the National Civic League.

In summary, staff findings indicated that the state may *not* wish to standardize the governmental structure of the charter cities at this time. Charter cities presently have the power to define their own structure (including the composition of their city council, city boards, city employees, and whether and how these public officials are elected or appointed). However, staff research suggested that perhaps the charters of Nevada's charter cities could benefit from standardization within certain subject areas. Specifically, the areas of finance, local improvements, and utilities and franchises could be evaluated for possible restructuring. A separate issue raised by this study was whether the current balance of state and municipal powers should be revisited.

SUMMARY OF RECOMMENDATIONS

STAFF STUDY OF CITY CHARTERS IN NEVADA

Although no formal recommendations were made, staff presented and summarized for the Legislative Commission the following issues for further consideration. These issues were addressed in response to concerns expressed by some members of the Nevada Legislature and local government officials.

1. *City Council Powers.* The question was raised as to whether the general powers given to city councils should be included: (a) in each separate charter; (b) solely in Chapter 268 of the *Nevada Revised Statutes* (NRS), and simply referenced in the individual charters; or (c) in a fixed portion of the individual charters and the remainder in Chapter 268 of NRS.
2. *City Council Salaries.* The Legislature may wish to entertain a request from cities to assume responsibility for setting mayoral and city council salaries as is currently done for county commissioners.
3. *Finances.* This appeared to be the area most in need of standardization. One local government official suggested that perhaps there could be a change in the organization of each of the charters to provide a separate article titled "finances," which could be used to accumulate each of the financial provisions now found in various articles.

In addition, it was proposed that each city charter reference the general statutes that address issues of local government budgeting and billing. Only when it comes to setting the debt limit was it advocated that city charters should retain specific local provisions.

4. *Local Improvements.* It was suggested that this article be renamed "capital improvements."
5. *Election of Candidates for Municipal Office.* One legislator questioned the constitutionality of city charters with durational residency requirements for candidates that are longer than a year. While preliminary research by staff indicated that this is not necessarily an issue, it was suggested that the Legislative Commission may wish to obtain a legal opinion from the Legal Division of LCB on this question.
6. *Municipal Judges.* Certain legislators inquired as to whether the number of municipal judges should be linked to the city's population. In practice, this already seems to be occurring so further action on this issue was not advised.

7. *State Involvement.* Several local officials commented that they do not like having the state involved in local affairs. In light of this attitude and the probability that the Nevada Legislature will not have as much time to address local government matters under the recently approved constitutional amendment that limits the biennial legislative session to 120 calendar days, it was suggested that this might be a good time to give cities more control over their own affairs.

BULLETIN 99-19

**STAFF STUDY OF
TAX EXEMPTIONS IN NEVADA**

Staff Contacts

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ABSTRACT

STAFF STUDY OF TAX EXEMPTIONS IN NEVADA

Based on a recommendation from the Assembly Standing Committee on Elections and Procedures of the 1997 Session, the Legislative Commission, at its September 4, 1997, meeting directed the Legislative Counsel Bureau to conduct a staff study of tax exemptions in Nevada. This report summarizes the findings and conclusions of that study.

This report considers exemptions within the context of some of the generally accepted principles of good tax policy, provides a history and overview of exemptions in Nevada, compares specific exemptions in Nevada to those in surrounding states and discusses exemption policy targeted at economic development. The report concludes with a discussion of some policy alternatives related to exemptions that can be considered by future sessions of the Legislature. The report also incorporates a number of appendices to serve as a one-stop source of reference material for the Legislature and staff to use whenever exemption issues are being considered.

BULLETIN 99-20

**REPORT OF
HEALTH INSURANCE COVERAGE OF
NEVADANS, 1997**

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ABSTRACT

REPORT OF HEALTH INSURANCE COVERAGE OF NEVADANS, 1997

The Legislative Committee on Health Care (*Nevada Revised Statutes* 439B.200) commissioned a survey of Nevadans to assess their level of health insurance. The authority for this survey was granted by a \$200,000 appropriation to the committee, in Section 87 of Senate Bill 427 (Chapter 550, *Statutes of Nevada 1997*).

The Center for Business and Economic Research (CBER), University of Nevada, Las Vegas, conducted the survey, which was commenced in 1997 and completed in 1998. To assist the 27-member health care committee in designing the criteria for the survey, the chairman convened a select group of people who are familiar with health care and health insurance issues. This smaller group directly interacted with the executive director of CBER to refine the survey and direct the study.

The report and survey include data that further describes the health insurance coverage of Nevadans, identifies why they do not have health insurance, and discusses the costs of their health insurance. Further, the report identifies other factors related to health insurance coverage such as demographic groups, their coverage, and employer characteristics. Finally, data tables identify health insurance coverage by county.