

PRESENTATION MATERIALS

Presented by the

Public Utilities Commission of Nevada

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for the

Governor's Committee on Energy Choice

November 7, 2017

12:00 PM

Historic Overview: Nevada Deregulation 1990's

1. ACR 49 (1995) Directs Legislative Commission to conduct interim study of competition in generation, sale and transmission of electrical energy.
2. AB 366 (1997) Reorganizes public service commission of Nevada and makes various changes concerning regulation of utilities and governmental administration.
3. SB 438 (1999) Makes various changes related to electric restructuring.
4. AB 369 (2001) Revises and repeals various provisions governing the regulation of public utilities.
5. AB 661 (2001) Revises and repeals various provisions concerning utilities and energy.



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ASSEMBLY CONCURRENT RESOLUTION NO. 49--

Assemblymen Braunlin, Neighbors, Allard, Anderson, Arberry, Bache, Batten, Bennett, Brower, Buckley, Carpenter, Chowning, Close, de Braga, Dini, Ernaut, Evans, Feticc, Freeman, Giunchigliani, Goldwater, Harrington, Hettrick, Humke, Krenzer, Manendo, Marvel, Monaghan, Nolan, Ohrenschall, Perkins, Price, Sandoval, Schneider, Segerblom, Spitler, Steel, Stroth, Tiffany, Tripple, and Williams

JUNE 24, 1995

Referred to Committee on Elections and Procedures

SUMMARY--Directs Legislative Commission to conduct interim study of competition in generation, sale and transmission of electrical energy. (BDR R-2048)

EXPLANATION--Matter in italics is new; matter in brackets [] is material to be omitted.

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

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

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

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

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

12 WHEREAS, The Nevada Legislature does not intend to place investor-
13 owned utilities or cooperatives within the State of Nevada at a competitive

1 disadvantage with other states by adopting legislation incompatible with
2 other western states, thus negatively affecting the State of Nevada; and

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

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

12 RESOLVED, That the study must include an assessment of:

- 13 1. Financial issues, including, without limitation, the:
 - 14 (a) Interests of residential customers, including price and choice;
 - 15 (b) Interests of small business customers, large business customers,
16 shareholders and other stakeholders;
 - 17 (c) Financial integrity and cost of capital of utilities;
 - 18 (d) Taxes paid by public utilities including franchise taxes and real
19 and personal property taxes;
 - 20 (e) Tax implications to local governments;
 - 21 (f) Quantification and recovery of stranded investments;
 - 22 (g) Pricing of transmission and distribution services;
 - 23 (h) Pricing and rate subsidies for all classes of customers; and
 - 24 (i) Unbundling costs of services;
- 25 2. Legal issues, including, without limitation:
 - 26 (a) Issues of state and federal jurisdiction;
 - 27 (b) State statutory constraints;
 - 28 (c) Issues related to the Federal Energy Regulatory Commission;
 - 29 (d) Commerce clause constraints;
 - 30 (e) A review of existing state laws, regulations and constitutional
31 provisions which affect the generation, sale and transmission of
32 electric energy;
 - 33 (f) Interstate reciprocity;
 - 34 (g) The continuing obligations of a utility to serve customers; and
 - 35 (h) Issues concerning the use and protection of proprietary
36 Information in a competitive market;
- 37 3. Social issues, including, without limitation:
 - 38 (a) The planning and operations of public utilities, including
39 integrated resource planning;
 - 40 (b) Environmental externalities; and
 - 41 (c) Development and use of renewable resources; and
- 42 4. Issues related to system planning, operation and reliability, including,
43 without limitation:

1 (a) Electric system reliability and the appropriate role of contracting;
2 And
3 (b) Provisions by which wheeling customers would be permitted to
4 leave or rejoin the system of a utility; and be it further
5 RESOLVED, That any recommended legislation proposed by the
6 subcommittee must be approved by a majority of any members of the Senate
7 and a majority of any members of the Assembly appointed to the
8 subcommittee; and be it further
9 RESOLVED, That the Legislative Commission shall submit a report of
10 its findings and any recommendations for legislation to the 69th session of
11 the Nevada Legislature.

Assembly Bill No. 366-Committee on Government Affairs

CHAPTER

482

AN ACT relating to governmental administration; reorganizing the public service commission of Nevada into the public utilities commission of Nevada and defining its duties; creating the transportation services authority and defining its duties; transferring the regulation of certain transportation carriers from the public service commission to the transportation services authority; creating the bureau of consumer protection in the office of the attorney general and defining its duties; transferring the duties of the office of the advocate for customers of public utilities in the office of the attorney general to the bureau of consumer protection; revising provisions governing the regulation of electric services and gas services; requiring the central assessment of certain property; requiring the executive director of the department of taxation to submit a report to the legislature; revising the restrictions on refiner's operation of service stations; revising the Utility Environmental Protection Act; making technical changes; providing penalties; and providing other matters properly relating thereto.

[Approved July 16, 1997]

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

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

Sec. 2. *In adopting regulations pursuant to this Title relating to the provision of electric service, the commission shall ensure that the regulations:*

1. *Maximize the benefits of a competitive marketplace for the provision of electric services;*
2. *Maintain, to the extent possible, even and fair competition among providers of electric service;*
3. *Ensure the flexibility necessary for existing utilities that provide energy to enter into a deregulated market;*
4. *Foster innovation in the provision of electric services;*
5. *Ensure and enhance reliability and safety in the provision of electric services;*
6. *Provide for flexible mechanisms for regulating electric services; and*
7. *Provide effective protection of persons who depend upon electric services.*

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

- (a) *Advice and guidance to the commission on economic policies relating to utilities under the jurisdiction of the commission, and the regulation of such utilities;*
- (b) *Administrative, technical, legal and support services to the commission; and*
- (c) *For the regulation of utilities governed by the commission and the services offered by such utilities, including, but not limited to, licensing of such utilities and services and the resolution of consumer complaints.*

2. *The commission shall:*

- (a) *Formulate the policies of the various sections of the commission;*
- (b) *Coordinate the activities of the various sections of the commission;*
- (c) *Take such actions consistent with law as are necessary to encourage and enhance:*
 - (1) *A competitive market for the provision of utility services to customers in this state; and*
 - (2) *The reliability and safety of the provision of those services within that competitive market; and*
- (d) *Adopt such regulations consistent with law as the commission deems necessary for the operation of the commission and the enforcement of all laws administered by the commission.*

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

- (a) *The director of the legislative counsel bureau for transmittal to the appropriate legislative committee and the interim finance committee; and*
- (b) *The director of the department of administration.*

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

703.010As used in this chapter [:

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

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

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

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

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

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

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

703.0301. The commission consists of [**five**] *three* commissioners appointed by the governor for terms of 4 years.

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

(a) Accounting.

(b) Business administration.

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

(d) Administrative law.

(e) Professional engineering.

[**(f) The operation of motor carriers.**

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

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

(a) *Members* of the same political party.

(b) *From the same field of experience.*

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

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

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

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

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

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

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

703.1101. The majority of the commissioners have full power to act in all matters within their jurisdiction.

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

3. Except as otherwise provided in this [**subsection, public hearings must be conducted by one or more commissioners. An administrative proceeding conducted pursuant to subsection 2 of NRS 706.771 may be conducted by a hearing officer designated by the chairman of the commission.**] *chapter, all hearings and meetings conducted by the commission must be open to the public.*

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

703.1451. Any public [**utility or common or contract motor carrier**] *utility* subject to the jurisdiction of the commission which elects to maintain its books and records outside the State of Nevada shall, in addition to any other assessment and fees provided for by law, be assessed by the commission for an

amount equal to the travel expenses and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160, of commission members and staff, for investigations, inspections and audits required to be performed outside this state.

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

- (a) Federal Energy Regulatory Commission proceedings as authorized in NRS 703.152; or
- (b) Actions involving the Federal Communications Commission or other federal regulatory agencies, if the intervention is made to benefit the public utility or its customers.

3. The assessments provided for by this section must be determined by the commission upon the completion of each such investigation, inspection, audit or appearance and are due and payable within 30 days of receipt by the affected utility [or common or contract motor carrier] of the notice of assessment. The total amount assessed by the commission in 1 year pursuant to subsection 2 must not exceed \$50,000.

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

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

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

703.1471. The public [service] utilities commission regulatory fund is hereby created as a special revenue fund. All money collected by the commission pursuant to law must be deposited in the state treasury for credit to the fund. Money collected for the use of the consumer's advocate must be transferred pursuant to the provisions of subsection 8 of NRS 704.035.

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

- (a) Maintaining staff and equipment to regulate adequately public utilities and other persons subject to the jurisdiction of the commission.
- (b) Participating in all rate cases involving those persons.
- (c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that regulation and participation.
- (d) The salaries, travel expenses and subsistence allowances of the members of the commission.

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

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

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

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

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

703.1521. The legislature finds that the cost of energy in Nevada is affected by the Federal Energy Regulatory Commission in its regulation of the transmission of energy into and out of the State of Nevada, and the concerns of the public utilities and their customers in this state should be represented at the hearings of that Commission which affect Nevada.

2. The public [service commission of Nevada,] utilities commission, within the limits of its budget and as it deems necessary, may bring an action, file a petition or intervene before the Federal Energy Regulatory Commission or in any court on behalf of the public utilities and their customers in this

state and represent their views in any matter which affects the development, transmission, use or cost of energy in Nevada.

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

703.1911. Each public utility [, **fully regulated carrier and broker of services**] regulated by the commission shall:

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

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

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

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

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

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

703.1951. Except as otherwise provided in subsection 2, any commissioner or any officer or employee of the commission who is designated by the commission, may examine during regular business hours the books, accounts, records, minutes, papers and property of any public utility [, **motor carrier or broker**] who does business in this state, whether or not the book, account, record, minutes, paper or property is located within [**the**] *this* state.

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

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

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

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

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

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

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

(f) The business address of the employee;

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

(h) The work schedule of the employee;

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

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

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

703.1961. Any books, accounts, records, minutes, papers and property of any public utility [, **motor carrier or broker**] that are subject to examination pursuant to NRS 703.190 or 703.195 and are made available to the commission, any officer or employee of the commission, the [**advocate for customers of public utilities**] *bureau of consumer protection in the office of the attorney general* or any other person under the condition that the disclosure of such information to the public be withheld or otherwise limited, must not be disclosed to the public unless the commission first determines that the disclosure is justified.

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

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

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

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

- (a) Restrict access to the records and transcripts of such hearings without the prior approval of the commission or an order of a court of competent jurisdiction authorizing access to the records or transcripts; and
- (b) Prohibit any participant at such a hearing from disclosing such information without the prior authorization of the commission.

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

- (a) May attend any closed hearing held pursuant to this section; and
- (b) Have access to any records or other information determined to be confidential pursuant to this section.

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

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

703.1971. The commission may collect fees for the filing of any official document required by this chapter and chapters 704, 704A, 705 [, 706, 708 and 712] *and 708* of NRS or by a regulation of the commission.

2. Filing fees may not exceed:

- (a) For applications, \$200.
- (b) For petitions seeking affirmative relief, \$200.
- (c) For each tariff page which requires public notice and is not attached to an application, \$10. If more than one page is filed at one time, the total fee may not exceed the cost of notice and publication.
- (d) For all other documents which require public notice, \$10.

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

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

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

703.2101. The commission may employ, or retain on a contract basis, legal counsel who shall:

- (a) Except as *otherwise* provided in subsection 2, be counsel and attorney for the commission in all actions, proceedings and hearings.
- (b) Prosecute in the name of the public [service] *utilities* commission of Nevada all civil actions for the enforcement of chapters 704, 704A, 705 [, 706, 708 and 712] *and 708* of NRS and for the recovery of any penalty or forfeiture provided for therein.
- (c) Generally aid the commission in the performance of its duties and the enforcement of chapters 704, 704A, 705 [, 706, 708 and 712] *and 708* of NRS.

2. Each district attorney shall:

- (a) Prosecute any violation of chapter 704, 704A, 705, [706, 708, 711 or 712] *708 or 711* of NRS for which a criminal penalty is provided and which occurs in his county.
- (b) Aid in any investigation, prosecution, hearing or trial held under the provisions of chapter 704, 704A, 705, [706, 708, 711 or 712] *708 or 711* of NRS and, at the request of the commission or its legal counsel, act as counsel and attorney for the commission.

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

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

is represented by independent counsel.

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

703.230 The commission may, in carrying out its duties:

1. Cooperate with the Federal Government, its departments and agencies.
2. Confer with the regulatory agencies of other states on matters of mutual concern and benefit to persons served by the public utilities, **motor carriers and brokers**, *and alternative sellers* of this state.
3. Use the services, records, facilities and cooperation of federal and state regulatory agencies, and hold joint hearings and participate in joint conferences to reach decisions in matters which require cooperation. All necessary expenses incurred in attending hearings and conferences outside **[the] this** state are a charge against the state, and must be audited and paid as other claims against **[the] this** state are paid. The claims must be sworn to by the commissioner who incurred the expense and approved by the chairman.

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

703.2901. A division of consumer **relations** is hereby established within the commission.

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

- (a) Receive and investigate complaints made against any public utility, **motor carrier or broker [;]**, *or alternative seller*;
- (b) Conduct appropriate investigations of the service practices of utility companies **[and motor carriers and brokers;]** *or alternative sellers*; and
- (c) Perform such other functions as are required by law or as the commission deems appropriate.

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

703.3101. When a complaint is made against any public utility, **fully regulated carrier or broker of regulated services**, *or alternative seller* by any person, that any of the rates, tolls, charges or schedules **[.] for regulated services**, or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, **or that any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, or the service of any broker in connection therewith**, or any regulation, measurement, practice or act affecting or relating to the production, transmission or delivery or furnishing of heat, light, gas, coal slurry, water or power, or any service in connection therewith or the transmission thereof is, in any respect, unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate, the division of consumer **relations** shall investigate the complaint. After receiving the complaint, the division shall give a copy of it to the public utility, **carrier or broker**, *or alternative seller* against whom the complaint is made. Within a reasonable time thereafter, the public utility, **carrier or broker**, *or alternative seller* shall provide the **[division] commission** with its written response to the complaint according to the regulations of the commission.

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

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

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

703.3741. A court of competent jurisdiction, after hearing, may issue an injunction suspending or staying any final order of the commission if:

- (a) The applicant has filed a motion for a preliminary injunction;
- (b) The applicant has served the motion on the commission and other interested parties within 20 days after the rendition of the order on which the complaint is based;
- (c) The court finds there is a reasonable likelihood that the applicant will prevail on the merits of the

matter and will suffer irreparable injury if injunctive relief is not granted; and

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

2. The decision of the commission on each matter considered shall be deemed reasonable and just until set aside by the court, and in all actions for injunction or otherwise the burden of proof is upon the party attacking or resisting the order of the commission to show by clear and satisfactory evidence that the order is unlawful, or unreasonable, as the case may be.

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

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

703.3751. If a court determines that the rate or rates considered by the commission are excessive, and that the public utility [or fully regulated carrier] has collected those excessive rates, the public utility [or carrier] shall compute and refund the excess or overpayment of the rate or rates pursuant to a plan approved by the commission [:

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

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

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

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

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

3. The commission shall:

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

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

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

4. Any person has a right of action against the commission in the event of a refusal of the commission to pay his claim if the person's name appears in the report filed by the public utility . [or carrier.] This action against the commission must be brought within 6 months after the refusal to pay the claim.

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

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

Sec. 24.5. NRS 703.376 is hereby amended to read as follows:

703.376 [Either] Any party to the action, within 60 days after the service of a copy of the order or

judgment of the district court, may appeal to the supreme court as in other civil cases.

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

703.3771. No certificate of public convenience and necessity, permit or license issued in accordance with the terms of NRS 704.005 to 704.751, inclusive, [or 706.011 to 706.791, inclusive.] is either a franchise or irrevocable.

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

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

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

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

703.3801. Unless another penalty is specifically provided, any public utility or any officer, agent or employee of a public utility who:

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

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

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

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

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

3. Subject to the approval of the court, any civil penalty may be compromised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, must be considered.

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

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

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

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

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

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

Sec. 32. *"Effective competition" means, with respect to a particular service, a market structure and a*

process under which an individual seller is not able to influence significantly the price of the service as a result of:

- 1. The number of sellers of the service;*
- 2. The size of each seller's share of the market;*
- 3. The ability of the sellers to enter or exit the market; and*
- 4. The price and availability of comparable substitutes for the service.*

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

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

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

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

Sec. 37. *"Potentially competitive service" means a component of electric service determined by the commission to be suitable for purchase by customers from alternative sellers. The term includes any potentially competitive electric service that is deemed to be competitive pursuant to subsection 5 of section 39 of this act.*

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

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

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

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

Sec. 39. 1. *The date upon which customers may begin obtaining generation, aggregation and any other potentially competitive services from an alternative seller must be no later than December 31, 1999, unless the commission determines that a different date is necessary to protect the public interest. If the commission determines that a different date is necessary, the commission shall provide a report to the director of the legislative counsel bureau for transmittal to the legislative commission on utilities by February 1, 1999, which:*

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

(b) States whether the commission will grant such an authorization by December 31, 1999.

2. The commission may:

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

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

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

(a) Will not harm any class of customers;

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

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

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

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

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

(a) Identify the relevant market;

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

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

5. On or before October 1, 2000, the commission shall submit to the director of the legislative counsel bureau for transmittal to the appropriate legislative committee a report which:

(a) Evaluates the effectiveness of competition in the market for each service which customers have the right to purchase from alternative sellers; and

(b) Recommends actions which the legislature should take to increase the effectiveness of competition in the markets for all potentially competitive services.

6. On or before October 1, 2001, an electric service that has been found to be potentially competitive shall be deemed to be competitive.

7. The commission may reconsider any determination made pursuant to this section upon its own motion or upon a showing of good cause by a party requesting a reconsideration. Upon a finding by the commission that the market for a service previously found not to have effective competition has become effectively competitive, the commission shall repeal the regulations which established the pricing methods and the terms and conditions for providing that service. The commission shall conduct any proceedings for the reconsideration of any such determination as expeditiously as practicable considering the current work load of the commission and the need to protect the public interest.

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

(a) On or after December 31, 1999; or

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

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

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

(a) Safety and reliability of service;

(b) Financial and operational fitness; and

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

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

4. The commission may deny the application of an applicant for a license to operate as an alternative seller and may limit, suspend or revoke a license issued to an alternative seller if the action is necessary to protect the interests of the public or to enforce the provisions of sections 28 to 53,

inclusive, of this act or a regulation of the commission.

5. In determining whether an applicant is qualified for a license, whether to deny an application for a license to operate as an alternative seller or whether to limit, suspend or revoke a license issued to an alternative seller, the commission may consider whether the applicant for or holder of the license, or any affiliate thereof, has engaged in any activities which are inconsistent with effective competition.

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

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

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

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

8. Regulations adopted pursuant to subsection 2:

(a) Must not be unduly burdensome;

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

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

(1) Different services; or

(2) Similar services to different classes of customers,

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

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

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

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

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

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

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

and

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

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

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

(a) Mergers, consolidations or acquisitions of the assets or the securities of providers of electric services;

(b) The disposition of ownership, operation or control of the assets of providers of electric services;

(c) Transmission congestion or constraints; and

(d) Anticompetitive or discriminatory conduct.

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

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

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

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

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

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

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

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

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

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

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

2. The commission shall adopt regulations which specify the information which must be submitted and

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

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

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

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

2. A noncompetitive service is subject to NRS 704.001 to 704.655, inclusive, 704.701 to 704.751, inclusive, 704.800 to 704.900, inclusive.

3. The commission shall adopt regulations for noncompetitive services that allow innovative pricing methods for noncompetitive services upon a finding that the innovative pricing, when compared to pricing of services provided pursuant to subsections 1 and 2, improves the performance of the service or lowers the cost of the service to the customer, or both. The regulations for innovative pricing must specify:

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

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

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

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

Sec. 45. 1. *The commission shall designate a vertically integrated electric utility to provide electric service to customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller. The provider so designated by the commission is obligated to provide electric service to the customers. Electric service provided by the utility pursuant to this section shall be deemed to be a noncompetitive service for which the utility may recover its costs pursuant to NRS 704.001 to 704.655, inclusive, 704.701 to 704.751, inclusive, 704.800 to 704.900, inclusive.*

2. Upon a finding by the commission that the public interest will be promoted, the commission may prescribe alternate methods for providing electric service to those customers described in subsection 1.

1. The alternate methods may include, but are not limited to, the direct assignment of customers to alternative sellers or electric distribution utilities or a process of competitive bidding for the right to provide electric service to the designated customers.

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

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

electric service.

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

6. The commission may, in accordance with NRS 704.110, 704.120 and 704.130, approve an increase in the rate charged for residential service provided pursuant to subsection 1 in an amount that does not exceed the increase necessitated, if any, to ensure the recovery by the vertically integrated electric utility of its just and reasonable costs. The provisions of this section do not limit or prohibit in any manner the operation of any order issued by the commission before July 1, 1997.

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

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

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

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

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

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

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

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

Sec. 47. *A vertically integrated electric utility shall take such reasonable steps as are necessary to minimize layoffs and any other adverse effects on the employees of the vertically integrated electric utility that result from the beginning of provision of potentially competitive services by alternative sellers.*

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

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

purchased. Such standards:

(a) Must not be unduly burdensome;

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

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

(1) Different services; or

(2) Similar services to different classes of customers,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The Southern Nevada Water Authority,

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

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

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

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

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

Sec. 51. 1. *The commission shall develop regular forecasts of electric capacity and energy based on*

the information submitted to the commission pursuant to subsection 3. The forecast must include:

- (a) A description of the facilities needed to meet the future requirements for electric services;*
- (b) An evaluation of the extent to which a retail electric service is subject to competition;*
- (c) A description of those actions needed to accommodate competition in the provision of potentially competitive services; and*
- (d) An evaluation of whether sufficient capacity will be available to customers at a reasonable price and will be selected by customers after the commission has authorized the provision of potentially competitive services by alternative sellers.*

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

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

- (a) Monitor the development of competition to provide electric services; and*
- (b) Ensure the availability of adequate, reliable, efficient and economic electric service.*

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

- (a) Be set at two-tenths of one percent of the total amount of electricity annually consumed by customers in this state as of January 1, 2001.*
- (b) Be increased biannually thereafter by two-tenths of one percent of the total annual electric consumption by the customers until the standard reaches a total of 1 percent of the total amount of electricity consumed.*
- (c) Be derived from not less than 50 percent renewable energy resources.*
- (d) Be derived from not less than 50 percent solar renewable energy systems.*
- (e) Be based on renewable energy credits, if applicable.*

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

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

- (a) Credits are issued for renewable energy resources for each kilowatt hour of energy which it produces; and*
- (b) Holders of credits may trade or sell the credits to other parties.*

4. For the purposes of this section, a vertically integrated electric utility which, on January 1, 1997, has 9 percent of its electricity consumed by its customers served by renewable energy resources shall be deemed to be in compliance until January 1, 2005, with the portfolio standards established by the commission pursuant to this section. Between January 1, 2005, and December 31, 2009, such a vertically integrated electric utility and its affiliated alternative seller, if any, shall reach a total of

one-half of 1 percent of the amount of electricity consumed by its customers, in annual increments of one-tenth of 1 percent, in solar energy resources for full compliance with the portfolio standard established by the commission pursuant to this section.

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

- (a) If the vertically integrated electric utility installed a renewable energy system during the period for which the report is being made, the date of installation;*
- (b) The capacity of renewable energy systems of the vertically integrated electric utility or alternative seller;*
- (c) The amount of production of energy from the renewable energy systems;*
- (d) The portion of the production of energy that is directly derived from renewable energy resources;*
- (e) The quantity of energy from renewable energy systems that is transmitted or distributed, or both, to customers in this state by the vertically integrated electric utility or alternative seller; and*
- (f) Such other information that the commission by regulation may deem relevant.*

6. Nothing in this section applies to:

- (a) Rural electric cooperatives established pursuant to chapter 81 of NRS;*
- (b) General improvement districts established pursuant to chapter 318 of NRS; or*
- (c) Utilities established pursuant to chapter 709 or 710 of NRS.*

7. As used in this section:

- (a) "Renewable energy resources" means wind, solar, geothermal and biomass energy resources in this state that are naturally regenerated.*
- (b) "Renewable energy system" means an energy system in this state that utilizes renewable energy resources to produce electricity or solar thermal energy systems that reduce the consumption of electricity that was installed and commenced operations after July 1, 1997.*

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

- 1. Whether there is effective competition for each potentially competitive service;*
- 2. The compatibility of direct access for retail customers to alternative sellers with environmental goals;*
- 3. The effects of direct access for retail customers to alternative sellers on each class of customers, compared to the noncompetitive regulatory structure;*
- 4. The opportunities to cooperate, formally or informally, with other states or the Federal Government in the implementation of effective competition; and*
- 5. Additional legislation necessary to achieve the goals of sections 28 to 53, inclusive, of this act.*

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

- (a) An elementary or secondary public school; or*
- (b) A public library,*

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

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

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

(b) Persons with low income and persons in rural, insular and high-cost areas, to ensure that such providers of health care and persons have access to telecommunication services that are reasonably comparable to those services available in urban areas and that the rates for such services charged by the utility are reasonably comparable to those charged in the urban areas, to the extent required by the provisions of 47 U.S.C. § 254.

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

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

Secs. 55 and 56. (Deleted by amendment.)

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

Sec. 58. *As used in sections 58 to 63, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 58.5, 59 and 60 of this act, have the meanings ascribed to them in those sections.*

Sec. 58.5. *"Alternative seller" means a seller of any competitive, discretionary or potentially component of natural gas service.*

Sec. 59. *"Person" includes a natural person, corporation, partnership, public utility, government, governmental agency and political subdivision of a government.*

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

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

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

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

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

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

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

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

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

(a) Safety;

(b) Reliability of service;

(c) *Financial reliability;*

(d) *Fitness to serve new customers; and*

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

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

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

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

(a) *A procedure for reestablishing the gas service;*

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

(1) *Reestablishing service;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

704.0201. "Public utility" *or "utility"* includes:

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

they are owned by the railroad.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) They serve 25 persons or less; and

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

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

5.] 3. Persons not *[normally] otherwise* engaged in the *[production and sale of] business of furnishing, producing or selling* water *or services for the disposal of sewage, or both*, but who sell or furnish water *or services for the disposal of sewage, or both*, as an accommodation in an area where water *[is]*

or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water [,] *or services for the disposal of sewage, or both,* for compensation, to persons within the political subdivision.

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

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

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

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

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

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

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

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

704.0331. The commission shall levy and collect an annual assessment from all public utilities subject to the jurisdiction of the commission.

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

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

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

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

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

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

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

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

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

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

704.0351. On or before June 1 of each year, the commission shall mail revenue report forms to all public utilities under its jurisdiction, to the address of those utilities on file with the commission. The revenue report form serves as notice of the commission's intent to assess the utilities, but failure to notify any utility does not invalidate the assessment with respect thereto.

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

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

4. The assessment computed by the utility is subject to review and audit by the commission, and the amount of the assessment may be adjusted by the commission as a result of the audit and review.
5. Any public utility failing to pay the assessment provided for in NRS 704.033 on or before August 1, or if paying quarterly, on or before August 1, October 1, January 1 or April 1, shall pay, in addition to such assessment, a penalty of 1 percent of the total unpaid balance for each month or portion thereof that the assessment is delinquent, or \$10, whichever is greater, but no penalty may exceed \$1,000 for each delinquent payment.
6. When a public utility sells, transfers or conveys substantially all of its assets or certificate of public convenience and necessity, the commission shall determine, levy and collect the accrued assessment for the current year not later than 30 days after the sale, transfer or conveyance, unless the transferee has assumed liability for the assessment. For purposes of this subsection the jurisdiction of the commission over the selling, transferring or conveying public utility continues until it has paid the assessment.
7. The commission may bring an appropriate action in its own name for the collection of any assessment and penalty which is not paid as provided in this section.
8. The commission shall, on a quarterly basis, transfer to the account for the consumer's advocate *of the bureau of consumer protection in the office of the attorney general* that portion of the assessments collected which belongs to the consumer's advocate.

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

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

1. Whenever there is filed with the commission any schedule stating a new or revised individual or joint rate [, fare] or charge, or any new or revised individual or joint regulation or practice affecting any rate [, fare] or charge, or any schedule resulting in a discontinuance, modification or restriction of service, the commission may, upon complaint or upon its own motion without complaint, at once, without answer or formal pleading by the interested utility, investigate or, upon reasonable notice, conduct a hearing concerning the propriety of the rate, [fare,] charge, classification, regulation, discontinuance, modification, restriction or practice.
2. Pending the investigation or hearing and the decision thereon, the commission, upon delivering to the utility affected thereby a statement in writing of its reasons for the suspension, may suspend the operation of the schedule and defer the use of the rate, [fare,] charge, classification, regulation, discontinuance, modification, restriction or practice, but not for more than 150 days beyond the time when the rate, [fare,] charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.
3. Whenever there is filed with the commission any schedule stating an increased individual or joint rate [, fare] or charge for service or equipment, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. During any hearing concerning the increased rates, fares or charges determined by the commission to be necessary, the commission shall consider evidence in support of the increased rates [, fares] or charges based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but no new rates [, fares] or charges may be placed into effect until the changes have been experienced and certified by the utility to the commission. The commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application.

Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the filing with the commission of the certification required in this subsection, or before the expiration of any period of suspension ordered pursuant to subsection 2, whichever time is longer, the commission shall make such order in reference to those rates [, fares] or charges as is required by this chapter.

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

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

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

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

8. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 [or 704.755] and accepted by the commission for acquisition or construction pursuant to NRS 704.751 [or 704.755] and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility. [For the purposes of this subsection, "utility facility" has the meaning ascribed to it in subsections 1, 2 and 3 of NRS 704.860.]

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

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

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

Secs. 73 and 74. (Deleted by amendment.)

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

704.210 The commission may:

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

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

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

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

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

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

704.2231. If a business with a new industrial load has been certified by the commission on economic development pursuant to NRS 231.139, the public **[service] utilities** commission of Nevada may authorize a public utility that furnishes electricity for the business to purchase or transmit a portion of the electricity provided to the business to reduce the overall cost of the electricity to the business. The purchases of electricity may be made by the business with the new industrial load, by agreement between the public utility and the business or by the public utility on behalf of the business, and must be made in accordance with such rates, terms and conditions as are established by the public **[service] utilities** commission of Nevada.

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

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

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

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

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

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

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

704.3101. Whenever any person, company, corporation or association which is not engaged in business as a public utility as defined by this chapter, and which does not furnish, sell, produce or deliver to others light, heat **[, power or water,] or power,** under a franchise received from **[the] this** state or from any county or municipality within **[the state, shall be] this state, is** able, from any surplus beyond the needs or requirements of its own business, and **[shall desire] desires** to sell, produce, furnish and deliver to any other person, company, association or corporation any light, heat **[, power or water, such] or power, the** person, company, association or corporation shall apply to the

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

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

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

704.3401. Subject to the provisions of subsection 3, a municipality constructing, leasing, operating or maintaining any public utility or a trust created for the benefit and furtherance of any public function pursuant to the provisions of general or special law, [other than a trust which undertakes to provide transportation by use of a motor vehicle as a common or contract carrier,] is not required to obtain a certificate of public convenience, but any trust so created which undertakes the operation of a public utility shall first submit a certified copy of the trust documents or prepared trust documents to the commission together with a detailed explanation of the purposes, scope, area to be affected and such other pertinent information necessary to assist the commission in making a determination as to whether the service presently being offered by any existing public utility would be unreasonably impaired by the approval of such trust documents.

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

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

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

704.640 Any person who:

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

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

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

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

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

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

shall be fined not more than \$500.

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

704.6691. Except as *otherwise* provided in subsection 2, every corporation or other person who sells geothermal energy to the public is affected with a public interest, is a public utility and is subject to the jurisdiction and control of the commission. The authority of the commission to regulate such

persons is limited to the authority granted by this section and NRS 704.033 and 704.035.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

in this state.

Sec. 83. (Deleted by amendment.)

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

704.8251. The legislature hereby finds and declares that:

- (a) There is at present and will continue to be a growing need for electric, gas and water services which will require the construction of new facilities. It is recognized that such facilities cannot be built without in some way affecting the physical environment where such facilities are located.
- (b) It is essential in the public interest to minimize any adverse effect upon the environment and upon the quality of life of the people of the state which such new facilities might cause.
- (c) Present laws and practices relating to the location of such utility facilities should be strengthened to protect environmental values and to take into account the total cost to society of such facilities.
- (d) Existing provisions of law may not provide adequate opportunity for natural persons, groups interested in conservation and the protection of the environment, state and regional agencies, local governments and other public bodies to participate in **[any and all proceedings before the public service commission of Nevada]** *proceedings* regarding the location and construction of major facilities.

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

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

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

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

704.8551. "Public utility" or "utility" includes those public utilities defined in NRS 704.020 and not excluded by NRS 704.030 and any oil pipeline carrier described and regulated under chapter 708 of NRS.

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

- (a) Is a parent or an affiliated corporation of a public utility or a subsidiary of that parent or affiliated corporation; and**
- (b) Owns, independently or in combination with any other public utility, a one-third interest in a utility facility.**

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

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

704.860"Utility facility" means:

- 1. Electric generating plants and their associated facilities **[;]** , *other than plants and their associated facilities that are located in counties whose population is 100,000 or more;*
- 2. Electric transmission lines and transmission substations designed to operate at 200 kilovolts or more, and not required by local ordinance to be placed underground when constructed outside any incorporated city;
- 3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside any incorporated city;
- 4. Water storage, transmission and treatment facilities **[;]** , *other than facilities for the storage, transmission or treatment of water from mining operations;* and
- 5. Sewer transmission and treatment facilities.

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

704.8701. A **[public utility which]** *person who* applies for a permit must file with the commission an application, in such form as the commission prescribes, containing:

- (a) A description of the location and of the utility facility to be built thereon;
- (b) A summary of any studies which have been made of the environmental impact of the facility; *and*
- (c) [A statement explaining the need for the facility; *and*
- (d)] A description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility . [;
- (e) A summary of the examination of conservation measures and alternative sources of energy which was made before the construction of a facility using fossil fuel; and
- (f) Such other information as the applicant may consider relevant or as the commission may by regulation or order require.]

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

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

- (a) A description of the location and of the utility facility to be built thereon;
- (b) A summary of any studies which have been made of the environmental impact of the facility; and
- (c) Such other information as the applicant may consider relevant.

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

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

- (a) Proof of service of a copy of the application on the clerk of each local government in the area in which any portion of the facility is to be located, both as primarily and as alternatively proposed; and
- (b) Proof that public notice thereof was given to persons residing in the municipalities entitled to receive notice [under] pursuant to paragraph (a) by the publication of a summary of the application in newspapers published and distributed in the area in which the utility facility is proposed to be located.

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

704.8851. The parties to a permit proceeding include:

- (a) The applicant.
- (b) The division of environmental protection of the state department of conservation and natural resources.
- (c) Each local government entitled to receive service of a copy of the application [under subsection 4] pursuant to subsection 3 of NRS 704.870, if it has filed with the commission a notice of intervention as a party, within [45] 30 days after the date it was served with a copy of the application.
- (d) Any person residing in a local government entitled to receive service of a copy of the application [under subsection 4] pursuant to subsection 3 of NRS 704.870, if such a person has petitioned the commission for leave to intervene as a party within [45] 30 days after the date of the published notice and if the petition has been granted by the commission for good cause shown.
- (e) Any domestic nonprofit corporation or association, formed in whole or in part to promote conservation of natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial and industrial groups, or to promote the orderly development of the areas in which the facility is to be located, if it has filed with the commission a notice of intent to be a party within [45] 30 days after the date of the published notice.

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

3. The commission may, for good cause shown, grant a petition for leave to intervene as a party to participate in subsequent phases of the proceeding, filed by a municipality, government agency,

person or organization who is identified in paragraph (c), (d) or (e) of subsection 1, but who failed to file in a timely manner a notice of intervention, a petition for leave to intervene or a notice of intent to be a party, as the case may be.

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

704.8901. [The] *Within 150 days after a person has filed an application for a permit, the* commission shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions or modifications of the construction, operation or maintenance of the utility facility as the commission deems appropriate.

2. [The] *Except as otherwise provided in subsection 6, the* commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the commission, to a [public utility] *person* unless it finds and determines:

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

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

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

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

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

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

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

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

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

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

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

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

5. *The requirements set forth in paragraph (d) of subsection 2 do not apply to any application for a permit which is filed by a state government or political subdivision thereof.*

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

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

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

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

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

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

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

704.9501. The tenant of a lot in a mobile home park or occupant of a dwelling in a company town who believes that the landlord or owner has violated the provisions of NRS 704.930, 704.940 or 704.960 may complain to the division of consumer [relations] *complaint resolution* of the commission. The division shall receive and promptly investigate the complaint. If the division is unable to resolve the complaint, the division shall transmit the complaint and its recommendation to the commission.

2. The commission shall investigate, give notice and hold a hearing upon the complaint, applying to the extent practicable the procedures provided for complaints against public utilities in chapter 703 of NRS.

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

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

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

704A.1801. Within 15 days after the receipt of the petition, each public utility corporation other than the municipality shall notify the municipality of the petition's receipt and shall request the municipality to notify the public utility corporation of the basis to be used by the municipality in the apportionment of the costs to be defrayed by special assessments levied against the specially benefited lots within the proposed service district if the facilities of the public utility corporation therein are to be placed underground under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

704A.2401. At the place, date and hour specified for the hearing in the notice or at any subsequent time to which the hearing may be adjourned the governing body shall give full consideration to all written objections which have been filed and shall hear all owners of real property within the proposed service district desiring to be heard.

2. If the governing body determines at the hearing that:

(a) The requirements for the establishment of a service district have been satisfied;

(b) Objections have not been filed in writing by more than 40 percent of the owners of real property within the proposed service district, or by owners of more than 40 percent of the real property on a square foot basis in the proposed service district;

(c) Considering all objections, the cost of construction or conversion as contained in the joint report prepared pursuant to NRS 704A.180 is economically and technically feasible for the public utility corporations involved and the owners of real property affected; and

(d) The proposed service district is a reasonably compact area of reasonable size, the governing body shall enact an ordinance establishing the area as a service district.

3. The ordinance **[shall:]** *must:*

(a) State the costs to be assessed to each lot in the service district, **[which shall include]** *including* the appropriate share of all costs referred to in NRS 704A.180 and 704A.210.

(b) Direct the public utility corporation owning overhead electric or communication facilities within the service district to construct or convert such facilities to underground facilities and, in the case of a public utility corporation other than a city or county, in accordance with standard underground practices and procedures approved by the public **[service]** *utilities* commission of Nevada.

(c) State the method of levying assessments, the number of installments, and the times when the costs assessed will be payable.

4. Before enacting an ordinance establishing a service district, the governing body shall exclude by resolution or ordinance any territory described in the petition which the governing body finds will not be benefited by inclusion in the service district or for which territory construction or conversion is not economically or technically feasible.

5. The basis for apportioning the assessments:

- (a) [Shall] *Must* be in proportion to the special benefits derived to each of the several lots comprising the assessable property within the service district; and
- (b) [Shall] *Must* be on a front foot, area, zone or other equitable basis as determined by the governing body.

6. Regardless of the basis used for the apportionment of assessments, in cases of wedge or V or any other irregularly shaped lots, an amount apportioned thereto [shall] *must* be in proportion to the special benefits thereby derived.

7. The assessable property in the service districts consists of the lots specially benefited by the construction or conversion of service facilities, except:

- (a) Any lot owned by the Federal Government in the absence of consent of Congress to its assessment; and
- (b) Any lot owned by the municipality.

Sec. 95. NRS 704A.300 is hereby amended to read as follows:

704A.3001. The service facilities within the boundaries of each lot within an underground conversion service district must be placed underground at the same time as or after the underground system in private easements and public places is placed underground. The public utility corporation involved, directly or through a contractor, shall, in accordance with the rules and regulations of the public utility corporation, but subject to the regulations of the public [service] *utilities* commission of Nevada in the case of a public utility corporation other than a city or county, and, in the case of any [public] utility corporation, subject to any other applicable laws, ordinances, rules or regulations of the municipality or any other public agency under the police power, convert to underground its facilities on any such lot in the case of:

- (a) An electric public utility, up to the service entrance.
- (b) A communication public utility, to the connection point within the house or structure.

2. All costs or expenses of conversion must be included in the costs on which the underground conversion cost for such property is calculated, as provided in this chapter.

Sec. 96. NRS 705.210 is hereby amended to read as follows:

705.2101. As used in this section:

- (a) "Employees" means persons actually engaged in or connected with the movement of any train.
- (b) "Railroad" includes all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract agreement or lease.

2. The provisions of this section [shall] apply to any common carrier or carriers, their officers, agents and employees engaged in the transportation of passengers or property by railroad in the State of Nevada.

3. It [shall be] *is* unlawful for any common carrier, its officers or agents, subject to this section, to require or permit any employee subject to this section to be or remain on duty for a longer period than 16 consecutive hours, and whenever any such employee of such common carrier [shall have] *has* been continuously on duty for 16 hours he [shall] *must* be relieved and not required or permitted again to go on duty until he has had at least 10 consecutive hours off duty. No such employee who has been on duty 16 hours in the aggregate in any 24-hour period [shall] *must* be required or permitted to continue or again go on duty without having had at least 8 consecutive hours off duty.

4. No employee who, by the use of the telegraph or telephone or other electrical device, dispatches, reports, transmits, receives or delivers orders or who from towers, offices, places and stations operates signals or switches or similar mechanical devices controlling, pertaining to, or affecting the movement of trains of more than two cars [shall] *must* be required or permitted to be or remain on duty in any 24-hour period for a longer period than 8 hours, which [period of 8 hours shall] *must* be wholly within the limits of a continuous shift and upon the completion of [which period such employee shall] *that period the employee must* not be required or permitted again to go on duty until

the expiration of 16 hours. This subsection [shall] *does* not apply to employees who, in case of emergency, use the telephone to obtain orders or information governing the movement of trains. In case of emergency, [the employees named in this subsection] *such employees* may be permitted to be and remain on duty for 4 additional hours in a 24-hour period of not exceeding 3 days in any week.

5. Any common carrier, or any officer or agent thereof, requiring or permitting any employee to go, be or remain on duty in violation of subsections 3 and 4 shall be punished by a fine of not more than \$500.

6. In all prosecutions under this section the common carrier shall be deemed to have had knowledge of all acts of its officers and agents.

7. The provisions of this section [shall] *do* not apply:

(a) In any case of casualty or unavoidable accident or the act of God.

(b) Where the delay was the result of a cause not known to the carrier or its officers or agents in charge of such employee at the time the employee left the terminal and which could not have been foreseen.

(c) To the crews of wrecking or relief trains.

(d) To railroads not maintaining a regular night train schedule.

8. The public [service] *utilities* commission of Nevada shall:

(a) Execute and enforce the provisions of this section, and all powers granted by law to the public [service] *utilities* commission of Nevada are hereby extended to it in the execution of this section.

(b) Lodge with the proper district attorneys information of any violations of this section which may come to its knowledge.

Sec. 97. NRS 705.360 is hereby amended to read as follows:

705.3601. Every company, corporation lessee, manager or receiver, owning or operating a railroad in this state, shall equip, maintain, use and display at night upon each locomotive being operated in road service in this state an electric or other headlight of at least 1,500 candle power, measured without the aid of a reflector. Any electric headlight which will pick up and distinguish a man dressed in dark clothes upon a dark, clear night at a distance of 1,000 feet is deemed the equivalent of a 1,500 candle power headlight measured without the aid of a reflector.

2. This section does not apply to:

(a) Locomotive engines regularly used in switching cars or trains.

(b) Railroads not maintaining regular night train schedules.

(c) Locomotives going to or returning from repair shops when ordered in for repairs.

3. Any railroad company, or the receiver or lessee thereof, which violates the provisions of this section is liable to the public [service] *utilities* commission of Nevada for a penalty of not more than \$1,000 for each violation.

Sec. 98. NRS 705.370 is hereby amended to read as follows:

705.3701. Each railroad company or corporation or its receiver, owning or operating any railroad within this state, shall equip and maintain in each of its passenger trains, cabooses, locomotives, motors or diesel engines used in the propelling of trains or switching of cars an emergency first-aid kit whose contents must be those prescribed by the public [service] *utilities* commission of Nevada. Each passenger train and each caboose must be equipped with at least one stretcher. All of the contents of the emergency first-aid kits, except the stretchers, must be stored on each passenger train, caboose, locomotive, motor or diesel engine, in a clean, sanitary and sterile container and in an accessible place at all times, which places, including the storage places of stretchers, must be plainly designated.

2. The employee of any railroad company or corporation or its receiver, having charge of any passenger train, caboose, locomotive, motor or diesel engine, shall as soon as possible report in writing to the office or officer designated by the company, corporation or receiver for the purpose, whenever any of the emergency first-aid kit has been used or has been found missing. The emergency first-aid kit must only be used to render first medical or surgical aid to injured passengers, employees

or other injured persons requiring first aid.

3. Any railroad company or corporation or its receiver, which refuses, neglects or fails to comply with the provisions of this section is liable for a penalty to the public [service] *utilities* commission of Nevada of \$25 for each failure to equip a passenger train, caboose, locomotive or motor or diesel engine with the emergency first-aid kit specified in subsection 1.

4. Any person who removes, carries away from its proper place or uses any emergency first-aid kit provided in this section, except for the purpose of administering first aid in the event of injury to any passenger, employee or other person shall be fined not more than \$500.

Sec. 99. NRS 705.420 is hereby amended to read as follows:

705.420 Any railroad company or receiver of any railroad company, and any person engaged in the business of common carrier doing business in the State of Nevada, which violates any of the provisions of NRS 705.390 is liable to the public [service] *utilities* commission of Nevada for a penalty of \$500 for each violation.

Sec. 100. NRS 705.421 is hereby amended to read as follows:

705.421 The department of transportation:

1. Shall develop, in conjunction with the public [service] *utilities* commission of Nevada, a state plan for rail service; and

2. May carry out the plan, including projects to:

(a) Preserve rail lines;

(b) Rehabilitate rail lines to improve service; and

(c) Restore or improve freight service on rail lines which are potentially subject to abandonment.

Sec. 101 and 102. (Deleted by amendment.)

Sec. 103. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 104 to 128, inclusive, of this act.

Sec. 104. *"Authority" means the transportation services authority created pursuant to section 105 of this act.*

Sec. 105. 1. *The transportation services authority is hereby created.*

2. The authority consists of three members appointed by the governor. After the initial term each member shall serve a term of 4 years.

3. The governor shall appoint to the authority members who have at least 2 years of experience in one or more of the following fields:

(a) Accounting.

(b) Business administration.

(c) Economics.

(d) Administrative law.

(e) Transportation.

(f) Professional engineering.

At least one but not more than two of the members appointed must be residents of Clark County.

4. Not more than two of the members may be:

(a) Members of the same political party.

(b) From the same field of experience.

5. All of the members must be persons who are independent of the industries regulated by the authority. No elected officer of this state or any political subdivision is eligible for appointment.

6. The members of the authority shall give their entire time to the business of the authority and shall not pursue any other business or vocation or hold any other office of profit.

7. Each member of the authority serves at the pleasure of the governor.

Sec. 106. 1. *The governor shall designate one of the members of the authority to be chairman. The chairman is the executive officer of the authority and serves at the pleasure of the governor.*

2. The members of the authority are in the unclassified service of the state.

Sec. 107. *The authority may sue and be sued in the name of the transportation services authority.*

Sec. 108. *1. A majority of the members of the authority may exercise all of the power and conduct the business of the authority relating to common or contract carrier, taxicabs, and the warehousing of household goods as provided in this chapter and chapter 712 of NRS.*

2. Except as otherwise provided in this subsection, public hearings must be conducted by one or more members of the authority. An administrative proceeding conducted pursuant to subsection 2 of NRS 706.771 may be conducted by a hearing officer designated by the chairman of the authority.

Sec. 109. *1. Any common or contract carrier subject to the jurisdiction of the authority that elects to maintain its books and records outside the State of Nevada shall, in addition to any other assessment and fees provided for by law, be assessed by the authority for an amount equal to the travel expenses and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160, of members of the authority and staff, for investigations, inspections and audits required to be performed outside this state.*

2. The assessments provided for by this section must be determined by the authority upon the completion of each such investigation, inspection, audit or appearance and are due within 30 days after receipt by the affected common or contract carrier of the notice of assessment.

3. The records of the authority relating to the additional costs incurred by reason of the necessary additional travel must be open for inspection by the affected common or contract carrier at any time within the 30-day period.

Sec. 110. *1. The transportation services authority regulatory fund is hereby created as a special revenue fund. All money collected by the authority pursuant to law must be deposited in the state treasury for credit to the fund.*

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

(a) Maintaining staff and equipment needed to regulate adequately persons subject to the jurisdiction of the authority.

(b) Participating in all proceedings relevant to the jurisdiction of the authority.

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

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

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

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

Sec. 111. *Employees of the authority who are peace officers may carry firearms in the performance of their duties.*

Sec. 112. *Except as otherwise provided in section 116 of this act, the authority shall make and publish biennial reports showing its proceedings. All biennial reports, records, proceedings, papers and files of the authority must be open at all reasonable times to the public.*

Sec. 113. *1. Each fully regulated carrier and common or contract carrier regulated by the authority shall:*

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

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

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

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

4. If the authority finds that necessary information is not contained in a report submitted pursuant to

this section, it may call for the omitted information at any time.

Sec. 114. *Every annual report, record or statement required by law to be made to the authority must be submitted under oath by the proper officer, agent or person responsible for submitting the report, record or statement.*

Sec. 115. *1. Except as otherwise provided in subsection 2, any member of the authority or any officer or employee of the authority who is designated by the authority may examine during the regular business hours the books, accounts, records, minutes, papers and property of any person who is regulated by the authority and who does business in this state, whether or not the book, account, record, minutes, paper or property is located within this state.*

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

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

- (a) The name of the employee who is the subject of the record;*
- (b) The gross compensation and perquisites of the employee;*
- (c) Any record of the business expenses of the employee;*
- (d) The title or any description of the position held by the employee;*
- (e) The qualifications required for the position held by the employee;*
- (f) The business address of the employee;*
- (g) The telephone number of the employee at his place of business;*
- (h) The work schedule of the employee;*
- (i) The date on which the employee began his employment; and*
- (j) If applicable, the date on which the employment of the employee was terminated.*

Sec. 116. *1. Any books, accounts, records, minutes, papers and property of any carrier that are subject to examination pursuant to sections 112 and 115 of this act, and are made available to the authority, any officer or employee of the authority, or any other person under the condition that the disclosure of such information to the public be withheld or otherwise limited, must not be disclosed to the public unless the authority first determines that the disclosure is justified.*

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

- (a) Granting such protective orders as it deems necessary; and*
- (b) Holding closed hearings to receive or examine such information.*

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

- (a) Restrict access to the records and transcripts of such hearings without the prior approval of the authority or an order of a court of competent jurisdiction authorizing access to the records or transcripts; and*
- (b) Prohibit any participant at such a hearing from disclosing such information without the prior authorization of the authority.*

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

Sec. 117. *1. The authority may collect fees for the filing of any official document required by this chapter or by a regulation of the authority.*

2. Filing fees may not exceed:

- (a) For applications, \$200.*
- (b) For petitions seeking affirmative relief, \$200.*
- (c) For each tariff page that requires public notice and is not attached to an application, \$10. If more*

than one page is filed at one time, the total fee may not exceed the cost of notice and publication.

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

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

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

Sec. 118. *1. The attorney general shall:*

(a) Act as counsel and attorney for the authority in all actions, proceedings and hearings.

(b) Prosecute in the name of the transportation services authority all civil actions for the enforcement of this chapter and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the authority in the performance of its duties and the enforcement of this chapter.

2. The attorney general or any district attorney may prosecute any violation of this chapter or chapter 712 of NRS for which a criminal penalty is provided.

Sec. 119. *The authority may, in carrying out its duties:*

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

2. Confer with the regulatory agencies of other states on matters of mutual concern and benefit to persons served by motor carriers of this state.

3. Use the services, records, facilities and cooperation of federal and state regulatory agencies, and hold joint hearings and participate in joint conferences to reach decisions in matters that require cooperation. All necessary expenses incurred in attending hearings and conferences outside this state are a charge against the state and must be audited and paid as other claims against the state are paid.

Sec. 120. *1. When a complaint is made against any fully regulated carrier by any person, that any of the rates, tolls, charges or schedules, or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate, the authority shall investigate the complaint. After receiving the complaint, the authority shall give a copy of it to the carrier or tow car operator against whom the complaint is made. Within a reasonable time thereafter, the carrier or tow car operator shall provide the authority with its written response to the complaint according to the regulations of the authority.*

2. If the authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in section 120 of this act.

Sec. 121. *1. When, in any matter pending before the authority, a hearing is required by law, or is normally required by the authority, the authority shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The authority shall by regulation specify:*

(a) The manner of giving notice; and

(b) Where not specified by law, the persons entitled to notice in each type of proceeding.

2. Unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the authority a request that the hearing be held, the authority may dispense with a hearing and act upon the matter pending.

3. If a request for a hearing is filed, the authority shall give at least 10 days' notice of the hearing.

Sec. 122. *1. A complete record must be kept of all hearings before the authority, and all testimony must be taken down by the stenographer appointed by the authority, or, under the direction of any competent person appointed by the authority, reported by sound recording equipment in the manner authorized for reporting testimony in district courts. The testimony reported by a stenographer must be transcribed and filed with the record in the matter. The authority may by regulation provide for the*

transcription or safekeeping of sound recordings. The costs of recording and transcribing testimony at any hearing, except those hearings ordered pursuant to section 120 of this act must be paid by the applicant. If a complaint is made pursuant to section 120 of this act by a customer or by a political subdivision of this state or a municipal organization, the complainant is not liable for any costs. Otherwise, if there are several applicants or parties to any hearing, the authority may apportion the costs among them in its discretion.

2. Whenever any petition is served upon the authority, before the action is reached for trial, the authority shall file a certified copy of all proceedings and testimony taken with the clerk of the court in which the action is pending.

3. A copy of the proceedings and testimony must be furnished to any party, on payment of a reasonable amount, to be fixed by the authority, and the amount must be the same for all parties.

4. The provisions of this section do not prohibit the authority from restricting access to the records and transcripts of a hearing pursuant to subsection 2 of section 116 of this act.

Sec. 123. *1. Any party is entitled to an order by the authority for the appearance of witnesses or the production of books, papers and documents containing material testimony.*

2. Witnesses appearing upon the order of the authority are entitled to the same fees and mileage as witnesses in civil actions in the courts of this state, and the fees and mileage must be paid out of the state treasury in the same manner as other claims against the state are paid. No fees or mileage may be allowed unless the chairman of the authority certifies the correctness of the claim.

Sec. 124. *The authority may require, by order to be served on any person regulated by the authority in the same manner as a subpoena in a civil action, the production at a time and place designated by the authority of any books, accounts, papers or records kept by the person in any office or place outside this state, or verified copies in lieu thereof if the authority so directs, so that an examination may be made by the authority or under its direction, or for use as testimony.*

Sec. 125. *Any person who is aggrieved by any action or inaction of the taxicab authority pursuant to NRS 706.8819 is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS. The transportation services authority may adopt such regulations as may be necessary to provide for its review of decisions of the taxicab authority.*

Sec. 126. *1. A certificate of public convenience and necessity, permit or license issued in accordance with this chapter is not a franchise and may be revoked.*

2. The authority may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee, suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, and sections 104 to 128, inclusive, of this act for a period not to exceed 60 days.

3. Upon receipt of a written complaint or on its own motion, the authority may, after investigation and hearing, revoke any certificate, permit or license. If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes his interest in the certificate, permit or license by so notifying the authority in writing, the authority may revoke the certificate, permit or license without a hearing.

4. The proceedings thereafter are governed by the provisions of chapter 233B of NRS.

Sec. 127. (Deleted by amendment.)

Sec. 128. *1. A vehicle used as a taxicab, limousine or other passenger vehicle in passenger service must be impounded by the authority if a certificate of public convenience and necessity has not been issued authorizing its operation. A hearing must be held by the authority no later than the conclusion of the second normal business day after impoundment, weekends and holidays excluded. As soon as practicable after impoundment, the authority shall notify the registered owner of the vehicle:*

(a) That the registered owner of the vehicle must post a bond in the amount of \$20,000 to ensure his presence at all proceedings held pursuant to this section;

(b) Of the time set for the hearing; and

(c) Of his right to be represented by counsel during all phases of the proceedings.

2. The authority shall hold the vehicle until the registered owner of the vehicle appears and:

(a) Proves that he is the registered owner of the vehicle;

(b) Proves that he holds a valid certificate of public convenience and necessity;

(c) Proves that the vehicle meets all required standards of the authority; and

(d) Posts a bond in the amount of \$20,000 with the administrator.

The authority shall return the vehicle to its registered owner when the owner meets the requirements of this subsection and pays all costs of impoundment.

3. If the registered owner is unable to meet the requirements of paragraphs (b) or (c) of subsection 2, the authority may assess an administrative fine against the registered owner for each such violation in the amount of \$5,000. The maximum amount of the administrative fine that may be assessed against a registered owner for a single impoundment of his vehicle pursuant to this section is \$10,000. The authority shall return the vehicle after any administrative fine imposed pursuant to this subsection and all costs of impoundment have been paid.

Sec. 129. NRS 706.011 is hereby amended to read as follows:

706.011As used in NRS 706.013 to 706.791, inclusive, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, *and section 104 of this act*, have the meanings ascribed to them in those sections.

Sec. 130. NRS 706.031 is hereby amended to read as follows:

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

Sec. 131. NRS 706.072 is hereby amended to read as follows:

706.072"Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the **[commission]** *authority* a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the **[commission.]** *authority*.

Sec. 132. NRS 706.085 is hereby amended to read as follows:

706.085"Household goods" means any of the following [:

1. Personal] *personal* effects and property used or to be used in a dwelling which are part of the equipment or supply of the dwelling and such other similar property as the **[commission]** *authority* may provide by regulation. The term does not include property moving from a factory or store, except property that the householder has purchased with the intent to use in his dwelling and that is transported at the request of, and the transportation charges paid to the carrier by, the householder.

[2. Furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments which are part of the stock, equipment or supply of the stores, offices, museums, institutions, hospitals or other establishments and such other similar property as the **commission** may provide by regulation. The term does not include the stock in trade of any establishment whether cosigner or consignee, other than used furniture and used fixtures, when transported as incidental to moving the establishment, or a portion of the establishment, from one location to another.

3. Articles, including objects of art, displays and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods and such other similar articles as the **commission** may provide by regulation. This subsection does not include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.]

Sec. 133. NRS 706.151 is hereby amended to read as follows:

706.1511. It is hereby declared to be the purpose and policy of the legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, to confer upon the **[commission]** *authority* the power and to make it the duty of the **[commission]** *authority* to regulate fully regulated carriers and brokers of regulated services to the extent provided in this chapter and to

confer upon the department the power to license all motor carriers and to make it the duty of the department to enforce the provisions of this chapter and the regulations adopted by the [commission] authority pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation, to promote safe, adequate, economical and efficient service and foster sound economic conditions in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for intrastate transportation by fully regulated carriers without unjust discriminations against or undue preferences or advantages being given to any motor carrier or applicant for a certificate of public convenience and necessity.

(e) To discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier business within this state.

2. All of the provisions of this chapter must be administered and enforced with a view to carrying out the declaration of policy contained in this section.

Sec. 134. NRS 706.153 is hereby amended to read as follows:

706.153 The provisions of NRS 706.151 to 706.163, inclusive, 706.168, 706.311 to 706.436, inclusive, 706.471, 706.473, 706.475, 706.6411 to 706.749, inclusive, and 706.881 to 706.885, inclusive, *and section 128 of this act*, do not apply to an operator of a tow car.

Sec. 135. NRS 706.156 is hereby amended to read as follows:

706.1561. All common and contract motor carriers and brokers are hereby declared to be, to the extent provided in this chapter:

(a) Affected with a public interest; and

(b) Subject to NRS 706.011 to 706.791, inclusive [.] , *and sections 104 to 128, inclusive, of this act.*

2. Fully regulated carriers are subject to the regulation of rates, charges and services by the [commission.] authority.

3. A purchaser or broker of transportation services which are provided by a common motor carrier who holds a certificate of public convenience and necessity may resell those services, in combination with other services and facilities that are not related to transportation, but only in a manner complying with the scope of authority set forth in the certificate of the common motor carrier. The [commission] authority shall not prohibit or restrict such a purchaser or broker from reselling those transportation services to any person based upon that person's affiliation, or lack of affiliation, with any group.

Sec. 136. NRS 706.158 is hereby amended to read as follows:

706.158 The provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, relating to brokers do not apply to any person whom the [commission] authority determines is:

1. A motor club which holds a valid certificate of authority issued by the commissioner of insurance; or

2. A bona fide charitable organization, such as a nonprofit corporation or a society, organization or association for educational, religious, scientific or charitable purposes.

Sec. 137. NRS 706.166 is hereby amended to read as follows:

706.166 The [commission] authority shall:

1. Subject to the limitation provided in NRS 706.168 and to the extent provided in this chapter, supervise and regulate every fully regulated carrier and broker of regulated services in this state in all matters directly related to those activities of the motor carrier and broker actually necessary for the transportation of persons or property, including the handling and storage of that property, over and

along the highways.

2. [Cooperate with the department in its issuance of permits by performing safety and operational investigations of all persons applying for a permit from the department to transport radioactive waste, and reporting its findings to the department.] *Supervise and regulate the storage of household goods and effects in warehouses and the operation and maintenance of such warehouses in accordance with the provisions of this chapter and chapter 712 of NRS.*

3. Enforce the standards of safety applicable to the employees, equipment, facilities and operations of those common and contract carriers subject to the [commission] authority or the department by:

- (a) Providing training in safety;
- (b) Reviewing and observing the programs or inspections of the carrier relating to safety; and
- (c) Conducting inspections relating to safety at the operating terminals of the carrier.

4. To carry out the policies expressed in NRS 706.151, adopt regulations providing for agreements between two or more fully regulated carriers relating to:

- (a) Fares;
- (b) Rates;
- (c) Classifications;
- (d) Divisions;
- (e) Allowances; and
- (f) Charges, including charges between carriers and compensation paid or received for the use of facilities and equipment.

These regulations may not provide for collective agreements which restrain any party from taking free and independent action.

5. *Review decisions of the taxicab authority appealed to the authority pursuant to NRS 706.8819.*

Sec. 138. NRS 706.168 is hereby amended to read as follows:

706.168 The authority of the [commission] transportation services authority to supervise and regulate motor carriers and brokers respectively, to the extent provided in this chapter, must be exercised separately. A motor carrier is responsible only for his own acts and those of his employees or agents who are not brokers. A broker is responsible only for his own acts and those of his employees or agents who are not motor carriers.

Sec. 139. NRS 706.171 is hereby amended to read as follows:

706.171. The [commission] authority and the department may:

- (a) Make necessary and reasonable regulations governing the administration and enforcement of the provisions of this chapter for which they are each responsible.
- (b) Adopt by reference any appropriate rule or regulation, as it exists at the time of adoption, issued by the United States Department of Transportation, the Surface Transportation Board, any other agency of the Federal Government, or the National Association of Regulatory Utility Commissioners.
- (c) Require such reports and the maintenance of such records as they determine to be necessary for the administration and enforcement of this chapter.
- (d) Except as otherwise provided in this section, examine, at any time during the business hours of the day, the books, papers and records of any fully regulated carrier, and of any other common, contract or private motor carrier doing business in this state to the extent necessary for their respective duties. The [commission] authority and the department may examine in other states or require by subpoena the production inside this state of such books, papers and records as are not maintained in this state.
- (e) Temporarily waive any requirement for a certificate or permit when an emergency exists as defined in NRS 706.561.

2. No personnel records of an employee of a fully regulated carrier, or of any other common, contract or private motor carrier may be examined pursuant to paragraph (d) of subsection 1 unless the records contain information relating to a matter of public safety or the [commission] authority and the department determine that the examination is required to protect the interests of the public.

3. The department may adopt regulations to ensure the payment of any fee due or authorized pursuant to the provisions of this chapter.

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

- (a) The name of the employee who is the subject of the record;
- (b) The gross compensation and perquisites of the employee;
- (c) Any record of the business expenses of the employee;
- (d) The title or any description of the position held by the employee;
- (e) The qualifications required for the position held by the employee;
- (f) The business address of the employee;
- (g) The telephone number of the employee at his place of business;
- (h) The work schedule of the employee;
- (i) The date on which the employee began his employment; and
- (j) If applicable, the date on which the employment of the employee was terminated.

Sec. 140. NRS 706.173 is hereby amended to read as follows:

706.173 *1.* The [commission] authority or the department may, by regulation applicable to [all motor vehicles transporting hazardous materials and to] common, contract and private motor carriers of passengers and property, adopt standards for [:

1. Safety] safety for drivers and vehicles . [; and]

2. The department may, by regulation applicable to all motor vehicles transporting hazardous materials, adopt standards for the transportation of hazardous materials and hazardous waste as defined in NRS 459.430.

Sec. 141. (Deleted by amendment.)

Sec. 142. NRS 706.176 is hereby amended to read as follows:

706.176 The [commission may employ one chief inspector and such other inspectors and personnel and incur such other expenses as may be necessary for the efficient administration of this chapter. All such personnel shall perform such duties as may be assigned to them by the commission.] authority may:

1. Appoint a deputy who serves in the unclassified service of the state.

2. Employ such other personnel as may be necessary.

Sec. 143. NRS 706.201 is hereby amended to read as follows:

706.201 [All] *To the extent that such costs cannot be paid for from the transportation services authority regulatory fund, the costs of administration of this chapter [shall] must be paid from the state highway fund on claims presented by the [commission] authority or department, approved by the state board of examiners.*

Sec. 144. NRS 706.231 is hereby amended to read as follows:

706.231 Sheriffs and all other peace officers and traffic officers of this state are charged with the duty, without further compensation, of assisting in the enforcement of this chapter. They shall make arrests for this purpose when requested by an authorized agent of the department, [commission] authority or other competent authority.

Sec. 145. NRS 706.246 is hereby amended to read as follows:

706.246 Except as otherwise provided in NRS 706.235:

1. A common or contract motor carrier shall not permit or require a driver to drive or tow any vehicle revealed by inspection or operation to be in such condition that its operation would be hazardous or likely to result in a breakdown of the vehicle, and a driver shall not drive or tow any vehicle which by reason of its mechanical condition is so imminently hazardous to operate as to be likely to cause an accident or a breakdown of the vehicle. If, while any vehicle is being operated on a highway, it is discovered to be in such an unsafe condition, it may be continued in operation, except as further limited by subsection 2, only to the nearest place where repairs can safely be effected, and even that operation may be conducted only if it is less hazardous to the public than permitting the vehicle to

remain on the highway.

2. A common or contract motor carrier or private motor carrier shall not permit or require a driver to drive or tow, and a driver shall not drive or tow, any vehicle which:

(a) By reason of its mechanical condition is so imminently hazardous to operate as to be likely to cause an accident or a breakdown; and

(b) Has been declared "out of service" by an authorized employee of the [commission] authority or the department.

When the repairs have been made, the carrier shall so certify to the [commission] authority or the department, whichever agency declared the vehicle "out of service," as required by the [commission] authority or the department.

Sec. 146. NRS 706.251 is hereby amended to read as follows:

706.2511. Every person operating a vehicle used by any motor carrier under the jurisdiction of the [commission] authority shall forthwith report each accident occurring on the public highway, wherein the vehicle may have injured the person or property of some person other than the person or property carried by the vehicle, to the sheriff or other peace officer of the county where the accident occurred. If the accident immediately or proximately causes death, the person in charge of the vehicle, or any officer investigating the accident, shall furnish to the [commission] authority such detailed report thereof as required by the [commission.] authority.

2. All accident reports required in this section must be filed in the office of the [commission] authority and there preserved. An accident report made as required by this chapter, or any report of the [commission] authority made pursuant to any accident investigation made by it, is not open to public inspection and must not be disclosed to any person, except upon order of the [commission.] authority. The reports must not be admitted as evidence or used for any purpose in any action for damages growing out of any matter mentioned in the accident report or report of any such investigation.

Sec. 147. NRS 706.256 is hereby amended to read as follows:

706.256The [commission] authority may, in the interest of safety or service, after hearing:

1. Determine and order repairs of facilities of common and contract motor carriers; and
2. Order the use of safety appliances by such carriers in the interest of the public and employees.

Sec. 148. NRS 706.266 is hereby amended to read as follows:

706.266It is unlawful for any common, contract or private motor carrier to operate as a motor carrier of intrastate commerce within this state without having furnished the [commission] authority the following:

1. Where a person does not hold a certificate of public convenience and necessity or a permit to operate as a common or contract motor carrier in the State of Nevada, an affidavit certifying that the person intends to operate as a private carrier.
2. Such other information as the [commission] authority may request.

Sec. 149. NRS 706.281 is hereby amended to read as follows:

706.2811. In addition to any identifying device provided for in this chapter, each motor vehicle within the provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, must have the name of the person or operator operating the vehicle prominently and conspicuously displayed on both sides of the vehicle in such location, size and style as may be specified by the [commission.] authority. The display shall not be deemed advertising for the purposes of NRS 706.285 unless additional information about the operator is included.

2. This section does not apply to motor vehicles:

- (a) Weighing 10,000 pounds or less operated by private carriers and not operated in combination with any other vehicle.
- (b) Operated by an employer for the transportation of his employees, whether or not the employees pay for the transportation.

Sec. 150. NRS 706.285 is hereby amended to read as follows:

706.285 All advertising by a fully regulated carrier of intrastate commerce must include the number of the certificate of public convenience and necessity or contract carrier's permit issued to him by the [commission.] authority.

Sec. 151. NRS 706.291 is hereby amended to read as follows:

706.291 1. The [commission] authority shall require every fully regulated carrier and every operator of a tow car, within such time and in such amounts as the [commission] authority may designate, to file with the [commission] authority in a form required and approved by the [commission] authority a liability insurance policy, or a certificate of insurance in lieu thereof, or a bond of a surety company, or other surety, in such reasonable sum as the [commission] authority may deem necessary to protect adequately the interests of the public.

2. The department shall require every other common and contract motor carrier and every private carrier, within such time and in such amounts as the department may designate, to file with the department in a form required and approved by the department a liability insurance policy, or a certificate of insurance in lieu thereof, a bond of a surety company, or other surety, in such reasonable sum as the department may deem necessary to protect adequately the interests of the public. In determining the amount of liability insurance or other surety required of a carrier pursuant to this subsection, the department shall create a separate category for vehicles with a manufacturer's gross vehicle weight rating of less than 26,00 pounds and impose a lesser requirement with respect to such vehicles.

3. The liability insurance policy or certificate, policy or bond of a surety company or other surety must bind the obligors thereunder to pay the compensation for injuries to persons or for loss or damage to property resulting from the negligent operation of the carrier.

4. The [commission] authority and the department may jointly prescribe by regulation the respective amounts and forms required by subsections 1 and 2.

Sec. 152. NRS 706.296 is hereby amended to read as follows:

706.296 Every common and contract motor carrier who engages in transportation intrastate and the collection of the purchase price of goods sold by the shipper to the consignee shall provide a bond, to be filed with the [commission.] authority, for the benefit of the shipper in an amount which the [commission] authority deems reasonably sufficient as an aggregate but not to exceed \$1,000, to insure the shipper against any loss of the moneys so collected by the carrier through misappropriation, negligence or other defalcations.

Sec. 153. NRS 706.303 is hereby amended to read as follows:

706.303 The [commission] authority shall adopt regulations requiring all operators of horse-drawn vehicles subject to its regulation and supervision to maintain a contract of insurance against liability for injury to persons and damage to property for each such vehicle. The amounts of coverage required by the regulations:

1. Must not exceed a total of:

(a) For bodily injury to or the death of one person in any one accident, \$250,000;

(b) Subject to the limitations of paragraph (a), for bodily injury to or death of two or more persons in any one accident, \$500,000; and

(c) For injury to or destruction of property in any one accident, \$50,000; or

2. Must not exceed a combined single-limit for bodily injury to one or more persons and for injury to or destruction of property in any one accident, \$500,000.

Sec. 154. (Deleted by amendment.)

Sec. 155. NRS 706.321 is hereby amended to read as follows:

706.321 1. Every common or contract motor carrier shall file with the [commission:] authority:

(a) Within a time to be fixed by the [commission.] authority, schedules and tariffs which must be open to public inspection, showing all rates, fares and charges which the carrier has established and

which are in force at the time for any service performed in connection therewith by any carrier controlled and operated by it.

(b) As a part of that schedule, all regulations that in any manner affect the rates or fares charged or to be charged for any service.

2. No changes may be made in any schedule, including schedules of joint rates, or in the regulations affecting any rates or charges, except upon 30 days' notice to the [commission,] authority, and all those changes must be plainly indicated on any new schedules filed in lieu thereof 30 days before the time they are to take effect. The [commission,] authority, upon application of any carrier, may prescribe a shorter time within which changes may be made. The 30 days' notice is not applicable when the carrier gives written notice to the [commission] authority 10 days before the effective date of its participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have been previously filed with and approved by the [commission.] authority.

3. The [commission] authority may at any time, upon its own motion, investigate any of the rates, fares, charges, regulations, practices and services, and, after hearing, by order, make such changes as may be just and reasonable.

4. The [commission] authority may dispense with the hearing on any change requested in rates, fares, charges, regulations, practices or service.

5. All rates, fares, charges, classifications and joint rates, regulations, practices and services fixed by the [commission] authority are in force, and are prima facie lawful, from the date of the order until changed or modified by the [commission,] authority, or pursuant to [NRS 703.373 to 703.376, inclusive.] section 125 of this act.

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

Sec. 156. NRS 706.323 is hereby amended to read as follows:

706.3231. Except as provided in subsection 2, the [commission] authority may not investigate, suspend, revise or revoke any rate proposed by a common motor carrier or contract motor carrier because the rate is too high or too low and therefore unreasonable if:

(a) The motor carrier notifies the [commission] authority that it wishes to have the rate reviewed by the [commission] authority pursuant to this subsection; and

(b) The rate resulting from all increases or decreases within 1 year is not more than 10 percent above or 10 percent below the rate in effect 1 year before the effective date of the proposed rate.

2. This section does not limit the [commission's] authority of the transportation services authority to investigate, suspend, revise or revoke a proposed rate if the rate would violate the provisions of NRS 706.151.

Sec. 157. NRS 706.326 is hereby amended to read as follows:

706.3261. Whenever there is filed with the [commission] authority any schedule or tariff stating a new or revised individual or joint rate, fare or charge, or any new or revised individual or joint regulation or practice affecting any rate, fare or charge, or any schedule or tariff resulting in a discontinuance, modification or restriction of service, the [commission] authority may enter upon an investigation or, upon reasonable notice, enter upon a hearing concerning the propriety of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice.

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

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

4. The [commission] authority shall determine whether a hearing [shall] must be held to consider the proposed change in any schedule stating a new or revised individual or joint rate, fare or charge. In making that determination, the [commission] authority shall consider all timely written protests, any presentation the staff of the [commission] authority may desire to present, the application and any other matters deemed relevant by the [commission.] authority.

Sec. 158. NRS 706.331 is hereby amended to read as follows:

706.3311. If, after due investigation and hearing, any authorized rates, tolls, fares, charges, schedules, tariffs, joint rates or any regulation, measurement, practice, act or service complained of is found to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of the provisions of this chapter, or if it is found that the service is inadequate, or that any reasonable service cannot be obtained, the [commission] authority may substitute therefor such other rates, tolls, fares, charges, tariffs, schedules or regulations, measurements, practices, service or acts and make an order relating thereto as may be just and reasonable.

2. When complaint is made of more than one matter, the [commission] authority may order separate hearings upon the several matters complained of at such times and places as it may prescribe.

3. No complaint may at any time be dismissed because of the absence of direct damage to the complainant.

4. The [commission] authority may at any time, upon its own motion, investigate any of the matters listed in subsection 1, and, after a full hearing as above provided, by order, make such changes as may be just and reasonable, the same as if a formal complaint had been made.

Sec. 159. NRS 706.341 is hereby amended to read as follows:

706.341[No] A common motor carrier authorized to operate by NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, shall *not* discontinue any service established under the provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, and all other laws relating thereto and made applicable thereto by NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, without an order of the [commission] authority granted only after public notice or hearing in the event of protest.

Sec. 160. NRS 706.346 is hereby amended to read as follows:

706.3461. A copy, or so much of the schedule or tariff as the [commission] authority determines necessary for the use of the public, [shall] must be printed in plain type and posted in every office of a common motor carrier where payments are made by customers or users, open to the public, in such form and place as to be readily accessible to the public and conveniently inspected.

2. When a schedule or tariff of joint rates or charges is or may be in force between two or more of such carriers or between any such carrier and a public utility, such schedule or tariff shall be printed and posted in like manner.

Sec. 161. NRS 706.351 is hereby amended to read as follows:

706.3511. It is unlawful for:

(a) A fully regulated carrier to furnish any pass, frank, free or reduced rates for transportation to any state, city, district, county or municipal officer of this state or to any person other than those specifically enumerated in this section.

(b) Any person other than those specifically enumerated in this section to receive any pass, frank, free or reduced rates for transportation.

2. This section does not prevent the carriage, storage or hauling free or at reduced rates of passengers

or property for charitable organizations or purposes for the United States, the State of Nevada or any political subdivision thereof.

3. This chapter does not prohibit a fully regulated common carrier from giving free or reduced rates for transportation of persons to:

- (a) Its own officers, commission agents or employees, or members of any profession licensed under Title 54 of NRS retained by it, and members of their families.
- (b) Inmates of hospitals or charitable institutions and persons over 60 years of age.
- (c) Persons who are physically handicapped or mentally handicapped and who present a written statement from a physician to that effect.
- (d) Persons injured in accidents or wrecks and physicians and nurses attending such persons.
- (e) Persons providing relief in cases of common disaster.
- (f) Attendants of livestock or other property requiring the care of an attendant, who must be given return passage to the place of shipment, if there is no discrimination among shippers of a similar class.
- (g) Officers, agents, employees or members of any profession licensed under Title 54 of NRS, together with members of their families, who are employed by or affiliated with other common carriers, if there is an interchange of free or reduced rates for transportation.
- (h) Indigent, destitute or homeless persons when under the care or responsibility of charitable societies, institutions or hospitals, together with the necessary agents employed in such transportation.
- (i) Students of institutions of learning.
- (j) Groups of persons participating in a tour for a purpose other than transportation.

4. This section does not prohibit common motor carriers from giving free or reduced rates for the transportation of property of:

- (a) Their officers, commission agents or employees, or members of any profession licensed under Title 54 of NRS retained by them, or pensioned or disabled former employees, together with that of their dependents.
- (b) Witnesses attending any legal investigations in which such carriers are interested.
- (c) Persons providing relief in cases of common disaster.
- (d) Charitable organizations providing food and items for personal hygiene to needy persons or to other charitable organizations within this state.

5. This section does not prohibit the [commission] authority from establishing reduced rates, fares or charges for specified routes or schedules of any common motor carrier providing transit service if the reduced rates, fares or charges are determined by the [commission] authority to be in the public interest.

6. Only fully regulated common carriers may provide free or reduced rates for the transportation of passengers or household goods, pursuant to the provisions of this section.

7. As used in this section, "employees" includes:

- (a) Furloughed, pensioned and superannuated employees.
- (b) Persons who have become disabled or infirm in the service of such carriers.
- (c) Persons who are traveling to enter the service of such a carrier.

Sec. 162. NRS 706.371 is hereby amended to read as follows:

706.371 The [commission] authority may regulate and fix the maximum number of contracts and the minimum carrying charges of all intrastate contract motor carriers, and conduct hearings, make and enter necessary orders and enforce the same with respect thereto in the same manner and form as is now or may hereafter be provided by law for the regulation of the rates, charges and services of common motor carriers.

Sec. 163. NRS 706.386 is hereby amended to read as follows:

706.386 It is unlawful, except as provided in NRS 373.117 and 706.745, for any fully regulated common motor carrier to operate as a carrier of intrastate commerce within this state without first obtaining a certificate of public convenience and necessity from the [commission.] authority.

Sec. 164. NRS 706.391 is hereby amended to read as follows:

706.3911. Upon the filing of an application for a certificate of public convenience and necessity to operate as a motor carrier, the [commission] authority shall fix a time and place for hearing thereon.

2. The [commission] authority shall issue such a certificate if it finds that:

- (a) The applicant is fit, willing and able to perform the services of a common motor carrier;
- (b) The proposed operation will be consistent with the legislative policies set forth in NRS 706.151;
- (c) The granting of the certificate will not unreasonably and adversely affect other carriers operating in the territory for which the certificate is sought; and
- (d) The proposed service will benefit the traveling and shipping public and the motor carrier business in this state.

3. The [commission] authority shall not find that the potential creation of competition in a territory which may be caused by the granting of a certificate, by itself, will unreasonably and adversely affect other carriers operating in the territory for the purposes of paragraph (c) of subsection 2.

4. An applicant for such a certificate has the burden of proving to the [commission] authority that the proposed operation will meet the requirements of subsection 2.

5. The [commission] authority may issue a certificate of public convenience and necessity to operate as a common motor carrier, or issue it for:

- (a) The exercise of the privilege sought.
- (b) The partial exercise of the privilege sought.

6. The [commission] authority may attach to the certificate such terms and conditions as, in its judgment, the public interest may require.

7. The [commission] authority may dispense with the hearing on the application if, upon the expiration of the time fixed in the notice thereof, no petition to intervene has been filed on behalf of any person who has filed a protest against the granting of the certificate.

Sec. 165. NRS 706.396 is hereby amended to read as follows:

706.396Any person who, after hearing, has been denied a certificate of public convenience and necessity to operate as a carrier must not be permitted again to file a similar application with the [commission] authority covering the same type of service and over the same route or routes or in the same territory for which the certificate of public convenience and necessity was denied except after the expiration of 180 days after the date the certificate of public convenience and necessity was denied.

Sec. 166. NRS 706.398 is hereby amended to read as follows:

706.398The [commission:] authority:

1. Shall revoke or suspend, pursuant to the provisions of this chapter, the certificate of public convenience and necessity of a common motor carrier which has failed to:

- (a) File the annual report required by [NRS 703.191] section 113 of this act within 60 days after the report is due; or
- (b) Operate as a carrier of intrastate commerce in this state under the terms and conditions of its certificate,

unless the carrier has obtained the prior permission of the [commission.] authority.

2. May revoke or suspend, pursuant to the provisions of [NRS 703.377,] section 126 of this act, the certificate of public convenience and necessity of a common motor carrier which has failed to comply with any provision of this chapter or any regulation of the [commission] authority adopted pursuant thereto.

Sec. 167. NRS 706.411 is hereby amended to read as follows:

706.411Every order refusing or granting any certificates of public convenience and necessity, or granting or refusing permission to discontinue, modify or restrict service is prima facie lawful from the date of the order until changed or modified by the order of the [commission or] authority pursuant to [NRS 703.373 to 703.376, inclusive.] the provisions of this chapter.

Sec. 168. NRS 706.426 is hereby amended to read as follows:

706.426 An application for a permit for a new operation as a contract motor carrier shall be:

1. Made to the [commission] authority in writing.
2. In such form and be accompanied by such information as the [commission] authority may require.

Sec. 169. NRS 706.431 is hereby amended to read as follows:

706.431. A permit may be issued to any applicant therefor, authorizing in whole or in part the operation covered by the application, if it appears from the application or from any hearing held thereon that:

- (a) The applicant is fit, willing and able properly to perform the service of a contract motor carrier and to conform to all provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, and the regulations adopted thereunder; and
 - (b) The proposed operation will be consistent with the public interest and will not operate to defeat the legislative policy set forth in NRS 706.151.
2. An application must be denied if the provisions of subsection 1 are not met.
 3. The [commission] authority shall revoke or suspend pursuant to the provisions of *this* chapter [703 of NRS] the permit of a contract motor carrier who has failed to file the annual report required in [NRS 703.191] *section 113 of this act* within 60 days after the report is due.
 4. The [commission] authority shall adopt regulations providing for a procedure by which any contract entered into by a contract motor carrier after he has been issued a permit pursuant to this section may be approved by the [commission] authority without giving notice required by statute or by a regulation of the [commission.] authority.

Sec. 170. NRS 706.436 is hereby amended to read as follows:

706.436 Any person who has been denied a permit to act as a contract motor carrier after hearing [shall not be permitted again to] *may not* file a similar application with the [commission] authority covering the same type of service and over the same route or routes or in the same territory for which the permit was denied except after the expiration of 180 days after the date the permit was denied.

Sec. 171. NRS 706.442 is hereby amended to read as follows:

706.442 Any person engaging in the intrastate transportation or storage of household goods shall comply with the following requirements:

1. [A person requesting service must be provided] *Upon the request of a person seeking service, the carrier of household goods shall provide the person with a written, binding estimate of the cost of providing the requested service. [at least 1 business day before the date on which the service is to be provided, unless the request for service is not made in time to meet the requirement.]*
2. The charges assessed for the service rendered may not exceed the amount in the written estimate, unless the customer requested services in addition to those included in the written estimate and agreed to pay additional charges.
3. If the person for whom service was provided pays any amount consistent with the provisions of subsection 2, the provider of service shall release immediately any household goods that were transported or stored to that person.
4. If a person requesting service alleges that any household goods were damaged or lost, the person that provided the service shall:
 - (a) Attempt to resolve the dispute; and
 - (b) Identify the carrier of his insurance and explain the procedures to file a claim.
5. The provider of service shall advise all persons for whom service is to be performed of their right to file a complaint with the [commission] authority and provide the address and telephone number of the nearest business office of the [commission.] authority.
6. Any other terms and conditions which the [commission] authority may by regulation prescribe to protect the public.

Sec. 172. NRS 706.443 is hereby amended to read as follows:

706.4431. The provisions of NRS 706.442 apply whether or not the person providing the service has received authority to operate from the [commission.] *authority*.

2. The [commission] *authority* shall enforce the provisions of NRS 706.442 and consider complaints regarding violations of the provisions of that section pursuant to the provisions of [NRS 703.290, 703.300, 703.310 and 703.373 to 703.376, inclusive.] *this chapter*. In addition to any other remedies, the [commission] *authority* may order the release of any household goods that are being held by the provider of service subject to the terms and conditions that the [commission] *authority* determines to be appropriate and may order the refund of overcharges.

3. The [commission] *authority* may use the remedies provided in NRS [703.195.] 706.457, 706.461, 706.756, 706.761, 706.771 and 706.779 and any other remedy available under other law.

4. The [commission] *authority* shall adopt regulations regarding the administration and enforcement of this section and NRS 706.442.

Sec. 173. NRS 706.446 is hereby amended to read as follows:

706.4461. Any person who was engaged in the transportation of vehicles by the use of a tow car with an unladen weight of less than 9,000 pounds, on or before January 1, 1971, and who held himself out for hire for such towing, must be granted a certificate of public convenience and necessity if an application therefor:

(a) Is made within 90 days after July 1, 1971;

(b) Is accompanied by a filing fee of \$25; and

(c) Contains satisfactory evidence of a lawful nature and scope of the applicant's operation existing on or before January 1, 1971.

2. Before issuing any certificate of public convenience and necessity for the transportation of vehicles by tow car, the [commission] *authority* shall set the rate levels and storage charges under which such operation may be conducted, but the [commission] *authority* is not precluded from establishing rate areas.

3. When issued, a certificate of public convenience and necessity must authorize the recipient to operate within the territory which the applicant substantiates by documentation between January 1, 1968, and January 1, 1971.

4. Any person who on July 1, 1971, holds a valid certificate of public convenience and necessity issued by the commission for the operation of a tow car with an unladen weight of 9,000 pounds or more must be granted the authority to operate a tow car with an unladen weight of less than 9,000 pounds within the territory substantiated pursuant to subsection 3, but in no event less than the territory set forth in such certificate of public convenience and necessity.

5. The provisions of this chapter do not require an operator of a tow car who provides towing for a licensed motor club regulated pursuant to chapter 696A of NRS to obtain a certificate of public convenience and necessity or to comply with the regulations or rates adopted by the [commission] *authority* to provide that towing.

Sec. 174. NRS 706.4463 is hereby amended to read as follows:

706.44631. In addition to the other requirements of this chapter, each operator of a tow car shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of operation from the [commission] *authority* before he provides any services other than those services which he provides as a private motor carrier of property pursuant to the provisions of this chapter;

(b) Use a tow car of sufficient size and weight which is appropriately equipped to transport safely the vehicle which is being towed; and

(c) Comply with the other requirements of NRS 706.153 and 706.4463 to 706.4479, inclusive.

2. The [commission] *authority* shall issue a certificate of operation to an operator of a tow car if it determines that the applicant:

(a) Complies with the requirements of subsection 1;

(b) Complies with the requirements of the regulations adopted by the [commission] authority pursuant to the provisions of this chapter; and

(c) Has provided evidence that he has filed with the [commission] authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291.

Sec. 175. NRS 706.447 is hereby amended to read as follows:

706.447 Each person who holds a certificate of public convenience and necessity for transportation of vehicles by use of a tow car and is required by regulation of the [commission] authority to maintain a policy of cargo insurance may, in lieu of maintaining the policy of insurance, deposit with the state treasurer, under terms which the [commission] authority prescribes:

1. An amount of lawful money of the United States fixed by the [commission] authority or bonds or other lawful negotiable instruments of the United States or of the State of Nevada of an actual market value fixed by the [commission;] authority; or
2. A savings certificate issued by a bank or savings and loan association in Nevada which indicates an amount at least equal to the amount fixed by the [commission] authority and which states that the amount is unavailable for withdrawal except on order of the [commission.] authority. Interest earned on the deposit accrues to the holder of the certificate.

Sec. 176. NRS 706.4473 is hereby amended to read as follows:

706.4473 The operator shall inform each owner, or agent of the owner, of a towed motor vehicle that the owner or agent may file a complaint with the [commission] authority regarding any violation of the provisions of this chapter.

Sec. 177. NRS 706.448 is hereby amended to read as follows:

706.448 1. Subject to the provisions of subsection 2, any person holding a certificate of public convenience and necessity for transportation of vehicles by use of a tow car on July 1, 1973, and who, within 90 days after July 1, 1973, files an application with the commission [shall] *must* be granted a certificate of public convenience and necessity for transportation of vehicles by use of:

- (a) A motorcycle trailer; or
- (b) Any other vehicle which is not a tow car.

2. The certificate of public convenience and necessity issued under the provisions of paragraph (b) of subsection 1 shall provide that if any vehicle is so disabled or so constructed that it cannot be towed by a tow car, the tow car operator may transport the vehicle with a vehicle other than a tow car from the point of disablement to a single destination and may make an appropriate charge, as determined by the [commission,] authority, for the use of such vehicle.

Sec. 178. NRS 706.4483 is hereby amended to read as follows:

706.4483 1. The [commission] authority shall act upon complaints regarding the failure of an operator to comply with the provisions of NRS 706.153 and 706.4463 to 706.4485, inclusive.

2. In addition to any other remedies that may be available to the [commission] authority to act upon complaints, the [commission] authority may order the release of towed motor vehicles, cargo or personal property upon such terms and conditions as the [commission] authority determines to be appropriate.

Sec. 179. NRS 706.4485 is hereby amended to read as follows:

706.4485 A law enforcement agency that maintains and utilizes a list of operators of tow cars which are called by that agency to provide towing shall not include an operator on the list unless he:

1. Holds a certificate to provide towing issued by the [commission.] authority.
2. Agrees to comply with all applicable provisions of [chapters 482, 484 and 706 of NRS.] *this chapter and chapters 482 and 484 of NRS.*
3. Agrees to respond in a timely manner to requests for towing made by the agency.
4. Maintains adequate, accessible and secure storage within the State of Nevada for any vehicle that is towed.

5. Meets such other standards as the law enforcement agency may adopt to protect the health, safety and welfare of the public.

Sec. 180. NRS 706.449 is hereby amended to read as follows:

706.449 The [commission] authority may impose an administrative fine pursuant to subsection 2 of NRS 706.771 on the owner or operator of a tow car who fails to pay in a timely manner any charge required to be paid by subsection 2 of NRS 484.631.

Sec. 181. NRS 706.451 is hereby amended to read as follows:

706.4511. Each owner or operator of a tow car subject to the jurisdiction of the [commission] authority shall, before commencing to operate or continuing operation after July 1, 1971, and annually thereafter, pay to the [commission] authority for each tow car operated, a fee of not more than \$36.

2. The fee provided in this section must be paid on or before January 1 of each year.

3. The initial fee must be reduced one-twelfth for each month which has elapsed since the beginning of the calendar year before July 1, 1971, for those tow cars lawfully operating on that date or before the commencement of operation of each tow car commencing operation after July 1, 1971.

4. Any person who fails to pay any fee on or before the date provided in this section shall pay a penalty of 10 percent of the amount of the fee plus interest on the amount of the fee at the rate of 1 percent per month or fraction of a month from the date the fee is due until the date of payment.

Sec. 182. NRS 706.457 is hereby amended to read as follows:

706.457 The [commission] authority may by subpoena require any person believed by it to be subject to any of the provisions of NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, who has not obtained a required certificate of public convenience and necessity or a required permit issued in accordance with those sections, to appear before it with all of his relevant books, papers and records and to testify concerning the scope, nature and conduct of his business.

Sec. 183. NRS 706.458 is hereby amended to read as follows:

706.4581. The district court in and for the county in which any investigation or hearing is being conducted by the [commission] authority pursuant to the provisions of this chapter may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the [commission.] authority.

2. If any witness refuses to attend or testify or produce any papers required by such subpoena the [commission] authority may report to the district court in and for the county in which the investigation or hearing is pending by petition, setting forth:

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

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena in the investigation or hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such investigation or hearing,

and asking an order of the court compelling the witness to attend and testify or produce the books or papers.

3. The court, upon petition of the [commission,] authority, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the [commission.] authority. A certified copy of the order must be served upon the witness. If it appears to the court that the subpoena was regularly issued, the court shall thereupon enter an order that the witness appear at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness must be dealt with as for contempt of court.

Sec. 184. NRS 706.461 is hereby amended to read as follows:

706.461 When:

1. A complaint has been filed with the [commission] authority alleging that any vehicle is being operated without a certificate of public convenience and necessity or contract carrier's permit as required by NRS 706.011 to 706.791, inclusive [;], *and sections 104 to 128, inclusive, of this act*; or

2. The [commission] authority has reason to believe that any:

(a) Person is advertising to provide the services of a fully regulated carrier in intrastate commerce without including the number of his certificate of public convenience and necessity or permit in each advertisement; or

(b) Provision of NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, is being violated,

the [commission] authority shall investigate the operations or advertising and may, after a hearing, order the owner or operator of the vehicle or the person advertising to cease and desist from any operation or advertising in violation of NRS 706.011 to 706.791, inclusive [The commission], *and sections 104 to 128, inclusive, of this act*. The authority shall enforce compliance with the order under the powers vested in the [commission] authority by NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, or by other law.

Sec. 185. NRS 706.471 is hereby amended to read as follows:

706.4711. Each taxicab motor carrier shall, before commencing the operation defined in NRS 706.126 and annually thereafter, pay to the [commission] authority for each taxicab which it operates, including each taxicab it leases pursuant to NRS 706.473, a fee of not more than \$75 as determined by a regulation of the [commission.] authority.

2. The fee provided in this section must be paid on or before January 1 of each year.

3. The initial fee must be reduced one-twelfth for each month which has elapsed since the beginning of the calendar year in which operation is begun.

4. Any person who fails to pay any fee on or before the date provided in this section shall pay a penalty of 10 percent of the amount of the fee plus interest on the amount of the fee at the rate of 1 percent per month or fraction of a month from the date the fee is due until the date of payment.

Sec. 186. NRS 706.473 is hereby amended to read as follows:

706.4731. In a county whose population is less than 400,000, a person who holds a certificate of public convenience and necessity which was issued for the operation of a taxicab business may, upon approval from the [commission,] authority, lease a taxicab to an independent contractor who does not hold a certificate of public convenience and necessity. A person may lease only one taxicab to each independent contractor with whom he enters into a lease agreement. The taxicab may be used only in a manner authorized by the lessor's certificate of public convenience and necessity.

2. A person who enters into a lease agreement with an independent contractor pursuant to this section shall submit a copy of the agreement to the [commission] authority for its approval. The agreement is not effective until approved by the [commission.] authority.

3. A person who leases a taxicab to an independent contractor is jointly and severally liable with the independent contractor for any violation of the provisions of this chapter or the regulations adopted pursuant thereto, and shall ensure that the independent contractor complies with such provisions and regulations.

4. The [commission] authority or any of its employees may intervene in a civil action involving a lease agreement entered into pursuant to this section.

Sec. 187. NRS 706.475 is hereby amended to read as follows:

706.4751. The [commission] authority shall adopt such regulations as are necessary to:

(a) Carry out the provisions of NRS 706.473; and

(b) Ensure that the taxicab business remains safe, adequate and reliable.

2. Such regulations must include, without limitation:

(a) The minimum qualifications for an independent contractor;

- (b) Requirements related to liability insurance;
- (c) Minimum safety standards; and
- (d) The procedure for approving a lease agreement and the provisions that must be included in a lease agreement concerning the grounds for the revocation of such approval.

Sec. 188. NRS 706.631 is hereby amended to read as follows:

706.631 The remedies of the state provided for in NRS 706.011 to 706.861, inclusive, *and sections 104 to 128, inclusive, of this act*, are cumulative, and no action taken by the department or **[commission shall]** *authority may* be construed to be an election on the part of the state or any of its officers to pursue any remedy under NRS 706.011 to 706.861, inclusive, *and sections 104 to 128, inclusive, of this act*, to the exclusion of any other remedy for which provision is made in NRS 706.011 to 706.861, inclusive [.] , *and sections 104 to 128, inclusive, of this act*.

Sec. 189. NRS 706.6411 is hereby amended to read as follows:

706.64111. All motor carriers coming within the terms of NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, to whom the certificates, permits and licenses provided by NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, have been issued may transfer them to another carrier qualified under NRS 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, but no such transfer is valid for any purpose until a joint application to make the transfer has been made to the **[commission]** *authority* by the transferor and the transferee, and the **[commission]** *authority* has authorized the substitution of the transferee for the transferor. No transfer of stock of a corporate motor carrier under the jurisdiction of the **[commission]** *authority* is valid without the **[commission's]** prior approval *of the authority* if the effect of the transfer would be to change the corporate control of the carrier or if a transfer of 15 percent or more of the common stock of the carrier is proposed.

2. Except as otherwise provided in subsection 3, the **[commission]** *authority* shall fix a time and place for a hearing to be held unless the application is made to transfer the certificate from a natural person or partners to a corporation whose controlling stockholders will be substantially the same person or partners, and may hold a hearing to consider such an application.

3. The **[commission]** *authority* may also dispense with the hearing on the joint application to transfer if, upon the expiration of the time fixed in the notice thereof, no protest against the transfer of the certificate or permit has been filed by or in behalf of any interested person.

4. In determining whether or not the transfer of a certificate of public convenience and necessity or a permit to act as a contract carrier should be authorized, the **[commission]** *authority* shall consider:

(a) The service which has been performed by the transferor and that which may be performed by the transferee.

(b) Other authorized facilities for transportation in the territory for which the transfer is sought.

(c) Whether or not the transferee is fit, willing and able to perform the services of a common or contract carrier by vehicle and whether or not the proposed operation would be consistent with the legislative policy set forth in NRS 706.151.

5. Upon such a transfer, the **[commission]** *authority* may make such amendments, restrictions or modifications in a certificate or permit as the public interest may require.

6. No transfer is valid beyond the life of the certificate, permit or license transferred.

Sec. 190. NRS 706.736 is hereby amended to read as follows:

706.7361. Except as otherwise provided in subsection 2, none of the provisions of NRS **[703.191, 703.310, 703.374, 703.375 and]** 706.011 to 706.791, inclusive, *and sections 104 to 128, inclusive, of this act*, apply to:

(a) The transportation by a contractor licensed by the state contractors' board of his own equipment in his own vehicles from job to job.

(b) Any person engaged in transporting his own personal effects in his own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or

to be sold, or used by him in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of subsection [4] 1 of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to subsection [2] 1 of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, 706.471, 706.473, 706.475 and 706.6411 which authorize the [commission] authority to issue certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

4. Any person who operates under a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to his actual operation as prescribed in this chapter, computed from the date when that operation began.

Sec. 191. NRS 706.745 is hereby amended to read as follows:

706.7451. The provisions of NRS 706.386 and 706.421 do not apply to ambulances or hearses.

2. A common motor carrier who enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transit consisting of regular routes and fixed schedules. Under such an agreement, the public entity shall establish the routes and fares and provide for any required safety inspections.

3. A nonprofit carrier of elderly or physically or mentally handicapped persons is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but such a carrier is not exempt from inspection by the [commission] authority to determine whether its vehicles and their operation are safe.

4. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

Sec. 192. NRS 706.749 is hereby amended to read as follows:

706.7491. The [commission] authority may issue a permit, valid for 1 year after the date of issuance, to an employer to transport his employees between their place of work and their homes or one or more central parking areas if the employer files an application, on a form provided by the [commission,] authority, showing:

(a) The name of the employer;

(b) The places where employees will be picked up and discharged, including the location of their place of work;

(c) Identification of each vehicle to be used and certification that it is owned or the subject of a long-term lease by the employer;

(d) That each vehicle is registered to and operated by the employer; and

(e) Any charge which will be made for the service.

2. The employer must pay a fee of \$10 for each vehicle which he will regularly use to transport his employees.
3. The employer must charge no fare for the use of the service, or no more than an amount required to amortize the cost of the vehicle and defray the cost of operating it.
4. The [commission] authority shall renew the permit upon receipt of a fee of \$10 per vehicle regularly used to transport employees.

Sec. 193. NRS 706.756 is hereby amended to read as follows:

706.7561. Except as otherwise provided in subsection 2, any person who:

- (a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, *and sections 104 to 128, inclusive, of this act*, apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;
- (b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, *and sections 104 to 128, inclusive, of this act*, or by the [commission] authority or the department pursuant to the provisions of NRS 706.011 to 706.861, inclusive [;], *and sections 104 to 128, inclusive, of this act*;
- (c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive [;], *and sections 104 to 128, inclusive, of this act*;
- (d) Fails to obey any order, decision or regulation of the [commission] authority or the department;
- (e) Procures, aids or abets any person in his failure to obey such an order, decision or regulation;
- (f) Advertises, solicits, proffers bids or otherwise holds himself out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive [;], *and sections 104 to 128, inclusive, of this act*;
- (g) Advertises as providing the services of a fully regulated carrier without including the number of his certificate of public convenience and necessity or contract carrier's permit in each advertisement;
- (h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;
- (i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;
- (j) Operates or causes to be operated a vehicle which does not have the proper identifying device;
- (k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been canceled, revoked, suspended or altered;
- (l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or
- (m) Refuses or fails to surrender to the [commission] authority or department any certificate, permit, license or identifying device which has been suspended, canceled or revoked pursuant to the provisions of this chapter,

is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. A person convicted of a misdemeanor for a violation of the provisions of NRS 706.386 or 706.421 shall be punished:

- (a) For the first offense by a fine of not less than \$500 nor more than \$1,000;
- (b) For a second offense within 12 consecutive months and each subsequent offense by a fine of \$1,000; or
- (c) For any offense, by imprisonment in the county jail for not more than 6 months, or by both the prescribed fine and imprisonment.

3. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

4. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 194. NRS 706.761 is hereby amended to read as follows:

706.7611. Any agent or person in charge of the books, accounts, records, minutes or papers of any private, common or contract motor carrier of passengers or household goods or broker of any of these services who refuses or fails for a period of 30 days to furnish the [commission] authority or department with any report required by either or who fails or refuses to permit any person authorized by the [commission] authority or department to inspect such books, accounts, records, minutes or papers on behalf of the [commission] authority or department is liable to a penalty in a sum of not less than \$300 nor more than \$500. The penalty may be recovered in a civil action upon the complaint of the [commission] authority or department in any court of competent jurisdiction.

2. Each day's refusal or failure is a separate offense, and is subject to the penalty prescribed in this section.

Sec. 195. NRS 706.766 is hereby amended to read as follows:

706.7661. It is unlawful for any fully regulated carrier to charge, demand, collect or receive a greater or less compensation for any service performed by it within [the] this state or for any service in connection therewith than is specified in its fare, rates, joint rates, charges or rules and regulations on file with the [commission,] authority, or to demand, collect or receive any fare, rate or charge not specified. The rates, tolls and charges named therein are the lawful rates, tolls and charges until they are changed as provided in this chapter.

2. It is unlawful for any fully regulated carrier to grant any rebate, concession or special privilege to any person which, directly or indirectly, has or may have the effect of changing the rates, tolls, charges or payments.

3. Any violation of the provisions of this section subjects the violator to the penalty prescribed in NRS 706.761.

Sec. 196. NRS 706.771 is hereby amended to read as follows:

706.7711. Any [fully regulated carrier, broker of regulated services or other person who transports or stores household goods,] person or any agent or employee thereof, who violates any provision of this chapter, any lawful regulation of the [commission] authority or any lawful tariff on file with the [commission] authority or who fails, neglects or refuses to obey any lawful order of the [commission] authority or any court order for whose violation a civil penalty is not otherwise prescribed is liable to a penalty of not more than \$10,000 for any violation. The penalty may be recovered in a civil action upon the complaint of the [commission] authority in any court of competent jurisdiction.

2. If the [commission] authority does not bring an action to recover the penalty prescribed by subsection 1, the [commission] authority may impose an administrative fine of not more than \$10,000 for any violation of a provision of this chapter or any rule, regulation or order adopted or issued by the [commission] authority or department pursuant to the provisions of this chapter. A fine imposed by the [commission] authority may be recovered by the [commission] authority only after notice is given and a hearing is held pursuant to the provisions of chapter 233B of NRS.

3. All administrative fines imposed and collected by the [commission] authority pursuant to subsection 2 are payable to the state treasurer and must be credited to a separate account to be used by the [commission] authority to enforce the provisions of this chapter.

4. A penalty or fine recovered pursuant to this section is not a cost of service for purposes of rate making.

Sec. 197. NRS 706.776 is hereby amended to read as follows:

706.7761. The owner or operator of a motor vehicle to which any provisions of NRS 706.011 to 706.861, inclusive, *and sections 104 to 128, inclusive, of this act*, apply carrying passengers or property on any highway in the State of Nevada shall not require or permit any driver of the motor vehicle to drive it in any one period longer than the time permitted for that period by the order of the [commission] authority or the department.

2. In addition to other persons so required, the labor commissioner shall enforce the provisions of this section.

Sec. 198. NRS 706.779 is hereby amended to read as follows:

706.779 The [commission] authority and its inspectors may, upon halting a person for a violation of the provisions of NRS 706.386 or 706.421, move his vehicle or cause it to be moved to the nearest garage or other place of safekeeping until it is removed in a manner which complies with the provisions of this chapter.

Sec. 199. NRS 706.781 is hereby amended to read as follows:

706.781 In addition to all the other remedies provided by NRS 706.011 to 706.861, inclusive, *and sections 104 to 128, inclusive, of this act*, for the prevention and punishment of any violation of the provisions thereof and of all orders of the [commission] authority or the department, the [commission] authority or the department may compel compliance with the provisions of NRS 706.011 to 706.861, inclusive, *and sections 104 to 128, inclusive, of this act*, and with the orders of the [commission] authority or the department by proceedings in mandamus, injunction or by other civil remedies.

Sec. 200. NRS 706.881 is hereby amended to read as follows:

706.8811. NRS 706.8811 to 706.885, inclusive, apply to any county:

(a) Whose population is 400,000 or more; or

(b) For whom regulation by the taxicab authority is not required if its board of county commissioners has enacted an ordinance approving the inclusion of the county within the jurisdiction of the taxicab authority.

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the taxicab authority is not required, the taxicab authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, within that county.

3. Within any such county, the provisions of this chapter which confer regulatory authority over taxicab motor carriers upon the [public service commission of Nevada] transportation services authority do not apply.

Sec. 201. NRS 706.8813 is hereby amended to read as follows:

706.8813 "Certificate holder" means a person who holds a current certificate of public convenience and necessity which was issued for the operation of a taxicab business by:

1. The public service commission of Nevada [prior to] before July 1, 1981, and which has not been transferred, revoked or suspended by the transportation services authority, the taxicab authority [,] or the public [service] utilities commission of Nevada , or by operation of law; [or]

2. The taxicab authority and which has not been transferred, revoked or suspended by the taxicab authority or by operation of law.

Sec. 202. NRS 706.8818 is hereby amended to read as follows:

706.88181. A taxicab authority, consisting of five members appointed by the governor, is hereby created. No member may serve for more than 6 years. No more than three members may be members of the same political party, and no elected officer of the state or any political subdivision is eligible for appointment.

2. Each member of the taxicab authority is entitled to receive a salary of not more than \$80, as fixed by the authority, for each day actually employed on work of the authority.

3. While engaged in the business of the taxicab authority, each member and employee of the authority is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

4. The taxicab authority shall maintain its principal office in the county or area of the state where it performs most of its regulatory activity.

5. The taxicab authority may adopt appropriate regulations for the administration and enforcement of NRS 706.881 to 706.885, inclusive, and as it may deem necessary, for the conduct of the taxicab business and the qualifications of and the issuance of permits to taxicab drivers, not inconsistent with the provisions of NRS 706.881 to 706.885, inclusive. The regulations may include different

provisions to allow for differences among the counties to which NRS 706.881 to 706.885, inclusive, apply. Local law enforcement agencies and the Nevada highway patrol, upon request of the [taxicab] authority, may assist in enforcing the provisions of NRS 706.881 to 706.885, inclusive, and regulations adopted pursuant thereto.

6. Except to the extent of any inconsistency with the provisions of NRS 706.881 to 706.885, inclusive, every regulation and order issued by the public [service] utilities commission of Nevada *or the transportation services authority* remains effective in a county to which those sections apply until modified or rescinded by the taxicab authority, and must be enforced by the taxicab authority.

Sec. 203. NRS 706.8819 is hereby amended to read as follows:

706.8819 *1.* The taxicab authority shall conduct hearings and make final decisions in the following matters:

- [1.] *(a)* Applications to adjust, alter or change the rates, charges or fares for taxicab service;
- [2.] *(b)* Applications for certificates of public convenience and necessity to operate a taxicab service;
- [3.] *(c)* Applications requesting authority to transfer any existing interest in a certificate of public convenience and necessity or in a corporation that holds a certificate of public convenience and necessity to operate a taxicab business;
- [4.] *(d)* Applications to change the total number of allocated taxicabs in a county to which NRS 706.881 to 706.885, inclusive, apply; and
- [5.] *(e)* Appeals from final decisions of the administrator made pursuant to NRS 706.8822.

2. An appeal to the final decision of the taxicab authority must be made to the transportation services authority.

Sec. 204. NRS 706.8833 is hereby amended to read as follows:

706.8833 *1.* The color scheme, insigne and design of the cruising lights of each taxicab must conform to those approved for the certificate holder [by the administrator] pursuant to regulations of the [taxicab] authority.

2. The [administrator] authority shall approve or disapprove the color scheme, insigne and design of the cruising lights of the taxicabs of a certificate holder in any county, and shall ensure that the color scheme and insigne of one certificate holder are readily distinguishable from the color schemes and insignia of other certificate holders operating in the same county.

Sec. 205. NRS 706.88395 is hereby amended to read as follows:

706.88395 *1.* A vehicle used as a taxicab, *limousine or other passenger vehicle* in passenger service must be impounded by the administrator if a certificate of public convenience and necessity has not been issued authorizing its operation. A hearing must be held by the administrator no later than the conclusion of the second normal business day after impoundment, weekends and holidays excluded. As soon as practicable after impoundment, the administrator shall notify the registered owner of the vehicle [of] :

(a) That the registered owner of the vehicle must post a bond in the amount of \$20,000 to ensure his presence at all proceedings held pursuant to this section;

(b) Of the time set for the hearing ; and

(c) Of his right to be represented by counsel during all phases of the proceedings.

2. The administrator shall hold the vehicle until the registered owner of the vehicle appears and [proves:

(a) That] :

(a) Proves that he is the registered owner of the vehicle;

(b) [That] Proves that he holds a valid certificate of public convenience and necessity; [and

(c) That]

(c) Proves that the vehicle meets all required standards of the authority [.] ; and

(d) Posts a bond in the amount of \$20,000 with the administrator.

The administrator shall return the vehicle to its registered owner when the owner meets the

requirements of this subsection and pays all costs of impoundment.

3. If the registered owner is unable to meet the requirements of *paragraphs (b) or (c) or* subsection 2, the administrator ~~[shall give the registered owner access to the vehicle so that he can remove all taxicab paraphernalia.]~~ *may assess an administrative fine against the registered owner for each such violation in the amount of \$5,000. The maximum amount of the administrative fine that may be assessed against a registered owner for a single impoundment of his vehicle pursuant to this section is \$10,000.* The administrator shall return the vehicle after ~~[all taxicab paraphernalia is removed]~~ *any administrative fine imposed pursuant to this subsection* and all costs of impoundment have been paid.

Sec. 206. NRS 707.360 is hereby amended to read as follows:

707.3601. The rehabilitation division of the department of employment, training and rehabilitation shall develop and administer a program whereby:

(a) Any person who is a customer of a telephone company which provides service through a local exchange and who is certified by the division to be deaf or to have severely impaired speech or hearing may obtain a device for telecommunication capable of serving the needs of such persons at no charge to the customer beyond the rate for basic service; and

(b) Any person who is deaf or has severely impaired speech or hearing may communicate by telephone with other persons through a dual-party relay system.

The program must be approved by the public ~~[service]~~ *utilities* commission of Nevada.

2. A surcharge is hereby imposed on each access line of each customer to the local exchange of any telephone company providing such lines in this state which is sufficient to cover the costs of the program. The commission shall establish by regulation the amount to be charged. Those companies shall collect the surcharge from their customers and transfer the money collected to the commission pursuant to regulations adopted by the commission.

3. The account for telecommunication and relay services for persons with impaired speech or hearing is hereby created within the state general fund and must be administered by the division. Any money collected from the surcharge imposed pursuant to subsection 2 must be deposited in the state treasury for credit to the account. The money in the account may be used only:

(a) For the purchase, maintenance, repair and distribution of the devices for telecommunication, including the distribution of devices to state agencies and nonprofit organizations;

(b) To establish and maintain the dual-party relay system;

(c) To reimburse telephone companies for the expenses incurred in collecting and transferring to the commission the surcharge imposed by the commission;

(d) For the general administration of the program; and

(e) To train persons in the use of the devices.

4. For the purposes of this section:

(a) "Device for telecommunication" means a device which has a keyboard used to send messages by telephone, which visually displays or prints messages received and which is compatible with the system of telecommunication with which it is being used.

(b) "Dual-party relay system" means a system whereby persons who have impaired speech or hearing, and who have been furnished with devices for telecommunication, may relay communications through third parties to persons who do not have access to such devices.

Sec. 207. NRS 708.010 is hereby amended to read as follows:

708.010As used in this chapter, "commission" means the public ~~[service]~~ *utilities* commission of Nevada.

Sec. 208. NRS 709.145 is hereby amended to read as follows:

709.1451. Any political subdivision of the State of Nevada which operates or controls a water company, or the board of county commissioners of any county from which a franchise has been obtained, pursuant to NRS 709.050 to 709.170, inclusive, by a water company exempt from regulation by the public ~~[service]~~ *utilities* commission of Nevada, may contract with the public

[service] utilities commission of Nevada for rate determination assistance, engineering services or financing advice concerning that water company.

2. Any such contract does not divest a political subdivision or a board of county commissioners of any of its jurisdiction over that water company.

3. The public [service] utilities commission of Nevada may charge a reasonable fee for those services.

Sec. 209. NRS 709.146 is hereby amended to read as follows:

709.146 Any water company exempt from regulation by the public [service] utilities commission of Nevada and franchised pursuant to NRS 709.050 to 709.170, inclusive, shall, upon request by the board of county commissioners of the county from which such water company obtained its franchise, produce its books and records for inspection by such board of county commissioners, or the public [service] utilities commission.

Sec. 210. NRS 709.160 is hereby amended to read as follows:

709.160 Nothing contained in NRS 709.050 to 709.170, inclusive, [shall] *must* be so construed as to deprive the public [service] utilities commission of Nevada of full power to regulate and control, as prescribed by law, the service, practices, regulations and charges, subject to the maximum charges fixed by the board of county commissioners upon granting the franchise, and subject also to the provisions of NRS 709.110, of all [public] utilities receiving franchises as provided in NRS 709.050 to 709.170, inclusive.

Sec. 211. NRS 709.240 is hereby amended to read as follows:

709.240 1. All poles from which wires are suspended for electric power, light or heating purposes within the boundaries of unincorporated towns or cities and over public highways shall be subject to such rules and regulations in constructing and maintaining the same as may be prescribed by the public [service] utilities commission of Nevada.

2. The persons or corporations operating such electric light, heat or power lines shall provide a competent electrician, at the expense of such persons or corporations, to cut, repair and replace wires in all cases where such cutting, repairing or replacing is made necessary by the removal of buildings or other property through the public streets or highways.

Sec. 212. NRS 710.145 is hereby amended to read as follows:

710.145 1. Notwithstanding the provisions of any other statute, a telephone system which is under the control and management of a county may extend its operation across county boundaries if:

(a) The proposed operations are not within the scope of activities regulated pursuant to chapter 704 of NRS;

(b) The public [service] utilities commission of Nevada has, pursuant to subsection 3 of NRS 704.040, determined that the extended services are competitive or discretionary and that regulation thereof is unnecessary; or

(c) The public [service] utilities commission of Nevada has, in an action commenced under NRS 704.330 and after 20 days' notice to all telephone utilities providing service in the county into which the operation is to be extended, determined that no other telephone service can reasonably serve the area into which the extension is to be made and approves the extension of the system. No such extension may be permitted for a distance of more than 10 miles.

2. Except as otherwise provided in subsection 1, nothing in this section vests jurisdiction over a county telephone system in the public [service] utilities commission of Nevada.

Sec. 213. NRS 711.030 is hereby amended to read as follows:

711.030 "Community antenna television company" means any person or organization which owns, controls, operates or manages a community antenna television system, except that the definition does not include:

1. A telephone, telegraph or electric utility regulated by the public [service] utilities commission of Nevada where the utility merely leases or rents to a community antenna television company wires or cables for the redistribution of television signals to or toward subscribers of that company; or

2. A telephone or telegraph utility regulated by the public **[service]** *utilities* commission of Nevada where the utility merely provides channels of communication under published tariffs filed with that commission to a community antenna television company for the redistribution of television signals to or toward subscribers of that company.

Sec. 214. NRS 711.240 is hereby amended to read as follows:

711.2401. Except with respect to reasonable promotional activities, a person shall not advertise, offer to provide or provide any service to subscribers of television services at a rate, including any rebate, less than the cost to the company to provide the service which is advertised, offered or provided with the intent to:

(a) Impair fair competition or restrain trade among companies which provide services in the same area; or

(b) Create a monopoly.

2. For the purposes of this section, "cost" means the expense of doing business including, without limitation, expenses for labor, rent, depreciation, interest, maintenance, delivery of the service, franchise fees, taxes, insurance and advertising.

3. A community antenna television company may offer any telecommunication or related services which are offered in the same area by a telephone company, pursuant to chapter 704 of NRS and regulations approved by the public **[service]** *utilities* commission of Nevada for providers of similar services. A community antenna television company shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing telecommunication or related services which are subject to regulation by the public **[service]** *utilities* commission of Nevada.

4. A violation of subsection 1 constitutes a prohibited act under NRS 598A.060. The attorney general and any other person may exercise the powers conferred by that chapter to prevent, remedy or punish such a violation. The provisions of chapter 598A of NRS apply to any such violation.

Sec. 215. NRS 712.020 is hereby amended to read as follows:

712.020The legislature hereby finds and declares that the storage of household goods and effects in warehouses affects the public interest and the public welfare, and in the exercise of its police power it is necessary to vest in the **[public service commission of Nevada]** *transportation services authority* the authority to set certain standards as to fitness and financial stability, and to require certain insurance as a condition for engaging in such storage business.

Sec. 216. NRS 712.040 is hereby amended to read as follows:

712.040**[No]** A person shall *not* engage in the storage of household goods and effects without first having obtained from the **[commission]** *transportation services authority* a warehouse permit to conduct such service.

Sec. 217. NRS 712.050 is hereby amended to read as follows:

712.0501. Before issuing a warehouse permit the **[commission]** *transportation services authority* shall:

(a) Require proof of financial ability to protect persons storing property from loss or damage, and a showing of sufficient assets, including working capital, to carry out the proposed service.

(b) Determine that the applicant has sufficient experience in and knowledge of the storage in a warehouse of household goods and effects, and the **[commission's]** regulations *of the transportation services authority* governing the storage of household goods and effects.

(c) Require proof that the applicant carries a legal policy of liability insurance evidencing coverage against fire, theft, loss and damage for stored property and effects in an amount not less than the base release value set forth in the tariff approved by the **[commission]** *transportation services authority* governing the transportation of household goods and effects for those articles not covered by private insurance. Except upon 30 days' written notice to the **[commission,]** *transportation services authority*, the insurance must not be canceled during the period for which any permit is issued. Failure to keep the insurance in effect is cause for revocation of any warehouse permit.

(d) Require information showing that the property to be used for storage of household goods and effects is reasonably suitable for that purpose. Failure to maintain the property in suitable condition is cause for revocation of any warehouse permit.

(e) Collect an initial fee for the permit as set by the commission according to the gross volume of business in an amount not less than \$25 nor more than \$50.

2. On or before January 1 of each year, the holder of a warehouse permit shall pay to the **[commission]** *transportation services authority* an annual fee as set by the **[commission]** *transportation services authority* pursuant to paragraph (e) of subsection 1.

3. Any person who fails to pay the annual fee on or before the date provided in this section shall pay a penalty of 10 percent of the amount of the fee plus interest on the amount of the fee at the rate of 1 percent per month or fraction of a month from the date the fee is due until the date of payment.

Sec. 218. NRS 712.060 is hereby amended to read as follows:

712.060The **[commission]** *transportation services authority* or its agents may:

1. Inspect any property proposed to be used for storage of household goods and effects to determine its suitability.

2. Examine the premises, books and records of any permit holder.

Sec. 219. NRS 712.070 is hereby amended to read as follows:

712.070The **[commission]** *transportation services authority* shall adopt such rules or regulations as may be required for the administration of this chapter.

Sec. 220. NRS 37.010 is hereby amended to read as follows:

37.010Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public purposes:

1. Federal activities. All public purposes authorized by the Government of the United States.

2. State activities. Public buildings and grounds for the use of the state, the University and Community College System of Nevada and all other public purposes authorized by the legislature.

3. County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

4. Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

5. Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

6. Mining, smelting and related activities. Mining, smelting and related activities as follows:

(a) Mining and related activities, which are recognized as the paramount interest of this state.

(b) Roads, railroads, tramways, tunnels, ditches, flumes, pipes and dumping places to facilitate the milling, smelting or other reduction of ores, or the working of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams, pipe lines, tanks or reservoirs for natural gas or oil, an occupancy in common by the owners or possessors of different mines, mills, smelters or other places for the reduction of ores, or any place for the flow, deposit or conduct of

tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.

7. Byroads. Byroads leading from highways to residences and farms.

8. Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

9. Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the state or college or university.

10. Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

11. Cemeteries, public parks. Cemeteries or public parks.

12. Pipe lines of beet sugar industry. Pipe lines to conduct any liquids connected with the manufacture of beet sugar.

13. Pipe lines for petroleum products, natural gas. Pipe lines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

14. Aviation. Airports, facilities for air navigation and aerial rights of way.

15. Monorails. Monorails and any other overhead or underground system used for public transportation.

16. Community antenna television companies. Community antenna television companies which have been granted a franchise from the governing body of the jurisdictions in which they provide services. The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

(a) It creates no substantial detriment to the service provided by the utility;

(b) It causes no irreparable injury to the utility; and

(c) The public [service] utilities commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

17. Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

Sec. 221. NRS 78.085 is hereby amended to read as follows:

78.0851. Every railroad company in this state shall, within 90 days after its road [shall be] *is* finally located:

(a) Cause to be made a map and profile thereof, and of the land taken and obtained for the use thereof, and the boundaries of the several counties through which the road may run;

(b) File the same in the office of the secretary of state and a duplicate thereof with the public [service] utilities commission of Nevada; and

(c) Cause to be made like maps of the parts thereof located in different counties, and file the same in the office of the recorder of the county in which such parts of the road [shall be] *are* located.

2. The maps and profiles [shall] *must* be certified by the chief engineer, the acting president, and secretary of such company and copies of the same, so certified and filed as required by subsection 1, [shall] *must* be kept in the office of the company, subject to examination by all interested persons.

Sec. 222. (Deleted by amendment.)

Sec. 223. NRS 113.060 is hereby amended to read as follows:

113.0601. Any person who is proposing to sell a previously unsold home or improved lot for which water or sewerage services will be provided by a public utility that:

(a) Serves or plans to serve more than 25 customers; and

(b) Presently serves fewer than 2,000 customers,

shall post in a conspicuous place on the property or at his sales office if an improved lot is being sold, a notice which states the current rates to be charged for such services or, if the public utility is not presently serving customers, the projected rates to be charged. The notice must also contain the name,

address and telephone number of the public utility and the division of consumer [relations] *complaint resolution* of the public [service] *utilities* commission of Nevada.

2. Before the home or lot is sold, the seller shall give the purchaser a copy of the notice described in subsection 1.

Sec. 224. NRS 118B.140 is hereby amended to read as follows:

118B.140The landlord or his agent or employee shall not:

1. Require a person to purchase a mobile home from him or any other person as a condition to renting a mobile home lot to the purchaser or give an adjustment of rent or fees, or provide any other incentive to induce the purchase of a mobile home from him or any other person.

2. Charge or receive:

(a) Any entrance or exit fee for assuming or leaving occupancy of a mobile home lot.

(b) Any transfer or selling fee or commission as a condition to permitting a tenant to sell his mobile home or recreational vehicle within the mobile home park even if the mobile home or recreational vehicle is to remain within the park, unless the landlord is licensed as a dealer of mobile homes pursuant to NRS 489.311 and has acted as the tenant's agent in the sale pursuant to a written contract.

(c) Any fee for the tenant's spouse or children.

(d) Any fee for pets kept by a tenant in the park. If special facilities or services are provided, the landlord may also charge a fee reasonably related to the cost of maintenance of the facility or service and the number of pets kept in the facility.

(e) Any additional service fee unless the landlord provides an additional service which is needed to protect the health and welfare of the tenants, and written notice advising each tenant of the additional fee is sent to the tenant 90 days in advance of the first payment to be made, and written notice of the additional fee is given to prospective tenants on or before commencement of their tenancy. A tenant may only be required to pay the additional service fee for the duration of the additional service.

(f) Any fee for a late monthly rental payment within 4 days of the date the rental payment is due or which exceeds \$1 for each day which the payment is overdue, beginning on the day after the payment was due. Any fee for late payment of charges for utilities must be in accordance with the requirements prescribed by the public [service] *utilities* commission of Nevada.

(g) Any fee, surcharge or rent increase to recover from his tenants the costs resulting from converting from a master-metered water system to individual water meters for each mobile home lot.

Sec. 225. Chapter 119 of NRS is hereby amended by adding thereto a new section to read as follows:

It is unlawful for a developer to sell any lot, parcel, unit or interest in a subdivision without disclosing to the purchaser in writing, before the purchaser signs any binding agreement, the location in the subdivision, and on all land contiguous thereto, of all rights of way and easements for transmission lines of public utilities that supply electricity if the developer knows or reasonably should know the locations of such rights of way and easements.

Sec. 226. NRS 119.121 is hereby amended to read as follows:

119.121Unless the method of disposition is adopted to evade the provisions of this chapter or of the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701 to 1720, inclusive, if each lot, parcel, interest or unit being offered or disposed of in any subdivision is at least one-sixteenth of a section as described by a survey of the government land office, but not less than 35 acres, or 40 acres in area, including roadways and easements, but not more than 80 acres in size, and the developer:

1. Completes an application in such form and containing such reasonable information as the division may require;

2. Pays the fees prescribed in this chapter for a permit for partial registration;

3. Requires the purchaser or his agent to inspect the land before purchasing it; and

4. Signs an affirmation which states that the purchaser or his agent has inspected the land before purchasing it and makes that affirmation a matter of record pursuant to the regulations of the division,

the developer need only comply with the provisions of NRS 119.183, 119.184 and 119.230 [.] , *and section 225 of this act.*

Sec. 227. NRS 120A.220 is hereby amended to read as follows:

120A.220 All intangible personal property held for the owner by any court, public corporation, public authority or public officer, an appointee thereof, a federal or state governmental entity or a political subdivision thereof, that has remained unclaimed by the owner for more than 5 years after it became payable or distributable is presumed abandoned and subject to the provisions of this chapter if:

1. The last known address or residence of the owner of the property is in this state; or
2. The property is otherwise abandoned in this state.

This section does not apply to refunds held by the public [service] *utilities* commission of Nevada pursuant to NRS 703.375.

Sec. 228. NRS 179A.100 is hereby amended to read as follows:

179A.1001. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

- (a) Any which reflect records of conviction only; and
 - (b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.
2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:
 - (a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.
 - (b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.
 - (c) Reported to the central repository.
 3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:
 - (a) Reflect convictions only; or
 - (b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.
 4. The central repository shall disseminate to a prospective or current employer, upon request, information relating to sexual offenses concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information.
 5. Records of criminal history must be disseminated by an agency of criminal justice upon request, to the following persons or governmental entities:
 - (a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.
 - (b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.
 - (c) The state gaming control board.
 - (d) The state board of nursing.
 - (e) The private investigator's licensing board to investigate an applicant for a license.
 - (f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.
 - (g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.
 - (h) Any agency of criminal justice of the United States or of another state or the District of Columbia.
 - (i) Any public utility subject to the jurisdiction of the public [service] *utilities* commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.
 - (j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

- (k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.
- (l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.
- (m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.
- (n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.
- (o) The division of child and family services of the department of human resources and any county agency that is operated pursuant to NRS 432B.325 or authorized by a court of competent jurisdiction to receive and investigate reports of abuse or neglect of children and which provides or arranges for protective services for such children.
6. Agencies of criminal justice in this state which receive information from sources outside [the] *this* state concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Secs. 229-233. (Deleted by amendment.)

Sec. 234. Chapter 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 235 to 239, inclusive, of this act.

Sec. 235. *"Bureau of consumer protection" means the bureau of consumer protection in the office of the attorney general.*

Sec. 236. *"Consumer's advocate" means the consumer's advocate of the bureau of consumer protection.*

Sec. 237. *"Cooperative utility" means a cooperative association or nonprofit corporation or association which supplies utility services for the use of its own members only.*

Sec. 238. *"Public interest" means the interests or rights of the State of Nevada and of the residents of this state, or a broad class of those residents, which arise from the constitutions, court decisions and statutes of this state and of the United States and from the common law.*

Sec. 239. 1. *The consumer's advocate:*

(a) May compile and maintain a data base of the types of telecommunication services that are available in this state. Such a data base must be:

- (1) In a format that can be easily understood; and*
- (2) Updated annually.*

(b) Shall perform outreach programs, identify problems and facilitate the development of solutions relating to the provision of telecommunication service to public schools, public libraries, medical facilities and local governments in rural counties.

(c) Shall act as an advocate for the public schools, public libraries, medical facilities, businesses and general public of this state before the public utilities commission of Nevada relating to the provision of universal telephone service and access to universal service.

(d) Facilitate coordination among the agencies and local governments of this state and the commission regarding issues relating to telecommunication services.

2. *As used in this section:*

(a) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

(b) "Rural county" means a county whose population is less than 100,000.

(c) "Universal service" means the availability of affordable and reliable basic telephone service to as many customers in this state as economically and operationally practicable.

Sec. 240. NRS 228.096 is hereby amended to read as follows:

228.0961. The attorney general's special fund is hereby created as a special revenue fund.

2. [Except as otherwise provided by NRS 598A.260, all money received by the attorney general pursuant to those provisions of law relating to private investigators and to recoveries for unfair trade practices must be deposited in the state treasury for credit to the attorney general's special fund. 3.] All claims against the fund must be paid as other claims against the state are paid.

Sec. 241. NRS 228.097 is hereby amended to read as follows:

228.097[Except as he is required by NRS 228.096 to deposit certain money in a special fund, the] *The* attorney general shall deposit in the state general fund all money collected by him which is in excess of the amount authorized for expenditure by the legislature.

Sec. 242. NRS 228.098 is hereby amended to read as follows:

228.098[Except as provided in NRS 228.096, money] *Money* for the support of the operations of the office of attorney general from whatever source it is derived must be accounted for in the attorney general's administration budget account.

Sec. 243. NRS 228.300 is hereby amended to read as follows:

228.300As used in NRS 228.300 to 228.390, inclusive, *and sections 235 to 239, inclusive, of this act,* unless the context otherwise requires [:

1. "Consumer's advocate" means the advocate for customers of public utilities.
2. "Cooperative utility" means a cooperative association or nonprofit corporation or association which supplies utility services for the use of its own members only.
3. "Public interest" means the interests or rights of the State of Nevada and of the citizens of the state, or a broad class of those citizens, which arise from the constitutions, court decisions and statutes of this state and of the United States and from the common law, as those interests and rights relate to the regulation of public utilities.], *the words and terms defined in sections 235 to 238, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 244. NRS 228.310 is hereby amended to read as follows:

228.3101. The [office of advocate for customers of public utilities] *bureau of consumer protection* is hereby created within the office of the attorney general. [The advocate for customers of public utilities may be known as the consumer's advocate.]

2. *The executive head of the bureau of consumer protection is the consumer's advocate.*

Sec. 245. NRS 228.330 is hereby amended to read as follows:

228.330The consumer's advocate may:

1. Employ [the] *such* staff *as are* necessary to carry out his duties and the functions of his office, in accordance with the personnel practices and procedures established within the attorney general's office. [The staff must include:
 - (a) A person licensed to practice law in this state, who shall serve as staff counsel;
 - (b) A person knowledgeable in rate making and principles and policies of rate regulation;
 - (c) A specialist in public utilities knowledgeable in accounting, finance or economics or one or more related disciplines; and
 - (d) An administrative assistant,
 who must be in the unclassified service of the state.] The consumer's advocate has sole discretion to employ and remove [the members] *any member* of his staff . [who are in the unclassified service.]
2. Purchase necessary equipment.
3. Lease or make other suitable arrangements for office space, but any lease which extends beyond the term of 1 year must be reviewed and approved by a majority of the members of the state board of examiners.
4. Apply for an order or subpoena for the appearance of witnesses or the production of books, papers and documents in any proceeding in which he is a party or intervener, in the same manner as any other party or intervener, and make arrangements for and pay the fees or costs of any witnesses and consultants necessary to the proceeding. If any person ordered by the public [service] *utilities* commission of Nevada to appear before it as a witness pursuant to this subsection fails to obey the

order, the commission shall apply for a subpoena commanding the attendance of the witness.

5. Perform such other functions and make such other arrangements as may be necessary to carry out his duties and the functions of his office.

Sec. 246. NRS 228.340 is hereby amended to read as follows:

228.3401. *[The account for the consumer's advocate is hereby created within the attorney general's special fund created pursuant to NRS 228.096. All money collected for the use of the consumer's advocate must be deposited in the state treasury for credit to the account.] Except as otherwise provided by NRS 598A.260, all money collected by the bureau of consumer protection pursuant to NRS 704.033 and to those provisions relating to private investigators and unfair trade practices must be deposited with the state treasurer for credit to the account for the bureau of consumer protection.*

2. Money in the account may be used only to defray the costs of maintaining the office of the consumer's advocate and for carrying out the provisions of NRS 228.300 to 228.390, inclusive.

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

Sec. 247. NRS 228.360 is hereby amended to read as follows:

228.360The consumer's advocate may, with respect to all public utilities except railroads [, **common and contract motor carriers**] and cooperative utilities, and except as provided in NRS 228.380:

1. Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

2. Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the public [**service**] *utilities* commission of Nevada in the same manner and to the same extent as authorized by law for members of the public [**service**] *utilities* commission of Nevada and its staff.

3. Petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the public [**service**] *utilities* commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the consumer's advocate may bring before or has brought before the public [**service**] *utilities* commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The consumer's advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.

Sec. 248. NRS 228.370 is hereby amended to read as follows:

228.370All public utilities, except railroads [, **common and contract motor carriers**] and cooperative utilities, and except as provided in NRS 228.380, shall provide the consumer's advocate with copies of any proposed changes in rates or service, correspondence, legal papers and other documents which are served on or delivered or mailed to the public [**service**] *utilities* commission of Nevada.

Sec. 249. NRS 228.380 is hereby amended to read as follows:

228.3801. *Except as otherwise provided in this section, the consumer's advocate may exercise the power of the attorney general in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C and 599B of NRS. The consumer's advocate may not exercise any powers to enforce any criminal statute set forth in chapters 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the public utilities commission of Nevada if the consumer's advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities.*

2. *The consumer's advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.*

3. The powers of the consumer's advocate do not extend to [**matters**] *proceedings before the public utilities commission of Nevada* directly relating to discretionary or competitive telecommunication services.

Sec. 250. NRS 228.390 is hereby amended to read as follows:

228.3901. The consumer's advocate has sole discretion to represent or refrain from representing the public interest and any class of [utility] customers in any proceeding.

2. In exercising his discretion, the consumer's advocate shall consider the importance and extent of the public interest or the customers' interests involved and whether those interests would be adequately represented without his participation.

3. If the consumer's advocate determines that there would be a conflict between the public interest and any particular class of [utility] customers or any inconsistent interests among the classes of [utility] customers involved in a particular matter, he may choose to represent one of the interests, to represent no interest, or to represent one interest through his office and another or others through outside counsel engaged on a case basis.

Sec. 251. NRS 232.510 is hereby amended to read as follows:

232.5101. The department of business and industry is hereby created.

2. The department consists of a director and the following:

- (a) Consumer affairs division.
- (b) Division of financial institutions.
- (c) Housing division.
- (d) Manufactured housing division.
- (e) Real estate division.
- (f) Division of unclaimed property.
- (g) Division of agriculture.
- (h) Division of minerals.
- (i) Division of insurance.
- (j) Division of industrial relations.
- (k) Office of labor commissioner.
- (l) Taxicab authority.
- (m) Nevada athletic commission.
- (n) Office of the Nevada attorney for injured workers.
- (o) State predatory animal and rodent committee.
- (p) *Transportation services authority.*
- (q) Any other office, commission, board, agency or entity created or placed within the department pursuant to a specific statute, the budget approved by the legislature or an executive order, or an entity whose budget or activities have been placed within the control of the department by a specific statute.

Sec. 252. NRS 232.520 is hereby amended to read as follows:

232.520The director:

1. Shall appoint a chief or executive director, or both of them, of each of the divisions, offices, commissions, boards, agencies or other entities of the department, unless the authority to appoint such a chief or executive director, or both of them, is expressly vested in another person, board or commission by a specific statute. In making the appointments, the director may obtain lists of qualified persons from professional organizations, associations or other groups recognized by the department, if any. The chief of the consumer affairs division is the commissioner of consumer affairs, the chief of the division of financial institutions is the commissioner of financial institutions, the chief of the housing division is the administrator of the housing division, the chief of the manufactured housing division is the administrator of the manufactured housing division, the chief of the real estate division is the real estate administrator, the chief of the division of unclaimed property is the administrator of unclaimed property, the chief of the division of agriculture is the administrator of the division of agriculture, the chief of the division of minerals is the administrator of the division of minerals, the chief of the division of insurance is the insurance commissioner, the chief of the division of industrial relations is the administrator of the division of industrial relations, the chief of the office of labor commissioner is the labor commissioner, the chief of the taxicab authority is the

taxicab administrator, *the chief of the transportation services authority is the chairman of the authority* and the chief of any other entity of the department has the title specified by the director, unless a different title is specified by a specific statute.

2. Is responsible for the administration of all provisions of law relating to the jurisdiction, duties and functions of all divisions and other entities within the department. The director may, if he deems it necessary to carry out his administrative responsibilities, be considered as a member of the staff of any division or other entity of the department for the purpose of budget administration or for carrying out any duty or exercising any power necessary to fulfill the responsibilities of the director pursuant to this subsection. Nothing contained in this subsection may be construed as allowing the director to preempt any authority or jurisdiction granted by statute to any division or other entity within the department or as allowing the director to act or take on a function that would be in contravention of a rule of court or a statute.

3. Has authority to:

(a) Establish uniform policies for the department, consistent with the policies and statutory responsibilities and duties of the divisions and other entities within the department, relating to matters concerning budgeting, accounting, planning, program development, personnel, information services, dispute resolution, travel, workplace safety, the acceptance of gifts or donations, the management of records and any other subject for which a uniform departmental policy is necessary to ensure the efficient operation of the department.

(b) Provide coordination among the divisions and other entities within the department, in a manner which does not encroach upon their statutory powers and duties, as they adopt and enforce regulations, execute agreements, purchase goods, services or equipment, prepare legislative requests and lease or utilize office space.

(c) Define the responsibilities of any person designated to carry out the duties of the director relating to financing, industrial development or business support services.

4. May, within the limits of the financial resources made available to him, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the department. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the department.

5. For any bonds which he is otherwise authorized to issue, may issue bonds the interest on which is not exempt from federal income tax or excluded from gross revenue for the purposes of federal income tax.

6. May, except as otherwise provided by specific statute, adopt by regulation a schedule of fees and deposits to be charged in connection with the programs administered by him pursuant to chapters 348A and 349 of NRS. Except as so provided, the amount of any such fee or deposit must not exceed 2 percent of the principal amount of the financing.

7. May designate any person within the department to perform any of the duties or responsibilities, or exercise any of the authority, of the director on his behalf.

8. May negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the director or the department.

9. May establish a trust account in the state treasury for the purpose of depositing and accounting for money that is held in escrow or is on deposit with the department for the payment of any direct expenses incurred by the director in connection with any bond programs administered by the director. The interest and income earned on money in the trust account, less any amount deducted to pay for applicable charges, must be credited to the trust account. Any balance remaining in the account at the end of a fiscal year may be:

(a) Carried forward to the next fiscal year for use in covering the expense for which it was originally received; or

(b) Returned to any person entitled thereto in accordance with agreements or regulations of the director pertaining to such bond programs.

Sec. 253. NRS 233B.039 is hereby amended to read as follows:

233B.0391. The following agencies are entirely exempted from the requirements of this chapter:

- (a) The governor.
 - (b) The department of prisons.
 - (c) The University and Community College System of Nevada.
 - (d) The office of the military.
 - (e) The state gaming control board.
 - (f) The Nevada gaming commission.
 - (g) The state board of parole commissioners.
 - (h) The welfare division of the department of human resources.
 - (i) The state board of examiners acting pursuant to chapter 217 of NRS.
 - (j) Except as otherwise provided in NRS 533.365, the office of the state engineer.
2. Except as otherwise provided in NRS 391.323, the department of education, the committee on benefits and the commission on professional standards in education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.
3. The special provisions of:
- (a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the employment security division of the department of employment, training and rehabilitation;
 - (b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;
 - (c) Chapter 703 of NRS for the judicial review of decisions of the public [service] utilities commission of Nevada;
 - (d) Chapter 91 of NRS for the judicial review of decisions of the administrator of the securities division of the office of the secretary of state; and
 - (e) NRS 90.800 for the use of summary orders in contested cases, prevail over the general provisions of this chapter.
4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the department of human resources in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.
5. The provisions of this chapter do not apply to:
- (a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the state board of agriculture, the state board of health, the state board of sheep commissioners or any other agency of this state in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control; or
 - (b) An extraordinary regulation of the state board of pharmacy adopted pursuant to NRS 453.2184.

Sec. 254. NRS 233B.060 is hereby amended to read as follows:

233B.0601. Except as otherwise provided in subsection 2 and in NRS 233B.061, before adopting, amending or repealing any permanent or temporary regulation, the agency must give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

2. Except as otherwise provided in subsection 3, if an agency has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt, after providing a second notice and the opportunity for a hearing, a permanent regulation, but the language of the permanent regulation must first be approved or revised by the legislative counsel and the adopted regulation is subject to review by the legislative commission.

3. If the public [service] utilities commission of Nevada has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt a substantively equivalent permanent regulation without further notice or hearing, but the language of the permanent

regulation must first be approved or revised by the legislative counsel and the adopted regulation is subject to review by the legislative commission.

Sec. 255. NRS 244.3655 is hereby amended to read as follows:

244.36551. If the state board of health determines that:

- (a) A water system which is located in a county and was constructed on or after July 1, 1991, is not satisfactorily serving the needs of its users; and
- (b) Water provided by a public utility or a municipality or other public entity is reasonably available to those users,

the board of county commissioners of that county may require all users of the system to connect into the available water system provided by a public utility or a municipality or other public entity, and may assess each lot or parcel served for its proportionate share of the costs associated with connecting into that water system. If the water system is being connected into a public utility, the public [service] utilities commission of Nevada shall determine the amount of the assessments for the purposes of establishing a lien pursuant to NRS 445A.905.

2. As used in this section, "water system" has the meaning ascribed to it in NRS 445A.850.

Sec. 256. NRS 244.3663 is hereby amended to read as follows:

244.36631. If the board of county commissioners determines that:

- (a) A package plant for sewage treatment which is located in the county and is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is not satisfactorily serving the needs of its users; and
- (b) Sewerage provided by a public utility or a municipality or other public entity is reasonably available to those users,

the board may require all users of the plant to connect into the available sewers provided by a public utility or a municipality or other public entity, and may assess each lot or parcel served for its proportionate share of the cost of connecting into those sewers. These assessments are not subject to the jurisdiction of the public [service] utilities commission of Nevada.

2. If the state department of conservation and natural resources has found that a package plant for sewage treatment which is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is violating any of the conditions of NRS 445A.465 to 445A.515, inclusive, and has notified the holder of the permit that he must bring the plant into compliance, but the holder of the permit has failed to comply within a reasonable time after the date of the notice, the board of county commissioners of the county in which the plant is located may take the following actions independently of any further action by the state department of conservation and natural resources:

- (a) Give written notice, by certified mail, to the owner of the plant and the owners of the property served by the plant that if the violation is not corrected within 30 days after the date of the notice, the board of county commissioners will seek a court order authorizing it to assume control; and
- (b) After the 30-day period has expired, if the plant has not been brought into compliance, apply to the district court for an order authorizing the board to assume control of the plant and assess the property for the continued operation and maintenance of the plant as provided in subsection 4.

3. If the board of county commissioners determines at any time that immediate action is necessary to protect the public health and welfare, it may assume physical control and operation of a package plant for sewage treatment which is located in the county and is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, without complying with any of the requirements set forth in subsection 2. The board may not maintain control of the plant pursuant to this subsection for a period greater than 30 days unless it obtains an order from the district court authorizing an extension.

4. Each lot and parcel served by a package plant for sewage treatment which is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is subject to assessment by the board of county commissioners of the county in which the plant is located for its proportionate share of the cost of continued operation and maintenance of the plant if there is a default or the county assumes control

and operation of the plant pursuant to subsection 2 or 3.

Sec. 257. NRS 244.3665 is hereby amended to read as follows:

244.3665 The board of county commissioners may prohibit any waste of water within the unincorporated areas of the county by customers of a public water system. Any ordinance adopted under this section may:

1. Classify the conditions under which specified kinds and amounts of consumption or expenditure of water are wasteful;
2. Provide for reasonable notice to water users in any such area indicating which of such conditions, if any, exist in that area;
3. Allow any person, group of persons, partnership, corporation or other business or governmental entity which:
 - (a) Furnishes water to persons within such areas of the county for business, manufacturing, agricultural or household use; and
 - (b) Is not a public utility regulated by the public [\[service\]](#) [utilities](#) commission of Nevada, to reduce or terminate water service to any customer who wastes water, according to reasonable standards adopted by the board; and
4. Provide other appropriate penalties for violation of the ordinance which are based upon the classification adopted under subsection 1.

Sec. 258. NRS 244A.711 is hereby amended to read as follows:

244A.711. Except as otherwise provided in NRS 244A.703, after holding the required public hearing, the board shall proceed no further unless or until it:

- (a) Except as otherwise provided in subsection 2, determines by resolution the total amount of money necessary to be provided by the county for the acquisition, improvement and equipment of the project;
 - (b) Receives a 5-year operating history from the contemplated lessee, purchaser or other obligor, or from a parent or other enterprise which guarantees principal and interest payments on any bonds issued;
 - (c) Receives evidence that the contemplated lessee, purchaser, other obligor or other enterprise which guarantees principal and interest payments, has received within the 12 months preceding the date of the public hearing, or then has in effect, a rating within one of the top four rating categories of either Moody's [Investors Service, Inc.](#), or Standard and Poor's [Rating Services](#), except that a municipal or other public supplier of electricity in this state, a public utility regulated by the public [\[service\]](#) [utilities](#) commission of Nevada, the obligor with respect to a project described in NRS 244A.6975, the owner of a historic structure, a health and care facility or a supplemental facility for a health and care facility is not required to furnish that evidence;
 - (d) Determines by resolution that the contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement; and
 - (e) If the project is for the generation and transmission of electricity, determines by resolution that the project will serve one or more of the purposes set forth in NRS 244A.695 and specifies in the resolution its findings supporting that determination.
2. If the project is for the generation and transmission of electricity, the board may estimate the total amount of money necessary for its completion, and the total amount of money which may be provided by the county in connection with the project may exceed the estimate, without the requirement for any further public hearings to be held in connection therewith, to the extent that the excess is required to complete the project or to finance any improvements to or replacements in the project and the county has previously determined to finance the remaining costs of acquiring, improving and equipping the project.
 3. The board may refuse to adopt such a resolution with respect to any project even if all the criteria of subsection 1 are satisfied. If the board desires to adopt such a resolution with respect to any project

where any criterion of subsection 1 is not satisfied, it may do so only with the approval of the state board of finance. In requesting this approval, the board of county commissioners shall transmit to the state board of finance all evidence received pursuant to subsection 1.

4. If any part of the project or improvements is to be constructed by a lessee or his designee, a purchaser or his designee or an obligor or his designee, the board shall provide, or determine that there are provided, sufficient safeguards to ensure that all money provided by the county will be expended solely for the purposes of the project.

Sec. 259. NRS 244A.743 is hereby amended to read as follows:

244A.7431. A county shall not commence the construction of a project for the generation and transmission of electricity to be financed pursuant to NRS 244A.669 to 244A.763, inclusive, until the legislature approves the project in general terms and fixes the limit of the capacity of its generating facilities. After a project is originally so approved, no further legislative approval is required except the addition of generating facilities. For the purposes of this subsection, construction is commenced when excavation is begun for the foundations of a unit for the generation of electricity.

2. Approval by the legislature does not preempt the authority of any state regulatory agency, including , without limitation , the public [service] utilities commission of Nevada, the state environmental commission and the state department of conservation and natural resources. The county shall determine, with the concurrence of the management committee, the capacity of the project to generate electricity, within the limit fixed by the legislature. This determination must be made before the county applies to the public [service] utilities commission for a permit to construct any generating unit.

Sec. 260. NRS 244A.763 is hereby amended to read as follows:

244A.7631. NRS 244A.669 to 244A.763, inclusive, without reference to other statutes of [the] this state, constitute full authority for the exercise of powers granted in those sections, including , but not limited to , the authorization and issuance of bonds.

2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in NRS 244A.669 to 244A.763, inclusive, to be done, applies to any proceedings taken or acts done pursuant to those sections, except for laws to which reference is expressly made in those sections or by necessary implication of those sections.

3. The provisions of no other law, either general or local, except as provided in NRS 244A.669 to 244A.763, inclusive, apply to the doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except:

(a) As otherwise provided in those sections.

(b) That a project for the generation and transmission of electricity is subject to review and approval by the state regulatory agencies which have jurisdiction of the matters involved, including , without limitation , the public [service] utilities commission of Nevada, the state environmental commission and the state department of conservation and natural resources.

4. No notice, consent or approval by any public body or officer thereof may be required as a prerequisite to the sale or issuance of any bonds, the making of any contract or lease, or the exercise of any other power under NRS 244A.669 to 244A.763, inclusive, except as provided in those sections.

5. A project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the counties is not applicable to any action taken pursuant to NRS 244A.669 to 244A.763, inclusive, except that the provisions of NRS 338.010 to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for

financing is granted on or after January 1, 1992, by the county for work to be done in a project.

6. Any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 244A.669 to 244A.763, inclusive, without the necessity of associating with any other person or entity as cofiduciary except that such association is not prohibited.

7. The powers conferred by NRS 244A.669 to 244A.763, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by any other law.

8. No part of NRS 244A.669 to 244A.763, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 261. NRS 268.097 is hereby amended to read as follows:

268.0971. Except as otherwise provided in subsections 2 and 3, notwithstanding the provisions of any local, special or general law, after July 1, 1963, the governing body of any incorporated city in this state, whether incorporated by general or special act, or otherwise, may not supervise or regulate any taxicab motor carrier as defined in NRS 706.126 which is under the supervision and regulation of the [public service commission of Nevada] *transportation services authority* pursuant to law.

2. The governing body of any incorporated city in this state, whether incorporated by general or special act, or otherwise, may fix, impose and collect a license tax on and from a taxicab motor carrier for revenue purposes only.

3. The governing body of any incorporated city in any county in which the provisions of NRS 706.8811 to 706.885, inclusive, do not apply, whether incorporated by general or special act, or otherwise, may regulate by ordinance the qualifications required of employees or lessees of a taxicab motor carrier in a manner consistent with the regulations adopted by the [public service commission of Nevada.] *transportation services authority*.

Sec. 262. NRS 268.4102 is hereby amended to read as follows:

268.41021. If the state board of health determines that:

(a) A water system which is located within the boundaries of a city and was constructed on or after July 1, 1991, is not satisfactorily serving the needs of its users; and

(b) Water provided by a public utility or a municipality or other public entity is reasonably available to those users,

the governing body of that city may require all users of the system to connect into the available water system provided by a public utility or a municipality or other public entity, and may assess each lot or parcel served for its share of the costs associated with connecting into that water system. If the water system is being connected into a public utility, the public [service] *utilities* commission of Nevada shall determine the amount of the assessments for the purposes of establishing a lien pursuant to NRS 445A.900.

2. As used in this section, "water system" has the meaning ascribed to it in NRS 445A.850.

Sec. 263. NRS 268.4105 is hereby amended to read as follows:

268.41051. If the governing body of the city determines that:

(a) A package plant for sewage treatment which is located within the city limits and is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is not satisfactorily serving the needs of its users; and

(b) Sewerage provided by a public utility, the city or another municipality or other public entity is reasonably available to those users,

the governing body may require all users of the plant to connect into the available sewers provided by a public utility, the city or another municipality or other public entity, and may assess each lot or parcel served for its proportionate share of the cost of connecting into those sewers. These assessments are not subject to the jurisdiction of the public [service] *utilities* commission of Nevada.

2. If the state department of conservation and natural resources has found that a package plant for sewage treatment which is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is violating any of the conditions of NRS 445A.465 to 445A.515, inclusive, and has notified the holder of the permit that he must bring the plant into compliance, but the holder of the permit has failed to comply within a reasonable time after the date of the notice, the governing body of the city in which the plant is located may take the following actions independently of any further action by the state department of conservation and natural resources:

(a) Give written notice, by certified mail, to the owner of the plant and the owners of the property served by the plant that if the violation is not corrected within 30 days after the date of the notice, the governing body of the city will seek a court order authorizing it to assume control; and
 (b) After the 30-day period has expired, if the plant has not been brought into compliance, apply to the district court for an order authorizing the governing body to assume control of the plant and assess the property for the continued operation and maintenance of the plant as provided in subsection 4.

3. If the governing body of the city determines at any time that immediate action is necessary to protect the public health and welfare, it may assume physical control and operation of a package plant for sewage treatment which is located within the city limits and is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, without complying with any of the requirements set forth in subsection 2. The governing body may not maintain control of the plant pursuant to this subsection for a period greater than 30 days unless it obtains an order from the district court authorizing an extension.

4. Each lot and parcel served by a package plant for sewage treatment which is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive, is subject to assessment by the governing body of the city in which the plant is located for its proportionate share of the cost of continued operation and maintenance of the plant if there is a default or the city assumes control and operation of the plant pursuant to subsection 2 or 3.

Sec. 264. NRS 268.411 is hereby amended to read as follows:

268.411 The governing body of an incorporated city may prohibit by ordinance any waste of water within its jurisdiction. Any ordinance adopted under this section may:

1. Classify the conditions under which specified kinds and amounts of consumption or expenditure of water are wasteful;

2. Provide for reasonable notice of which of such conditions, if any, exist in the city;

3. Allow any person, group of persons, partnership, corporation or other business or governmental entity which:

(a) Furnishes water to persons within the city for business, manufacturing, agricultural or household use; and

(b) Is not a public utility regulated by the public [service] utilities commission of Nevada, to reduce or terminate water service to any customer or user who wastes water, according to reasonable standards adopted by the board; and

4. Provide other appropriate penalties for violation of the ordinance which are based upon the classification adopted under subsection 1.

Sec. 265. NRS 268.530 is hereby amended to read as follows:

268.5301. After holding a public hearing as provided in NRS 268.528, the governing body shall proceed no further until it:

(a) Determines by resolution the total amount of money necessary to be provided by the city for the acquisition, improvement and equipment of the project;

(b) Receives a 5-year operating history from the contemplated lessee, purchaser or other obligor, or from a parent or other enterprise which guarantees principal and interest payments on any bonds issued;

(c) Receives evidence that the contemplated lessee, purchaser, other obligor or other enterprise which

guarantees principal and interest payments, has received within the 12 months preceding the date of the public hearing a rating within one of the top four rating categories of either Moody's **Investor Service, Inc.**, or Standard and Poor's **Rating Services**, except that a public utility regulated by the public **[service] utilities** commission of Nevada, the obligor with respect to a project described in NRS 268.5385, a health and care facility or a supplemental facility for a health and care facility is not required to furnish that evidence;

(d) Determines by resolution that the contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement; and

(e) Finds by resolution that the project:

(1) Will provide a public benefit;

(2) Would be compatible with existing facilities in the area adjacent to the location of the project;

(3) Will encourage the creation of jobs for the residents of this state;

(4) Is compatible with the general plan of the city adopted pursuant to chapter 278 of NRS; and

(5) If not exempt from the provisions of subsection 2 of NRS 268.527, will not compete substantially with an enterprise or organization already established in the city or the county within which the city is located.

2. The governing body may refuse to proceed with any project even if all the criteria of subsection 1 are satisfied. If the governing body desires to proceed with any project where any criterion of subsection 1 is not satisfied, it may do so only with the approval of the state board of finance. In requesting the approval, the governing body shall transmit to the state board of finance all evidence received pursuant to subsection 1.

3. If any part of the project or improvements is to be constructed by a lessee or his designee, a purchaser or his designee or an obligor or his designee, the governing body shall provide, or determine that there are provided, sufficient safeguards to ensure that all money provided by the city will be expended solely for the purposes of the project.

Sec. 266. NRS 278.026 is hereby amended to read as follows:

278.026As used in NRS 278.026 to 278.029, inclusive, unless the context otherwise requires:

1. "Affected entity" means a public utility, franchise holder, local or regional agency, or any other entity having responsibility for planning or providing public facilities relating to transportation, solid waste, energy generation and transmission, conventions and the promotion of tourism, air quality or public education. The term does not include:

(a) A state agency; **or**

(b) A public utility which is subject to regulation by the public **[service] utilities** commission of Nevada.

2. "Facilities plan" means a plan for the development of public facilities which will have a regional impact or which will aid in accomplishing regional goals relating to transportation, solid waste, energy generation and transmission, conventions and the promotion of tourism, air quality or public education. The term does not include a plan for the development of a specific site or regulations adopted by an affected entity to implement the comprehensive regional plan.

3. "Governing board" means the governing board for regional planning created pursuant to NRS 278.0264.

4. "Joint planning area" means an area that is the subject of common study and planning by the governing body of a county and one or more cities.

5. "Project of regional significance," with respect to a project proposed by any person other than a public utility, means a project which:

(a) Has been identified in the guidelines of the regional planning commission as a project which will result in the loss or significant degradation of a designated historic, archeological, cultural or scenic resource;

(b) Has been identified in the guidelines of the regional planning commission as a project which will result in the creation of significant new geothermal or mining operations;

(c) Has been identified in the guidelines of the regional planning commission as a project which will have a significant effect on the natural resources, public services, public facilities or the adopted regional form of the region; or

(d) Will require a change in zoning, a special use permit, an amendment to a master plan, a tentative map or other approval for the use of land which, if approved, will have an effect on the region of increasing:

- (1) Employment by not less than 938 employees;
- (2) Housing by not less than 625 units;
- (3) Hotel accommodations by not less than 625 rooms;
- (4) Sewage by not less than 187,500 gallons per day;
- (5) Water usage by not less than 625 acre feet per year; or
- (6) Traffic by not less than an average of 6,250 trips daily.

The term does not include any project for which a request for an amendment to a master plan, a change in zoning, a tentative map or a special use permit has been approved by the local planning commission before June 17, 1989.

6. "Project of regional significance," with respect to a project proposed by a [public] utility, includes:

- (a) An electric substation;
- (b) A transmission line that carries 60 kilovolts or more;
- (c) A facility that generates electricity greater than 5 megawatts;
- (d) Natural gas storage and peak shaving facilities; and
- (e) Gas regulator stations and mains that operate over 100 pounds per square inch.

7. "Sphere of influence" means an area into which a city plans to expand as designated in the comprehensive regional plan within the time designated in the comprehensive regional plan.

Sec. 267. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.
2. Conservation, including policies relating to the use and protection of air, land, water, and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.
3. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must allow for a variety of uses, describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses and must be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.
4. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and ground-water aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction, identify the providers of public services within the region and the area within which each must serve, including service territories set by the public [service] utilities commission of Nevada for

public utilities, and must establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development.

5. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

6. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

7. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 268. NRS 278.0282 is hereby amended to read as follows:

278.02821. Before the adoption or amendment of any master plan, facilities plan or other similar plan, each governing body and any other affected entity shall submit the proposed plan or amendment to the regional planning commission, which shall review the plan or amendment at one or more public hearings held within 60 days after its receipt of that plan or amendment and determine whether the proposed plan or amendment conforms with the comprehensive regional plan. The commission shall specify those parts of the plan or amendment, if any, that are not in conformance and why they fail to conform.

2. Before the adoption or amendment of any master plan, facilities plan or other similar plan by a state agency or a public utility whose plan must be approved by the public **[service]** *utilities* commission of Nevada, the agency or utility shall submit the proposed plan or amendment to the regional planning commission, which shall, within 60 days after its receipt, review the plan or amendment and offer suggestions to the agency or utility regarding the conformance of the plan with the comprehensive regional plan.

3. Except as otherwise provided in NRS 278.028, a local governing body or any other affected entity shall not adopt a master plan, facilities plan or other similar plan, or any amendment to any of those plans, unless the regional planning commission has determined that the plan or amendment is in conformance with the comprehensive regional plan. A proposed plan is in conformance with the comprehensive regional plan if it is not in conflict with the comprehensive regional plan and it promotes the goals and policies of the comprehensive regional plan.

4. If the regional planning commission fails to make a determination within 60 days after its receipt from an affected entity or local governing body of a proposed plan or amendment pursuant to this section, the plan or amendment shall be deemed to be in conformance with the comprehensive regional plan.

5. An affected entity or a local governing body which has submitted a proposed plan and which disagrees with the reasons given by the regional planning commission for making a determination of nonconformance pursuant to this section, may file an objection with the regional planning commission within 45 days after the issuance of that determination. The affected entity or local governing body shall attach its reasons why the plan is in conformance with the comprehensive regional plan. The regional planning commission shall consider the objection and issue its final determination of conformance or nonconformance within 45 days after the objection is filed. The determination may be appealed to the governing board not later than 30 days after its issuance.

6. Within 45 days after its receipt of an appeal, the governing board shall consider the appeal and issue its decision, which must be made by the affirmative votes of a simple majority of its total membership. If the board affirms the determination of the commission, the affected entity or local governing body shall, within 60 days after the issuance of the decision, propose revisions to the plan and resubmit the plan together with those proposed revisions to the commission for review in accordance with the provisions of this section.

7. Any determination of conformance made by the commission pursuant to this section must be made by the affirmative votes of not less than two-thirds of its total membership.

Sec. 269. NRS 278.335 is hereby amended to read as follows:

278.3351. A copy of the tentative map must be forwarded by the planning commission or its designated representative, or, if there is no planning commission, the clerk or other designated representative of the governing body, to the division of water resources and the division of environmental protection of the state department of conservation and natural resources, and the health division of the department of human resources or the district board of health acting for the health division pursuant to subsection 2, for review.

2. In a county whose population is 100,000 or more, if the county and one or more incorporated cities in the county have established a district board of health, the authority of the health division to review and certify proposed subdivisions and conduct construction or installation inspections must be exercised by the district board of health.

3. A district board of health which conducts reviews and inspections under this section shall consider all the requirements of the law concerning sewage disposal, water pollution, water quality and water supply facilities. At least four times annually, the district board of health shall notify the health division of the department of human resources which subdivisions met these requirements of law and have been certified by the district board of health.

4. The state is not chargeable with any expense incurred by a district board of health acting pursuant to this section.

5. Each reviewing agency shall, within 15 days ~~[from]~~ *after* the receipt of the tentative map, file its written comments with the planning commission or the governing body recommending approval, conditional approval or disapproval and stating the reasons therefor.

6. The planning commission or its designated representative, or, if there is no planning commission, the clerk or other designated representative of the governing body shall, for informational purposes only, immediately forward a copy of the tentative map to the public ~~[service]~~ *utilities* commission of Nevada for any subdivision which will provide water or services for the disposal of sewage and is subject to the provisions of NRS 704.679. The public ~~[service]~~ *utilities* commission of Nevada shall acknowledge receipt of the tentative map within 15 days after it is received.

Sec. 270. NRS 281.100 is hereby amended to read as follows:

281.1001. Except as otherwise provided in this section and NRS 284.180, the services and employment of all persons who are employed by the State of Nevada, or by any county, city, town, township or other political subdivision thereof, are limited to not more than 8 hours in any 1 calendar day and not more than 40 hours in any 1 week.

2. The period of daily employment mentioned in this section commences from the time the employee takes charge of any equipment of the employer or acts as an assistant or helper to a person who is in charge of any equipment of the employer, or enters upon or into any conveyance of or operated by or for the employer at any camp or living quarters provided by the employer for the transportation of employees to the place of work.

3. This section does not apply to:

(a) Officials of the State of Nevada or of any county, city, town, township or other political subdivision thereof, or employees of the state whose employment is governed by NRS 284.148.

(b) Employees of the State of Nevada or of any county, city, town, township or other political subdivision thereof who:

(1) Are engaged as employees of a fire department, or to nurses in training or working in hospitals, or to police, deputy sheriffs or jailers;

(2) Chose and are approved for a variable workday or variable 80-hour work schedules within a biweekly pay period;

(3) Work more than 8 hours but not more than 10 hours in any 1 workday or 40 hours in any 1 work

week;

- (4) Are executive, administrative, professional or supervisory employees; or
- (5) Are covered by a collective bargaining agreement which establishes hours of service.

(c) Employees of the legislative counsel bureau.

(d) Work done directly by any public utility company pursuant to an order of the public [service] *utilities* commission of Nevada or other public authority.

4. Any employee whose hours are limited by subsection 1 may be permitted, or in case of emergency where life or property is in imminent danger may be required, at the discretion of the officer responsible for his employment, but subject to any agreement made pursuant to NRS 284.181, to work more than the number of hours limited. If so permitted or required, he is entitled to receive, at the discretion of the responsible officer:

- (a) Compensatory vacation time; or
- (b) Overtime pay.

5. Any officer or agent of the State of Nevada, or of any county, city, town, township, or other political subdivision thereof, whose duty it is to employ, direct or control the services of an employee covered by this section, who violates any of the provisions of this section as to the hours of employment of labor as provided in this section, is guilty of a misdemeanor.

Sec. 271. NRS 281.236 is hereby amended to read as follows:

281.2361. A public utility or parent organization or subsidiary of a public utility shall not employ a former member of the public [service] *utilities* commission of Nevada for 1 year after the termination of his service on the commission.

2. A person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada gaming commission pursuant to chapter 463 of NRS shall not employ a former member of the state gaming control board or the Nevada gaming commission for 1 year after the termination of the member's service on the board or commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, a business or industry whose activities are governed by regulations adopted by a department, division or other agency of the executive branch of government shall not, except as otherwise provided in subsection 4, employ a former public officer or employee of the agency, except a clerical employee, for 1 year after the termination of his service or period of employment if:

- (a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;
- (b) During the immediately preceding year he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or
- (c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.

4. A public officer or employee may request the commission on ethics to apply the relevant facts in his case to the provisions of subsection 3 and determine whether relief from the strict application of the provisions is proper. If the commission on ethics determines that relief from the strict application of the provisions of subsection 3 is not contrary to:

- (a) The best interests of the public;
- (b) The continued integrity of state government; and
- (c) The code of ethical standards prescribed in NRS 281.481,

it may issue an order to that effect and grant such relief. The decision of the commission on ethics in such a case is subject to judicial review.

5. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.

Sec. 272. NRS 289.320 is hereby amended to read as follows:

289.320 An employee of the [public service commission of Nevada] *transportation services authority*

whom it designates as an inspector or as manager of transportation is a peace officer and has police power for the enforcement of the provisions of:

1. Chapters [704, 705 and] 706 and 712 of NRS and all regulations of the [commission] *transportation services authority* or the department of motor vehicles and public safety pertaining thereto; and
2. Chapter 482 of NRS and NRS 483.230, 483.350 and 483.530 to 483.620, inclusive, for the purposes of carrying out the provisions of chapter 706 of NRS.

Sec. 273. NRS 309.415 is hereby amended to read as follows:

309.4151. In exercising powers primarily relating to the fulfillment of water purposes or sewer purposes, or both, districts heretofore or hereafter organized under this chapter shall not be subject to regulation or supervision in any way by the public [service] *utilities* commission of Nevada.

2. Nothing contained in subsection 1 shall be construed to limit:

- (a) The power of the board of county commissioners or a member thereof granted by the provisions of NRS 309.270; or
- (b) The supremacy of the state board of health in health matters as declared in NRS 439.150.

Sec. 274. NRS 338.135 is hereby amended to read as follows:

338.135[**Where**] a truck or truck and trailer combination is rented or leased after April 22, 1969, by a contractor or subcontractor on a public work, the hourly rate for the rental or lease of such truck or truck and trailer combination [**shall,**] *must*, when added to the prevailing rate of wages required by NRS 338.020 for the driver, not be less than the hourly rate for similar vehicles with a driver as such hourly rate appears in freight tariffs approved by the [public service commission of Nevada] *transportation services authority* for the area in which the public work is located.

Sec. 275. NRS 354.59881 is hereby amended to read as follows:

354.59881As used in NRS 354.59881 to 354.59889, inclusive, unless the context otherwise requires:

1. "Customer" does not include any customer of a provider of a telecommunication service other than a retail customer.
2. "Fee" means a charge imposed upon a public utility for a business license, a franchise or a right of way over streets or other public areas, except any paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270.
3. "Jurisdiction" means:
 - (a) In the case of a city, the corporate limits of the city.
 - (b) In the case of a county, the unincorporated area of the county.
4. "Public utility" means a person or local government that provides:
 - (a) Electric energy or gas, whether or not the person or local government is subject to regulation by the public [service] *utilities* commission of Nevada;
 - (b) A telecommunication service, if the person or local government holds a certificate of public convenience and necessity issued by the public [service] *utilities* commission of Nevada and derives intrastate revenue from the provision of that service to retail customers; or
 - (c) A commercial mobile radio service as that term is defined in 47 C.F.R. § 20.3 on July 5, 1995.
5. "Revenue" does not include:
 - (a) Any proceeds from the interstate sale of natural gas to a provider of electric energy which holds a certificate of public convenience and necessity issued by the public [service] *utilities* commission of Nevada.
 - (b) Any revenue of a provider of a telecommunication service other than intrastate revenue.

Sec. 276. NRS 354.59883 is hereby amended to read as follows:

354.59883A city or county shall not adopt an ordinance imposing or increasing a fee:

1. If that ordinance would alter the terms of any existing franchise agreement between the city or county and a public utility.
2. That applies to any public utility which does not derive revenue from customers located within the

jurisdiction of the city or county.

3. If, after the adoption of the ordinance:

(a) Any part of a fee to which the ordinance applies will be based upon any revenue of a public utility other than its revenue from customers located within the jurisdiction of the city or county.

(b) The total *cumulative* amount of all fees the city or county imposes upon a public utility to which the ordinance applies will exceed:

(1) Except as otherwise provided in subparagraph (2), 5 percent of the utility's gross revenue from customers located within the jurisdiction of the city or county.

(2) For a public utility that provides a commercial mobile radio service, 5 percent of its gross revenue from the first \$15 charged monthly for each line of access for each of its customers located within the jurisdiction of the city or county. For the purposes of this subparagraph, "commercial mobile radio service" has the meaning ascribed to it in Part 20 of Title 47 of the Code of Federal Regulations.

Sec. 277. NRS 354.59889 is hereby amended to read as follows:

354.59889 [Except as otherwise provided by agreement with all the affected public utilities:]

1. A city or county shall not change any of its fees except through the adoption of an ordinance which provides that the change does not become effective until at least 60 days after the effective date of the ordinance.

2. The cumulative amount of any increases in fees imposed by a city or county during any period of 24 months must not exceed 1 percent of the gross revenue of any public utility to which the increase applies from customers located within the jurisdiction of that city or county.

Sec. 278. NRS 361.320 is hereby amended to read as follows:

361.320 1. At the regular session of the Nevada tax commission commencing on the [1st] *first*

Monday in October of each year, the Nevada tax commission shall establish the valuation for assessment purposes of any property of an interstate and intercounty nature, which must in any event include the property of all interstate or intercounty railroad, sleeping car, private car, street railway, traction, telegraph, water, telephone, air transport, electric light and power companies, together with their franchises, and the property and franchises of all railway express companies operating on any common or contract carrier in this state. This valuation must not include the value of vehicles as defined in NRS 371.020.

2. Except as otherwise provided in subsection 3 and NRS 361.323, the commission shall establish and fix the valuation of the franchise, if any, and all physical property used directly in the operation of any such business of any such company in this state, as a collective unit. If the company is operating in more than one county, on establishing the unit valuation for the collective property, the commission shall then determine the total aggregate mileage operated within the state and within its several counties, and apportion the mileage upon a mile-unit valuation basis. The number of miles apportioned to any county are subject to assessment in that county according to the mile-unit valuation established by the commission.

3. After establishing the valuation, as a collective unit, of a public utility which generates, transmits or distributes electricity, the commission shall segregate the value of any project in this state for the generation of electricity which is not yet put to use. This value must be assessed in the county where the project is located and must be taxed at the same rate as other property.

4. The Nevada tax commission shall adopt formulas, and cause them to be incorporated in its records, providing the method or methods pursued in fixing and establishing the taxable value of all franchises and property assessed by it. The formulas must be adopted and may be changed from time to time upon its own motion or when made necessary by judicial decisions, but the formulas must in any event show all the elements of value considered by the commission in arriving at and fixing the value for any class of property assessed by it. These formulas must take into account, as indicators of value, the company's income, stock and debt, and the cost of its assets.

5. *If two or more persons perform separate functions that collectively are needed to deliver electric*

service to the final customer and the property used in performing the functions would be centrally assessed if owned by one person, the Nevada tax commission shall establish its valuation and apportion the valuation among the several counties in the same manner as the valuation of other centrally assessed property. The Nevada tax commission shall determine the proportion of the tax levied upon the property by each county according to the valuation of the contribution of each person to the aggregate valuation of the property. This subsection does not apply to qualified facilities, as defined in 18 C.F.R. § 292.101, which were constructed before July 1, 1997.

6. As used in this section , [the word] "company" means any person, company, corporation or association engaged in the business described.

[6.] 7. All other property must be assessed by the county assessors, except as *otherwise* provided in NRS 361.321 and 362.100 and except that the valuation of land and mobile homes must be established for assessment purposes by the Nevada tax commission as provided in NRS 361.325.

[7.] 8. On or before November 1 of each year , the department shall forward a tax statement to each private car line company based on the valuation established pursuant to this section and in accordance with the tax levies of the several districts in each county. The company shall remit the ad valorem taxes due on or before December 15 to the department which shall allocate the taxes due each county on a mile-unit basis and remit the taxes to the counties no later than January 31. The portion of the taxes which is due the state must be transmitted directly to the state treasurer. A company which fails to pay the tax within the time required shall pay a penalty of 10 percent of the tax due or \$5,000, whichever is greater, in addition to the tax. Any amount paid as a penalty must be deposited in the state general fund. The department may, for good cause shown, waive the payment of a penalty pursuant to this subsection. As an alternative to any other method of recovering delinquent taxes provided by this chapter, the attorney general may bring a civil action in a court of competent jurisdiction to recover delinquent taxes due [under] *pursuant to* this subsection in the manner provided in NRS 361.560.

Sec. 279. NRS 361B.170 is hereby amended to read as follows:

361B.1701. Except as *otherwise* provided in subsections 2 and 3, the governing body, on the behalf and in the name of the municipality, may at any time designate a tax increment area comprising any specially benefited zone within the municipality designated and approved pursuant to chapter 274 of NRS, to create a special account for the payment of bonds or other securities issued to defray the cost of the acquisition, improvement or equipment, or any combination thereof, of a project or projects authorized in the County Bond Law or the City Bond Law, including, without limitation, the condemnation of property for any such undertaking, as supplemented by the Local Government Securities Law, except as otherwise provided in this chapter.

2. The right of way property of a railroad company which is under the jurisdiction of the [Surface Transportation Board](#) must not be included in a tax increment area unless the inclusion of the property is mutually agreed upon by the governing body and the railroad company.

3. The taxable property of a tax increment area must not be included in any subsequently created tax increment area until at least 50 years after the effective date of creation of the first tax increment area in which the property was included.

Sec. 280. NRS 362.120 is hereby amended to read as follows:

362.1201. The department shall, from the statement and from all obtainable data, evidence and reports, compute in dollars and cents the gross yield and net proceeds of the period covered by the statement.

2. The gross yield must include the value of any mineral extracted which was:

- (a) Sold;
- (b) Exchanged for any thing or service;
- (c) Removed from the state in a form ready for use or sale; or
- (d) Used in a manufacturing process or in providing a service,

during the period covered by the statement.

3. The net proceeds are ascertained and determined by subtracting from the gross yield the following deductions for costs incurred during that period, and none other:

- (a) The actual cost of extracting the mineral.
- (b) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.
- (c) The actual cost of reduction, refining and sale.
- (d) The actual cost of marketing and delivering the mineral and the conversion of the mineral into money.
- (e) The actual cost of maintenance and repairs of:
 - (1) All machinery, equipment, apparatus and facilities used in the mine.
 - (2) All milling, refining, smelting and reduction works, plants and facilities.
 - (3) All facilities and equipment for transportation except those that are under the jurisdiction of the public *[service] utilities* commission of Nevada *[as public utilities.] or the transportation services authority.*
- (f) The actual cost of fire insurance on the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e).
- (g) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e). The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada tax commission. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.
- (h) All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees.
- (i) All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this paragraph.
- (j) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit.
- (k) All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee , or both.

4. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the department on forms provided by the department.

6. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

- (a) The working of the mine;
- (b) The operating of the mill, smelter or reduction works;
- (c) The operating of the facilities or equipment for transportation;
- (d) Superintending the management of any of those operations; or
- (e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations.

Sec. 281. NRS 373.117 is hereby amended to read as follows:

373.1171. A regional transportation commission may establish or operate a public transit system consisting of regular routes and fixed schedules to serve the public.

2. A regional transportation commission may lease vehicles to or from or enter into other contracts

with a private operator for the provision of such a system.

3. In a county whose population is less than 400,000, such a system may also provide service which includes:

(a) Minor deviations from regular routes and fixed schedules on a recurring basis to serve the public transportation needs of passengers. The deviations must not exceed one-half mile from the regular routes.

(b) The transporting of persons upon request without regard to regular routes or fixed schedules, if the service is provided by a common motor carrier which has a certificate of public convenience and necessity issued by the [public service commission of Nevada] *transportation services authority* pursuant to NRS 706.386 to 706.411, inclusive, and the service is subject to the rules and regulations adopted by the [public service commission] *transportation services authority* for a fully regulated carrier.

4. As used in this section:

(a) "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the [public service commission of Nevada] *transportation services authority* a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the [commission.] *transportation services authority*.

(b) "Public transit system" means a system employing motor buses, rails or any other means of conveyance, by whatever type of power, operated for public use in the conveyance of persons.

Sec. 282. NRS 377A.140 is hereby amended to read as follows:

377A.1401. Except as otherwise provided in subsection 2, a public transit system in a county whose population is 400,000 or more may, in addition to providing local transportation within the county and the services described in NRS 377A.130, provide:

(a) Programs to reduce or manage motor vehicle traffic; and

(b) Any other services for public mass transportation which are requested by the general public, if those additional services are included and described in a long-range plan adopted pursuant to 23 U.S.C. § 134 and 49 U.S.C. § 5303.

2. Before a regional transportation commission may provide for on-call public mass transportation in an area of the county, the commission must receive a determination from the [public service commission of Nevada and the taxicab] *transportation services authority* that:

(a) There are no common motor carriers of passengers who are authorized to provide on-call operations for transporting passengers in that area; or

(b) Although there are common motor carriers of passengers who are authorized to provide on-call operations for transporting passengers in the area, the common motor carriers of passengers do not wish to provide, or are not capable of providing, those operations.

3. As used in this section:

(a) "Common motor carrier of passengers" has the meaning ascribed to it in NRS 706.041.

(b) "On-call public mass transportation" means a system established to transport by vehicle passengers who request such transportation on demand.

Sec. 283. NRS 392.330 is hereby amended to read as follows:

392.3301. In addition to the purposes authorized by NRS 392.320, a board of trustees may use transportation funds of the school district for arranging and paying for transportation by motor vehicles or otherwise, by contract or such other arrangement as the board finds most economical, expedient and feasible and for the best interests of the school district.

2. Such transportation may be arranged and contracted for by a board of trustees with:

(a) Any railroad company [, bus company, or other licensed common carrier] holding a certificate of public convenience and necessity issued by the public [service] *utilities commission of Nevada* [.] *or bus company or other licensed common carrier holding a certificate of public convenience and*

necessity issued by the transportation services authority.

(b) The owners and operators of private automobiles or other private motor vehicles, including parents of pupils who attend school and are entitled to transportation. When required by the board of trustees, every such private automobile or other private motor vehicle regularly transporting pupils [shall] *must* be insured in the amount required by regulation of the state board of education against the loss and damage described in subsection 2 of NRS 392.320.

Sec. 284. NRS 405.195 is hereby amended to read as follows:

405.1951. Five or more residents of this state may petition any board of county commissioners to open, reopen, close, relocate or abandon a public road within the county. The petition must be accompanied by proof of the petitioners' residency and adequate maps and documentation to justify a hearing on the petition. Upon receipt of such a petition and the required documentation, the board of county commissioners shall set a date to conduct a public hearing on the petition. The date selected must not be earlier than 30 days, nor later than 45 days, after the petition is submitted. In addition to any other notice required by law or ordinance, the board shall cause notice of the time, date and location of the hearing to be published at least once each week for 2 successive weeks in a newspaper of general circulation in the county.

2. Upon conclusion of the public hearing, the board shall determine whether the road in question has acquired the status of a public road because:

(a) Construction of the improvement occurred while the land was unappropriated, unreserved public land;

(b) The improvement was constructed by mechanical means which made the physical change to the natural area necessary for the customary or usual passage of traffic; and

(c) The right of way was:

(1) Accepted by the state or local government for dedication as a road for public use and thereafter the road was used by the public at large; or

(2) Accepted by use as access to a mining claim or other privately owned property.

3. If the board concludes that the road is a public road, the board may order the public road to be opened, reopened, closed, relocated or abandoned, for all or part of the year. The board's decision must be based on specific findings, including, but not limited to:

(a) The resulting benefit to the general public;

(b) Whether any significant impairment of the environment or natural resources will result; and

(c) Whether the decision will result in a significant reduction in the value of public or private property.

The order of the board must be reduced to writing, including a statement of any actions which must be taken to effectuate the decision and the person to whom each such action has been assigned. If possible, the order must be signed by any person who has agreed to take a specific action to effectuate the board's decision. The lack of such a signature does not invalidate the order.

4. If the order of the board is to close or abandon a public road, the board shall, upon the petition of five or more residents of the state, designate and provide an alternate route serving the same area. The closure or abandonment of a public road by the board does not prohibit or restrict the use of that road by a governmental agency or a public utility regulated by the public [service] *utilities* commission of Nevada for the maintenance, construction or operation of a facility of the agency or utility.

5. Any person or governmental agency may bring and maintain an action in the district court of the county in which the public road lies to prevent any person, including a public agency, from violating an order issued pursuant to subsection 3.

6. The attorney general may bring and maintain an action in any court or before any federal agency if an agency or instrumentality of the Federal Government denies the use of a public road located on public land in this state.

7. Nothing in this section affects the right of the department of transportation to regulate freeways or

highways in this state.

Sec. 285. NRS 405.201 is hereby amended to read as follows:

405.201As used in NRS 405.201 to 405.204, inclusive, unless the context otherwise requires:

1. "Accessory road" means any way established over public lands between 1866 and 1976 pursuant to section 8 of chapter 262, 14 [Statutes 253 (] Stats. 253 (1866), former 43 U.S.C. § 932 , [)] as to which general public use or enjoyment before 1976 is not established, but which provides access to privately owned land.
2. "Public utility" means any public utility, as that term is defined in NRS 704.020, that is subject to the jurisdiction of the public [service] utilities commission of Nevada.

Sec. 286. NRS 445A.535 is hereby amended to read as follows:

445A.535Any public utility subject to the jurisdiction of the public [service] utilities commission of Nevada which is providing sewerage on June 7, 1979, is exempt from the provisions of NRS 445A.540 to 445A.560, inclusive.

Sec. 287. NRS 445A.540 is hereby amended to read as follows:

445A.540A permit to discharge water from a package plant for sewage treatment may not be issued unless all of the following conditions are met:

1. Neither of the following is available:
 - (a) Sewerage provided by a public utility; or
 - (b) Sewerage provided by a municipality or other public entity.
2. The applicant fully complies with all of the conditions of NRS 445A.465 to 445A.515, inclusive.
3. The local governing body assumes:
 - (a) Responsibility in case of default by the builder or developer for the continued operation and maintenance of the plant in accordance with all of the terms and conditions of the permit.
 - (b) The duty of assessing the lands served as provided in subsection 5.
4. The applicant furnishes the local governing body sufficient surety in the form of a bond, certificate of deposit, investment certificate or any other form acceptable to the governing body, to ensure the continued maintenance and operation of the plant:
 - (a) For 5 years following the date the plant is placed in operation; or
 - (b) Until 75 percent of the lots or parcels served by the plant are sold, whichever is later.
5. The owners of the lands to be served by the package plant for sewage treatment record a declaration of covenants, conditions and restrictions, which is an equitable servitude running with the land and which must provide that each lot or parcel will be assessed by the local governing body for its proportionate share of the cost of continued operation and maintenance of the plant if there is a default by the applicant or operator of the plant and a sufficient surety, as provided in subsection 4, is not available.
6. The declaration of covenants, conditions and restrictions recorded by the owners further provides that if the local governing body determines that:
 - (a) The plant is not satisfactorily serving the needs of its users; and
 - (b) Sewerage provided by a public utility or a municipality or other public entity is reasonably available,
 the local governing body may require all users of a package plant for sewage treatment to connect into the available sewers provided by a [public] utility or a municipality or other public entity, and each lot or parcel will be assessed by the local governing body for its proportionate share of the cost of connecting into those sewers. These assessments are not subject to the jurisdiction of the public [service] utilities commission of Nevada.
7. Provision has been made for disposition of the plant and the land on which it is situated after the local governing body requires all users to connect into available sewers provided by a public utility or a municipality or other public entity.

Sec. 288. NRS 445A.860 is hereby amended to read as follows:

445A.860 In addition to the regulations required to be adopted pursuant to NRS 445A.880, the state board of health:

1. Shall adopt regulations establishing procedures for a system of permits to operate water systems which are constructed on or after July 1, 1991.
2. May adopt such other regulations as may be necessary to govern the construction, operation and maintenance of public water systems if those activities affect the quality of water, but the regulations do not supersede any regulation of the public [service] utilities commission of Nevada.
3. May establish by regulation a system for the issuance of operating permits for suppliers of water and set a reasonable date after which a person shall not operate a public water system constructed before July 1, 1991, without possessing a permit issued by a health authority.

Sec. 289. NRS 445A.890 is hereby amended to read as follows:

445A.890 Before making the finding specified in NRS 445A.910 and before making the determinations specified in NRS 244.3655, 268.4102 and 445A.895, the state board of health shall request comments from the:

1. Public [service] utilities commission of Nevada;
2. State engineer;
3. Local government within whose jurisdiction the water system is located; and
4. Owner of the water system.

Sec. 290. NRS 445A.895 is hereby amended to read as follows:

445A.895 A permit to operate a water system may not be issued pursuant to NRS 445A.885 unless all of the following conditions are met:

1. Neither water provided by a public utility nor water provided by a municipality or other public entity is available to the persons to be served by the water system.
2. The applicant fully complies with all of the conditions of NRS 445A.885 to 445A.915, inclusive.
3. The local governing body assumes:
 - (a) Responsibility in case of default by the builder or developer of the water system for its continued operation and maintenance in accordance with all of the terms and conditions of the permit.
 - (b) The duty of assessing the lands served as provided in subsection 5.
4. The applicant furnishes the local governing body sufficient surety in the form of a bond, certificate of deposit, investment certificate or any other form acceptable to the governing body, to ensure the continued maintenance and operation of the water system:
 - (a) For 5 years following the date the system is placed in operation; or
 - (b) Until 75 percent of the lots or parcels served by the system are sold, whichever is later.
5. The owners of the lands to be served by the water system record a declaration of covenants, conditions and restrictions, which is an equitable servitude running with the land and which must provide that each lot or parcel will be assessed by the local governing body for its proportionate share of the cost of continued operation and maintenance of the water system if there is a default by the applicant or operator of the water system and a sufficient surety, as provided in subsection 4, is not available.
6. If the water system uses or stores ozone, the portion of the system where ozone is used or stored must be constructed not less than 100 feet from any existing residence, unless the owner and occupant of each residence located closer than 100 feet consent to the construction of the system at a closer distance.
7. The declaration of covenants, conditions and restrictions recorded by the owners of the lands further provides that if the state board of health determines that:
 - (a) The water system is not satisfactorily serving the needs of its users; and
 - (b) Water provided by a public utility or a municipality or other public entity is reasonably available,

the local governing body may, pursuant to NRS 244.3655 or 268.4102, require all users of the water system to connect into the available water system provided by a public utility or a municipality or other public entity, and each lot or parcel will be assessed by the local governing body for its proportionate share of the costs associated with connecting into that water system. If the water system is being connected into a public utility, the public [service] *utilities* commission of Nevada shall determine the amount of the assessments for the purposes of establishing a lien pursuant to NRS 445A.900.

8. Provision has been made for disposition of the water system and the land on which it is situated after the local governing body requires all users to connect into an available water system provided by a public utility or a municipality or other public entity.

Sec. 291. NRS 445A.900 is hereby amended to read as follows:

445A.900 No lien for the assessments provided by the covenants, conditions and restrictions described in NRS 445A.895 is binding upon the property until:

1. The local governing body, after a hearing, establishes the costs and apportions them to each lot or parcel; or
2. The public [service] *utilities* commission of Nevada determines the amount of the assessments, and the local governing body records a notice of lien in the office of the county recorder in the county in which the property is located.

Sec. 292. NRS 445A.935 is hereby amended to read as follows:

445A.935 1. A supplier of water may apply to the state board of health for a variance or exemption from the board's regulations. The board may grant variances or exemptions after notice and public hearing.

2. A supplier of water shall notify all users of the water system as soon as the board has scheduled a time and place for the public hearing on the application for a variance or exemption.

3. The public [service] *utilities* commission of Nevada may participate in the hearing.

Sec. 293. NRS 445B.200 is hereby amended to read as follows:

445B.200 1. The state environmental commission is hereby created in the state department of conservation and natural resources. The commission consists of:

- (a) The administrator of the division of wildlife of the department;
- (b) The state forester firewarden;
- (c) The state engineer;
- (d) The administrator of the division of agriculture of the department of business and industry;
- (e) The administrator of the division of minerals of the department of business and industry;
- (f) A member of the state board of health to be designated by that board; and
- (g) Five members appointed by the governor, one of whom is a general engineering contractor or a general building contractor licensed pursuant to chapter 624 of NRS and one of whom possesses expertise in performing mining reclamation.

2. The governor shall appoint the chairman of the commission from among the members.

3. A majority of the members constitutes a quorum and a majority of those present must concur in any decision.

4. Each member who is appointed by the governor is entitled to receive a salary of not more than \$80, as fixed by the commission, for each day's attendance at a meeting of the commission.

5. While engaged in the business of the commission, each member and employee of the commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. Any person who receives or has during the previous 2 years received a significant portion of his income, as defined by any applicable state or federal law, directly or indirectly from one or more holders of or applicants for a permit required by NRS 445A.300 to 445A.730, inclusive, is disqualified from serving as a member of the commission. This subsection does not apply to any

person who receives or has received during the previous 2 years, a significant portion of his income from any department or agency of state government which is a holder of or an applicant for a permit required by NRS 445A.300 to 445A.730, inclusive.

7. The state department of conservation and natural resources shall provide technical advice, support and assistance to the commission. All state officers, departments, commissions and agencies, including the department of transportation, the department of human resources, the University and Community College System of Nevada, the state public works board, the department of motor vehicles and public safety, the public [service] utilities commission of Nevada, *the transportation services authority* and the division of agriculture of the department of business and industry may also provide technical advice, support and assistance to the commission.

Sec. 294. NRS 445B.500 is hereby amended to read as follows:

445B.5001. Except as otherwise provided in this section and in NRS 445B.310:

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program must:

(1) Include standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation; and

(2) Provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and the federal act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the federal act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.450, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of \$17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the state, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the commission.

5. No district board of health, county board of health or board of county commissioners may adopt

any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. For the purposes of this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plants include duct burners.

Sec. 295. NRS 455.160 is hereby amended to read as follows:

455.1601. A commissioner of the public [service] utilities commission of Nevada or the district attorney of a county or the city attorney of a city in which there is an excavation or demolition or a proposed excavation or demolition which he believes may cause death, serious physical harm or serious property damage may file a complaint in the district court for the county seeking to enjoin the activity or practice of an operator or a person who is responsible for the excavation or demolition.

2. Upon the filing of a complaint pursuant to subsection 1, the court may issue a temporary restraining order before holding an evidentiary hearing. A temporary restraining order may be issued for no longer than 5 days.

Sec. 296. NRS 455.170 is hereby amended to read as follows:

455.1701. An action for the enforcement of a civil penalty pursuant to this section may be brought before the public [service] utilities commission of Nevada by the attorney general, a district attorney, a city attorney, legal counsel for the public [service] utilities commission of Nevada, the governmental agency that issued the permit to conduct an excavation or demolition, an operator or a person conducting an excavation or demolition.

2. Any person who willfully or repeatedly violates a provision of NRS 455.080 to 455.180, inclusive, is liable for a civil penalty:

(a) Not to exceed \$1,000 per day for each violation; and

(b) Not to exceed \$100,000 for any related series of violations within a calendar year.

3. Any person who negligently violates any such provision is liable for a civil penalty:

(a) Not to exceed \$200 per day for each violation; and

(b) Not to exceed \$1,000 for any related series of violations within a calendar year.

4. The amount of any civil penalty imposed pursuant to this section and the propriety of any settlement or compromise concerning a penalty must be determined by the public [service] utilities commission of Nevada upon receipt of a complaint by the attorney general, an employee of the public [service] utilities commission of Nevada who is engaged in regulatory operations, a district attorney, a city attorney, the agency that issued the permit to excavate or the operator or the person responsible for the excavation or demolition.

5. In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the public [service] utilities commission of Nevada shall consider:

(a) The gravity of the violation;

(b) The good faith of the person charged with the violation in attempting to comply with the provisions of NRS 455.080 to 455.180, inclusive, before and after notification of a violation; and

(c) Any history of previous violations of those provisions by the person charged with the violation.

6. A civil penalty recovered pursuant to this section must first be paid to reimburse the person who initiated the action for any cost incurred in prosecuting the matter.

7. Any person aggrieved by a determination of the public [service] utilities commission of Nevada pursuant to this section may seek judicial review of the determination in the manner provided by NRS [233B.130 to 233B.150, inclusive.] 703.373.

Sec. 297. NRS 455.250 is hereby amended to read as follows:

455.2501. An action for the enforcement of a civil penalty pursuant to this section may be brought before the public [service] utilities commission of Nevada by the attorney general, a district attorney,

a city attorney or legal counsel for the public [service] utilities commission of Nevada.

2. Any person who violates a provision of NRS 455.200 to 455.240, inclusive, is liable for a civil penalty not to exceed \$1,000 per day for each violation.

3. The amount of any civil penalty imposed pursuant to this section and the propriety of any settlement or compromise concerning a penalty must be determined by the public [service] utilities commission of Nevada upon receipt of a complaint by the attorney general, an employee of the public [service] utilities commission of Nevada who is engaged in regulatory operations, a district attorney or a city attorney.

4. In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the public [service] utilities commission of Nevada shall consider:

(a) The gravity of the violation;

(b) The good faith of the person charged with the violation in attempting to comply with the provisions of NRS 455.200 to 455.240, inclusive, before and after notification of a violation; and

(c) Any history of previous violations of those provisions by the person charged with the violation.

5. A civil penalty recovered pursuant to this section must first be paid to reimburse the person who initiated the action for any cost incurred in prosecuting the matter. Any amount remaining after such reimbursement must be deposited in the state general fund.

6. Any person aggrieved by a determination of the public [service] utilities commission of Nevada pursuant to this section may seek judicial review of the determination in the manner provided by NRS 233B.130 to 233B.150, inclusive.

Sec. 298. NRS 459.250 is hereby amended to read as follows:

459.2501. Peace officers of the [public service commission of Nevada and the] Nevada highway patrol shall enforce those provisions of NRS 459.221, 459.707 and 459.708 which govern the transport and handling of radioactive waste as they affect the safety of drivers or vehicles, the leakage or spill of radioactive waste from its package or the emission of ionizing radiation in an unsafe amount as established by the regulations of the state board of health.

2. The peace officer may:

(a) Impound a vehicle with unsafe equipment; or

(b) Detain a vehicle, if any waste has leaked or spilled from its package or if he has detected the emission of ionizing radiation in an unsafe amount, and order the driver of the vehicle to park it in a safe place, as determined by an officer designated by the health division of the department of human resources, pending remedial action by that division.

3. After a vehicle has been so detained, an officer designated by the health division of the department of human resources may order:

(a) The vehicle to be impounded;

(b) The leaked or spilled waste to be cleaned up;

(c) The contents of any unsafe or leaking package to be repackaged; or

(d) Any other appropriate precaution or remedy,

at the expense of the shipper or broker, carrier or other person who is responsible as determined by the health division of the department of human resources.

Sec. 299. NRS 459.500 is hereby amended to read as follows:

459.5001. Except as otherwise provided in NRS 459.700 to 459.780, inclusive, or 459.800 to 459.856, inclusive:

(a) Regulations of the commission must provide:

(1) For safety in packaging, handling, transportation and disposal of hazardous waste, including safety of vehicles and drivers;

(2) For the certification of consultants involved in consultation regarding the response to and the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks, the clean up of spills of or accidents involving hazardous waste, hazardous material or a

regulated substance, or the management of hazardous waste; and

(3) That a person employed full time by a business to act as such a consultant is exempt from the requirements of certification:

(I) If he is certified by the federal Occupational Safety and Health Administration to manage such waste, materials or substances; and

(II) While acting in the course of that full-time employment.

(b) Regulations of the commission may:

(1) Provide for the licensing and other necessary regulation of generators, including shippers, brokers and carriers, both intrastate and interstate, who cause that waste to be transported into or through Nevada or for disposal in Nevada;

(2) Require that the person responsible for a spill, leak or accident involving hazardous waste, hazardous material or a regulated substance, obtain advice on the proper handling of the spill, leak or accident from a consultant certified under the regulations adopted pursuant to subsection 1; and

(3) Establish standards relating to the education, experience, performance and financial responsibility required for the certification of consultants.

2. The regulations may include provisions for:

(a) Fees to pay the cost of inspection, certification and other regulation; and

(b) Administrative penalties of not more than \$2,500 per violation or \$10,000 per shipment for violations by persons licensed by the department, and the criminal prosecution of violations of its regulations by persons who are not licensed by the department.

3. Designated employees of the department [, the public service commission of Nevada] and the Nevada highway patrol shall enforce the regulations of the commission relating to the transport and handling of hazardous waste, as they affect the safety of drivers and vehicles and the leakage or spill of that waste from packages.

Sec. 300. NRS 459.512 is hereby amended to read as follows:

459.5121. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay to the department to offset partially the cost incurred by the state fire marshal for training emergency personnel who respond to the scene of accidents involving hazardous materials a fee of \$4.50 per ton of the volume received for the disposal of hazardous waste by the facility.

2. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay to the department to offset partially the cost incurred by the public [service] utilities commission of Nevada for inspecting and otherwise ensuring the safety of any shipment of hazardous materials transported by rail car through or within this state a fee of \$1.50 per ton of the volume received for the disposal of hazardous waste by the facility.

3. The operator of such a facility shall pay the fees provided in this section, based upon the volume of hazardous waste received by the facility during each quarter of the calendar year, within 30 days after the end of each quarter. The department may assess and collect a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that the fee remains due.

Sec. 301. NRS 459.535 is hereby amended to read as follows:

459.5351. Except as otherwise provided in NRS 459.537 and subsection 2 of this section, the money in the account for the management of hazardous waste may be expended only to pay the costs of:

(a) The continuing observation or other management of hazardous waste;

(b) Establishing and maintaining a program of certification of consultants involved in the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks or the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance;

(c) Training persons to respond to accidents or other emergencies related to hazardous materials, including any basic training by the state fire marshal which is necessary to prepare personnel for

advanced training related to hazardous materials;

(d) Establishing and maintaining a program by the public [service] *utilities* commission of Nevada to inspect and otherwise ensure the safety of any shipment of hazardous materials transported by rail car through or within the state; and

(e) Financial incentives and grants made in furtherance of the program developed pursuant to paragraph (c) of subsection 2 of NRS 459.485 for the minimization, recycling and reuse of hazardous waste.

2. Money in the account for the management of hazardous waste may be expended to provide matching money required as a condition of any federal grant for the purposes of NRS 459.800 to 459.856, inclusive.

Sec. 302. NRS 459.707 is hereby amended to read as follows:

459.7071. [The division shall not issue to any common, contract or private motor carrier of property who is seeking to transport radioactive waste upon the highways of this state a permit required pursuant to NRS 459.705 without first obtaining the approval of the **public service commission of Nevada**.

2. The **public service commission of Nevada** shall not approve the issuance of such a permit unless it determines that the carrier transporting the waste complies and will continue to comply with all laws and regulations of this state and the Federal Government respecting the handling and transport of radioactive waste and the safety of drivers and vehicles.

3.] The division shall revoke a permit to transport radioactive waste issued pursuant to NRS 459.705 if it finds that, while transporting radioactive waste, the carrier has failed to comply with any laws or regulations of this state or the Federal Government respecting the handling or transport of radioactive waste and the safety of drivers or vehicles.

[4.] 2. The division shall notify the [**public service commission of Nevada**] *department* upon receiving information that, while transporting radioactive waste, a carrier has failed to comply with any laws or regulations of this state or the Federal Government respecting the handling or transport of radioactive waste and the safety of drivers or vehicles. Upon being notified, the [**public service commission of Nevada**] *department* may:

(a) Revoke [a certificate issued pursuant to chapter 706 of NRS;] *its written approval given pursuant to NRS 706.437*; or

(b) In the case of a carrier whose certificate is issued by the *former Interstate Commerce Commission or the Surface Transportation Board*, file a complaint with [that commission.] *the Surface Transportation Board*.

Sec. 303. NRS 459A.010 is hereby amended to read as follows:

459A.010As used in this chapter, "public utility" means any person who furnishes electricity to other persons. The term includes municipal utilities but does not include persons who furnish electricity only in emergencies or persons described in subsection [6] 4 of NRS 704.030.

Sec. 304. NRS 481.051 is hereby amended to read as follows:

481.0511. The director shall direct and supervise all administrative and technical activities of the department. He shall devote his entire time to the duties of his office, and shall not follow other gainful employment or occupation.

2. The director may organize the department into various divisions, alter the organization and reassign responsibilities and duties as he deems appropriate.

3. The director shall:

(a) Formulate the policy of the department and the various divisions thereof.

(b) Coordinate the activities of the various divisions of the department.

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

4. The director may appoint vendors to serve as agents of the department to sell temporary permits.

The vendor shall collect the fees for the permits issued pursuant to chapter 706 of NRS, and pay them to the department. The vendor shall guarantee payment by giving a bond in an amount not less than \$25,000, executed by the vendor as principal, and by a corporation qualified pursuant to the laws of this state as surety, payable to the State of Nevada. In lieu of a bond, the vendor may deposit with the state treasurer a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is not available for withdrawal except upon order of the director. The director may appoint inspectors of the [public service commission of Nevada] *transportation services authority* and personnel of the Nevada highway patrol to serve without remuneration as vendors for the purposes of this subsection.

5. The director may delegate to the officers and employees of the department such authorities and responsibilities not otherwise delegated by law as he deems necessary for the efficient conduct of the business of the department.

Sec. 305. NRS 481.053 is hereby amended to read as follows:

481.0531. The governor shall appoint the peace officers' standards and training committee.

2. The committee consists of seven members, one appointed from Clark County, one from Washoe County, three from any other counties, one from category II peace officers and one from category III peace officers. Members serve terms of 2 years from the date of appointment. Members serve without compensation but are entitled to the per diem allowance and travel expenses provided by law for state officers and employees generally.

3. The governor shall make the appointments from recommendations submitted by Clark County, Washoe County, professional organizations of sheriffs and police chiefs of this state, category II peace officers and category III peace officers.

4. The committee shall:

(a) Meet at the call of the chairman, who must be elected by the members of the committee.

(b) Provide for and encourage the training and education of peace officers in order to improve the system of criminal justice.

(c) Adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers.

(d) Make necessary inquiries to determine whether agencies of the state and of local governments are complying with standards set forth in its regulations.

(e) Carry out the duties required of the committee pursuant to NRS 432B.610 and 432B.620.

5. Regulations adopted by the committee:

(a) Apply to all agencies of the state and of local governments which employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children; and

(c) May require that training be carried on at institutions which it approves in those regulations.

6. The director may adopt regulations necessary for the operation of the committee and the enforcement of laws administered by the committee.

7. As used in this section:

(a) "Category II peace officer" means:

(1) The bailiff of the supreme court;

(2) The bailiffs of the district courts, justices' courts and municipal courts whose duties require them to carry weapons and make arrests;

(3) Constables and their deputies whose official duties require them to carry weapons and make arrests;

(4) Inspectors employed by the [public service commission of Nevada] *transportation services authority* who exercise those powers of enforcement conferred by chapters [704, 705 and] 706 and

712 of NRS;

(5) Parole and probation officers;

(6) Special investigators who are employed full time by the office of any district attorney or the attorney general;

(7) Investigators of arson for fire departments who are specially designated by the appointing authority;

(8) The assistant and deputies of the state fire marshal;

(9) The brand inspectors of the division of agriculture of the department of business and industry who exercise the powers of enforcement conferred in chapter 565 of NRS;

(10) Investigators for the state forester firewarden who are specially designated by him and whose primary duties are the investigation of arson;

(11) School police officers employed by the board of trustees of any county school district;

(12) Agents of the state gaming control board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;

(13) Investigators and administrators of the bureau of enforcement of the registration division of the department of motor vehicles and public safety who perform the duties specified in subsection 3 of NRS 481.048;

(14) Officers and investigators of the section for the control of emissions from vehicles of the registration division of the department of motor vehicles and public safety who perform the duties specified in subsection 3 of NRS 481.0481;

(15) Legislative police officers of the State of Nevada;

(16) The personnel of the capitol police division of the department of motor vehicles and public safety appointed pursuant to subsection 2 of NRS 331.140;

(17) Parole counselors of the division of child and family services of the department of human resources;

(18) Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in Nevada or by a department of family, youth and juvenile services established pursuant to NRS 62.1264 whose official duties require them to enforce court orders on juvenile offenders and make arrests;

(19) Field investigators of the taxicab authority;

(20) Security officers employed full time by a city or county whose official duties require them to carry weapons and make arrests; and

(21) The chief of a department of alternative sentencing created pursuant to NRS 211A.080 and the assistant alternative sentencing officers employed by that department.

(b) "Category III peace officer" means peace officers whose authority is limited to correctional services, and includes the superintendents and correctional officers of the department of prisons.

Sec. 306. NRS 483.160 is hereby amended to read as follows:

483.1601. "School bus" means every motor vehicle owned by or under the control of a public or governmental agency or a private school and regularly operated for the transportation of children to or from school or a school activity or privately owned and regularly operated for compensation for the transportation of children to or from school or a school activity.

2. "School bus" does not include a passenger car operated under a contract to transport children to and from school, a common carrier or commercial vehicle under the jurisdiction of the [Surface Transportation Board](#) or the [\[public service commission of Nevada\] transportation services authority](#) when such a vehicle is operated in the regular conduct of its business in interstate or intrastate commerce within the State of Nevada.

Sec. 307. NRS 484.148 is hereby amended to read as follows:

484.1481. "School bus" means every motor vehicle owned by or under the control of a public or

governmental agency or a private school and regularly operated for the transportation of children to or from school or a school activity or privately owned and regularly operated for compensation for the transportation of children to or from school or a school activity.

2. "School bus" does not include a passenger car operated under a contract to transport children to and from school, a common carrier or commercial vehicle under the jurisdiction of the [Surface Transportation Board](#) or the [\[public service commission of Nevada\] transportation services authority](#) when such a vehicle is operated in the regular conduct of its business in interstate or intrastate commerce within the State of Nevada.

Sec. 308. NRS 484.229 is hereby amended to read as follows:

484.2291. Except as otherwise provided in subsections 2, 3 and 4, the driver of a vehicle which is in any manner involved in an accident on a highway or on premises to which the public has access, if the accident results in bodily injury to or the death of any person or total damage to any vehicle or item of property to an apparent extent of \$750 or more, shall, within 10 days after the accident, forward a written report of the accident to the department. Whenever damage occurs to a motor vehicle, the operator shall attach to the accident report an estimate of repairs or a statement of the total loss from an established repair garage, an insurance adjuster employed by an insurer licensed to do business in this state, an adjuster licensed pursuant to chapter 684A of NRS or an appraiser licensed pursuant to chapter 684B of NRS. The department may require the driver or owner of the vehicle to file supplemental written reports whenever the original report is insufficient in the opinion of the department.

2. A report is not required from any person if the accident was investigated by a law enforcement agency and the report of the investigating officer contains:

- (a) The name and address of the insurance company providing coverage to each person involved in the accident;
- (b) The number of each policy; and
- (c) The dates on which the coverage begins and ends.

3. The driver of a vehicle subject to the jurisdiction of the [Surface Transportation Board](#) or the [\[public service commission of Nevada\] transportation services authority](#) need not submit in his report the information requested pursuant to subsection 3 of NRS 484.247 until the 10th day of the month following the month in which the accident occurred.

4. A written accident report is not required pursuant to this chapter from any person who is physically incapable of making a report, during the period of his incapacity. Whenever the driver is physically incapable of making a written report of an accident as required in this section and he is not the owner of the vehicle, the owner shall within 10 days after knowledge of the accident make the report not made by the driver.

5. All written reports required in this section to be forwarded to the department by drivers or owners of vehicles involved in accidents are without prejudice to the person so reporting and are for the confidential use of the department or other state agencies having use of the records for accident prevention, except that the department may disclose to a person involved in an accident or to his insurer the identity of another person involved in the accident when his identity is not otherwise known or when he denies his presence at the accident. The department may also disclose the name of his insurer and the number of his policy.

6. A written report forwarded pursuant to the provisions of this section may not be used as evidence in any trial, civil or criminal, arising out of an accident except that the department shall furnish upon demand of any party to such a trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department in compliance with law, and, if the report has been made, the date, time and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved and the investigating officers. The report may be used as evidence when necessary to prosecute charges filed in connection with a violation of NRS 484.236.

Sec. 309. NRS 484.631 is hereby amended to read as follows:

484.6311. Tow cars must be equipped with:

- (a) One or more brooms, and the driver of the tow car engaged to remove a disabled vehicle from the scene of an accident shall remove all glass and debris deposited upon the roadway by the disabled vehicle which is to be towed.
- (b) A shovel, and whenever practical the driver of the tow car engaged to remove any disabled vehicle shall spread dirt upon any portion of the roadway where oil or grease has been deposited by the disabled vehicle.
- (c) At least one fire extinguisher of the dry chemical or carbon dioxide type, with minimum effective chemicals of no less than 5 pounds, with an aggregate rating of at least 10-B, C units, which must bear the approval of a laboratory nationally recognized as properly equipped to grant such approval.

2. A citation may be issued to any driver of a tow car who violates any provision of paragraph (a) of subsection 1. The peace officer who issues the citation shall report the violation to the Nevada highway patrol or the sheriff of the county or the chief of police of the city in which the roadway is located. If necessary, the Nevada highway patrol, sheriff or chief of police shall cause the roadway to be cleaned and shall bill the owner or operator of the tow car for the costs of the cleaning. If the owner or operator does not pay those costs within 30 days after receiving the bill therefor, the Nevada highway patrol, sheriff or chief of police shall report such information to the [\[public service commission of Nevada,\]](#) [transportation services authority](#), which may take disciplinary action in accordance with the provisions of NRS 706.449.

Sec. 310. NRS 487.038 is hereby amended to read as follows:

487.0381. Except as otherwise provided in subsections 3 and 4, the owner or person in lawful possession of any real property may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the [\[public service commission of Nevada\]](#) [transportation services authority](#) to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard if:

- (a) A sign is displayed in plain view on the property declaring public parking to be prohibited or restricted in a certain manner; and
- (b) The sign shows the telephone number of the police department or sheriff's office.

2. Oral notice must be given to the police department or sheriff's office whichever is appropriate, indicating:

- (a) The time the vehicle was removed;
- (b) The location from which the vehicle was removed; and
- (c) The location to which the vehicle was taken.

3. Any vehicle which is parked in a space designated for the handicapped and is not properly marked for such parking may be removed if notice is given to the police department or sheriff's office pursuant to subsection 2, whether or not a sign is displayed pursuant to subsection 1.

4. The owner or person in lawful possession of residential real property upon which a single-family dwelling is located may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the [\[public service commission of Nevada\]](#) [transportation services authority](#) to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard, whether or not a sign is displayed pursuant to subsection 1.

5. All costs incurred, under the provisions of this section, for towing and storage must be borne by the owner of the vehicle, as that term is defined in NRS 484.091.

6. The provisions of this section do not limit or affect any rights or remedies which the owner or person in lawful possession of real property may have by virtue of other provisions of the law authorizing the removal of a vehicle parked on that property.

Sec. 311. NRS 523.161 is hereby amended to read as follows:

523.1611. Except for those energy resources for whose priorities of use are established by the public

[service] *utilities* commission of Nevada, the director may recommend to state agencies, local governments and appropriate private persons and entities, standards for conservation of energy and its sources and for carrying out the state plan for the conservation of energy.

2. In recommending such standards the director shall consider the usage of energy and its sources in the state and the methods available for conservation of those sources.

Sec. 312. NRS 534.180 is hereby amended to read as follows:

534.1801. Except as *otherwise* provided in subsection 2 and as to the furnishing of any information required by the state engineer, this chapter does not apply in the matter of obtaining permits for the development and use of underground water from a well for domestic purposes where the draught does not exceed a daily maximum of 1,800 gallons.

2. The state engineer may designate any ground water basin or portion thereof as a basin in which the registration of a well is required if the well is drilled for the development and use of underground water for domestic purposes. A driller who drills such a well shall register the information required by the state engineer within 10 days after the completion of the well. The state engineer shall make available forms for the registration of such wells and shall maintain a register of those wells.

3. The state engineer may require the plugging of such a well which is drilled on or after July 1, 1981, at any time not sooner than 1 year after water can be furnished to the site by:

(a) A political subdivision of this state; or

(b) A public utility whose rates and service are regulated by the public [service] *utilities* commission of Nevada,

but only if the charge for making the connection to the service is less than \$200.

Sec. 313. NRS 538.181 is hereby amended to read as follows:

538.1811. The commission shall hold and administer all rights and benefits pertaining to the distribution of the power and water mentioned in NRS 538.041 to 538.251, inclusive, for the State of Nevada, and, except as otherwise provided in NRS 538.186, may enter into contracts relating to that power and water, including the transmission and other distribution services, on such terms as the commission determines.

2. Every applicant, except a federal or state agency or political subdivision, for power or water to be used within the State of Nevada must, before the application is approved, provide an indemnifying bond by a corporation qualified pursuant to the laws of this state, or other collateral, approved by the state board of examiners, payable to the State of Nevada in such sum and in such manner as the commission may require, conditioned for the full and faithful performance of the lease, sublease, contract or other agreement.

3. The power and water must not be sold for less than the actual cost to the State of Nevada.

4. Except as otherwise provided in subsection 5, before any such sale or lease is made, a notice of it must be advertised in two papers of general circulation published in the State of Nevada at least once a week for 2 weeks. The commission shall require any person desiring to make objection thereto to file the objection with the commission within 10 days after the date of the last publication of the notice. If any objection is filed, the commission shall set a time and place for a hearing of the objection not more than 30 days after the date of the last publication of the notice.

5. The provisions of subsection 4 do not apply to:

(a) Any contract by the commission to sell supplemental power to a holder of a long-term firm contract with the state for power if the supplemental power is procured by the commission from a prearranged source and is secured by the holder for his own use; or

(b) Any agreement by the commission to sell short-term or interruptible power on short notice for immediate acceptance to a holder of a long-term firm contract with the state for power who can take delivery of the short-term or interruptible power when it is available.

6. Except as otherwise provided in subsection 2 of NRS 538.251, any such lease, sublease, contract or sale of the water or power is not binding upon the State of Nevada until ratified and approved by the

governor and, where required by federal law, until approved by the United States.

7. The commission shall, upon the expiration of a contract for the sale of power which is in effect on July 1, 1993, offer to the purchaser the right to renew the contract. If the commission is unable to supply the amount of power set forth in the contract because of a shortage of power available for sale, it shall reduce, on a pro rata basis, the amount of power it is required to sell pursuant to the renewed contract.

8. **[Notwithstanding]** *Except as otherwise provided in section 50 of this act, notwithstanding* any provision of chapter 704 of NRS, any purchase of:

(a) Power or water for distribution or exchange, and any subsequent distribution or exchange of power or water by the commission; or

(b) Water for distribution or exchange, and any subsequent distribution or exchange of water by any entity to which or with which the commission has contracted the water,

is not subject to regulation by the public **[service]** *utilities* commission of Nevada.

Sec. 314. NRS 540A.300 is hereby amended to read as follows:

540A.3001. The board of county commissioners and the largest supplier of water within the region which is a public utility shall enter into an agreement which defines the respective areas within the region where the public utility and all systems for the supply of water which are controlled or operated by the board will provide retail water services. The agreement must resolve all issues related to service territories of the public utility and all systems for the supply of water which are controlled or operated by the board. An agreement executed pursuant to this subsection does not become effective until the public **[service]** *utilities* commission of Nevada approves the terms of the agreement.

2. The agreement entered into pursuant to subsection 1 governs the provision of retail water services by the public utility and the board, unless the agreement is amended by the mutual agreement of the board and the public utility.

3. The public utility must comply with any applicable regulations of the public **[service]** *utilities* commission of Nevada when providing water services within the region.

4. The public utility may withhold from the board at any time before an agreement is finalized pursuant to subsection 1 any information which is confidential, proprietary or which may cause a competitive disadvantage to the public utility if the information is disseminated.

Sec. 315. NRS 540A.310 is hereby amended to read as follows:

540A.3101. The largest supplier of water within the region which is a public utility shall provide wholesale water services in a manner consistent with its water resource plan as approved by the public **[service]** *utilities* commission of Nevada.

2. The largest supplier of water within the region which is a public utility shall provide all wholesale water services to any system of water supply operated or controlled by the board of county commissioners from water resources recognized in its water resource plan as approved by the public **[service]** *utilities* commission of Nevada, except to the extent that:

(a) There is an existing system or a system under construction for the provision of wholesale water services;

(b) The public utility enters into an agreement with the board on or before June 15, 1995;

(c) A subdivision map has been approved on or before June 15, 1995, in an unincorporated area of the region; or

(d) The public utility and the board agree that it is more economical for the board to provide such services.

Sec. 316. NRS 565.040 is hereby amended to read as follows:

565.0401. The administrator may declare any part of this state a brand inspection district.

2. After the creation of any brand inspection district as authorized by this chapter all animals within any such district are subject to brand inspection in accord with the terms of this chapter before:

- (a) Consignment for slaughter within any district;
- (b) Any transfer of ownership by sale or otherwise; or
- (c) Removal from the district if the removal is not authorized pursuant to a livestock movement permit issued by the division.

3. Whenever a brand inspection district is created by the division pursuant to the provisions of this chapter, the administrator shall adopt and issue regulations defining the boundaries of the district, the fees to be collected for brand inspection, and prescribing such other rules or methods of procedure not inconsistent with the provisions of this chapter as he deems wise.

4. Any regulations issued pursuant to the provisions of this section must be published at least twice in some newspaper having a general circulation in the brand inspection district created by the regulations, and copies of the regulations must be mailed to all common carriers of record with the [public **service** commission of Nevada] *transportation services authority* operating in the brand inspection district, which publication and notification constitutes legal notice of the creation of the brand inspection district. The expense of advertising and notification must be paid from the livestock inspection account.

Sec. 317. NRS 581.103 is hereby amended to read as follows:

581.1031. Any person who wishes to make any repair or adjustment, for hire, to a weighing or measuring device must submit to the state sealer of weights and measures:

- (a) An application for a certificate of registration on a form provided by the state sealer of weights and measures;
- (b) The annual fee prescribed by regulation pursuant to NRS 581.075; and
- (c) The equipment the person will use to repair or adjust weighing or measuring devices. The state sealer of weights and measures shall inspect the equipment to ensure that the equipment complies with the standards set forth in the regulations adopted pursuant to NRS 581.050.

2. The state sealer of weights and measures shall issue to any person who complies with the requirements of subsection 1 a certificate of registration. The certificate must include a unique registration number.

3. A certificate of registration is effective for the calendar year in which it is issued, and may be renewed upon application on or before January 15 of the succeeding year. Any person who, for hire, makes a repair or adjustment to a weighing or measuring device without being registered pursuant to this section shall be punished as provided in NRS 581.450.

4. Except as otherwise provided in NRS 581.104, any person who sells or installs or makes any repair or adjustment to a commercially used weighing or measuring device shall within 24 hours notify the state sealer of weights and measures, on a form provided by the state sealer of weights and measures, of that repair, adjustment, sale or installation. If a person who has been issued a certificate of registration pursuant to subsection 2 fails to notify the state sealer of weights and measures as required by this subsection, the state sealer of weights and measures may suspend the certificate of registration of that person for not more than 10 days and may, after a hearing, revoke his certificate of registration.

5. The form required pursuant to subsection 4 must include:

- (a) The registration number and signature of the person who sold, installed, repaired or adjusted the device; and
- (b) A statement requesting that the state sealer of weights and measures inspect the weighing or measuring device and seal or mark it if it complies with the standards set forth in the regulations adopted pursuant to NRS 581.050.

6. Any person required to register pursuant to subsection 1 who employs any other person to make any repair or adjustment to a weighing or measuring device is responsible for the registration of that employee in the manner required by subsection 1.

7. The provisions of this section do not apply to a public utility subject to the jurisdiction of the public

[service] *utilities* commission of Nevada.

Sec. 318. NRS 581.405 is hereby amended to read as follows:

581.4051. As used in this section, "liquefied petroleum gas" means and includes any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: Propane, propylene, butanes, either normal butane or isobutane, and butylenes.

2. Liquefied petroleum gas sold as a liquid and by meter liquid measurement shall be sold at the rate of 231 cubic inches per gallon at 60° F.

3. When liquefied petroleum gas is sold by use of a temperature compensating meter, suitably sealed or marked by the state sealer of weights and measures pursuant to the provisions of NRS 581.080, the sales ticket shall:

(a) Show the number of compensated gallons delivered; and

(b) State that a temperature correction was made to 60° F.

4. When liquefied petroleum gas is sold by use of a volume correction factor table approved by the state sealer of weights and measures, the sales ticket shall:

(a) Show the number of metered gallons delivered;

(b) Show the temperature of the liquefied petroleum gas when delivered;

(c) Before final invoicing, show the number of compensated gallons delivered; and

(d) State that a temperature correction was made to 60° F.

5. The temperature compensating requirements of this section shall not apply to:

(a) Sales of liquefied petroleum gas from fixed liquefied petroleum gas dispensing systems when delivery is made directly to fuel tanks of motor vehicles or to portable containers.

(b) Interstate tank car and transport truck deliveries to bulk storage, or to public utility systems using pipes or other fixtures in the public highways or streets for the transmission of liquefied petroleum gas and operating under the jurisdiction of the public [service] *utilities* commission of Nevada, or to any public service company whose operations are subject to the jurisdiction of the public [service] *utilities* commission of Nevada.

6. Pursuant to the provisions of NRS 581.050, the state sealer of weights and measures is authorized to establish and promulgate rules and regulations found necessary by him to carry out the provisions of this section, including without limitation rules and regulations authorizing tolerances in excess or deficiency for temperature compensating meters.

7. Any person who violates any of the provisions of this section or of the rules and regulations of the state sealer of weights and measures established and [promulgated] *adopted* by him pursuant to the provisions of subsection 6 of this section shall be punished as provided in NRS 581.450.

Sec. 319. NRS 584.472 is hereby amended to read as follows:

584.4721. Written notice of any hearing held by the commission must be mailed to the [consumer affairs division of the department of business and industry.] *bureau of consumer protection in the office of the attorney general.*

2. The division may file with the commission any statement concerning the proposed action and may appear at the hearing to give evidence concerning the proposed action.

Sec. 320. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 321 to 325, inclusive, of this act.

Sec. 321. *As used in NRS 597.440 and sections 321 to 325, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 322 and 323 of this act, have the meanings ascribed to them in those sections.*

Sec. 322. *"Contract dealer" means a retailer who operates a service station pursuant to a franchise agreement if the service station is not leased to the retailer by the refiner with whom the retailer has entered into the franchise agreement.*

Sec. 323. *"Lessee dealer" means a retailer who operates a service station pursuant to a franchise agreement if the service station is leased to the retailer by the refiner with whom the retailer has*

entered into the franchise agreement.

Sec. 324. *On or after July 1, 1997, a refiner shall not commence the direct operation of a service station with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee, if that service station is leased by the refiner to a lessee dealer on or before July 1, 1997.*

Sec. 325. 1. *A contract dealer shall not, on or before July 1, 1998, sell a service station which he operates to the refiner with whom he has entered into a franchise agreement.*

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

3. On or after July 1, 1998, a contract dealer may authorize a refiner to whom he has sold a service station to engage in the operation of that service station directly with his own employees or through a subsidiary or commissioned agent or person on the basis of a fee, by sending a notice to the refiner, by certified mail, return receipt requested, offering the refiner to engage in the operation of the service station in such a manner. The contract dealer may, at any time before the refiner accepts such an offer, rescind the offer by sending a notice of rescission to the refiner by certified mail, return receipt requested.

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

Sec. 326. NRS 597.440 is hereby amended to read as follows:

597.4401. **[On]** *Except as otherwise provided in this section and sections 324 and 325 of this act, on or after July 1, [1987, except as provided in subsection 3,] 1997, a refiner [shall not commence the:*

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

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

(a) By the end of calendar year 1997, a total of two service stations in addition to the number of service stations directly operated by the refiner on July 1, 1997.

(b) By the end of calendar year 1998, a total of six additional service stations in addition to the number of service stations directly operated by the refiner on July 1, 1997.

(c) By the end of calendar year 1999, a total of 10 additional service stations in addition to the number of service stations directly operated by the refiner on July 1, 1997.

(d) After the end of calendar year 1999, a total of 15 additional service stations in addition to the number of service stations directly operated by the refiner on July 1, 1997.

2. *On or after [July 1, 1988, except as provided in subsection 3, a refiner shall not engage in the direct operation of more than 15 service stations in this state, with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee.] January 1, 2001, a refiner who engages in the direct operation of:*

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

(b) At least 30 service stations in this state, with his own employees or through a subsidiary or commissioned agent or a person on the basis of a fee, may commence the direct operation of additional service stations per year, with his own employees or through a subsidiary or commissioned agent or person on the basis of a fee, only if, during the year in which the service stations are added, he leases, in addition to the number of service stations leased by the refiner to lessee dealers on July 1, 1997, at least one additional service station to a lessee dealer for every two directly operated

service stations added. For the purposes of this paragraph, an additional service station leased by the refiner to a lessee dealer before the refiner engages in the direct operation of at least 30 service stations shall be deemed to be one service station leased to a lessee dealer during any year following the year in which the refiner engages in the direct operation of at least 30 service stations.

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

- (a) Retailer voluntarily terminates or agrees not to renew the franchise; or
- (b) Franchise is terminated by the refiner pursuant to NRS 597.270 to 597.470, inclusive.

Sec. 327. NRS 598.180 is hereby amended to read as follows:

598.180"Door-to-door sale" means any sale, purchase, lease or rental of any consumer goods or services with a purchase price of \$25 or more which is the result of any door-to-door solicitation or personal solicitation by the seller or his representative, whether at the specific invitation of the buyer or not, and which is made at a place other than the place of business of the seller. The term "door-to-door sale" does not include a transaction:

1. Made pursuant to a preexisting retail charge agreement or pursuant to prior negotiations between the parties at or from a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis.
2. In which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act (15 U.S.C. § 1635) or regulations issued pursuant thereto.
3. In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within 3 business days.
4. Conducted and consummated entirely by mail or telephone, and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the service.
5. In which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's personal property. If in the course of the visit, the seller sells the buyer the right to receive additional services and goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion.
6. Pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker-dealer registered with the Securities Exchange Commission.
7. Pertaining to the sale or rental of vehicles as defined in NRS 482.135.
8. Pertaining to the sale or rental of mobile homes.
9. Pertaining to the provision of facilities and services furnished by utilities under the jurisdiction of the public ~~service~~ *utilities* commission of Nevada.

Sec. 328. NRS 598A.040 is hereby amended to read as follows:

598A.040The provisions of this chapter do not apply to:

1. Any labor, agricultural or horticultural organizations organized for the purpose of self-help and not for profit to itself nor to individual members thereof, while lawfully carrying out its legitimate objects.
2. Bona fide religious and charitable activities of any nonprofit corporation, trust or organization established exclusively for religious or charitable purposes.
3. Conduct which is expressly authorized, regulated or approved by:
 - (a) A statute of this state or of the United States;
 - (b) An ordinance of any city or county of this state, except for ordinances relating to community antenna television companies; or
 - (c) An administrative agency of this state or of the United States or of a city or county of this state,

having jurisdiction of the subject matter.

4. Conduct or agreements relating to rates, fares, classifications, divisions, allowances or charges, [(including charges between carriers and compensation paid or received for the use of facilities and equipment)], *that are* authorized, regulated or approved by the [public service commission of Nevada] *transportation services authority* pursuant to chapter 706 of NRS.

5. Restrictive covenants:

(a) Which are part of a contract of sale for a business and which bar the seller of the business from competing with the purchaser of the business sold within a reasonable market area for a reasonable period of time; or

(b) Which are part of a commercial shopping center lease and which bar the parties from permitting or engaging in the furnishing of certain services or the sale of certain commodities within the commercial shopping center where such leased premises are located.

Sec. 329. NRS 599B.015 is hereby amended to read as follows:

599B.0151. The [commissioner may request and the] attorney general shall provide opinions for the [division] *bureau* on all questions of law relating to the construction, interpretation or administration of this chapter.

2. The attorney general shall make the legal determination of whether a person is required to register pursuant to the provisions of this chapter. In making this determination, the attorney general shall consider the definitions, intent, findings and declarations set forth in this chapter.

Sec. 330. NRS 624.330 is hereby amended to read as follows:

624.330 This chapter does not apply to:

1. Work done exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state.

2. An officer of a court when acting within the scope of his office.

3. Work done exclusively by a public utility operating pursuant to the regulations of the public [service] *utilities* commission of Nevada on construction, maintenance and development work incidental to its own business.

4. An owner of property who is building or improving a residential structure on the property for his own occupancy and not intended for sale. The sale or offering for sale of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with intent to sell.

5. An owner of a complex containing not more than four condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer, who performs work to repair or maintain that property the value of which is less than \$500, including labor and materials, unless:

(a) A building permit is required to perform the work;

(b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;

(c) The work is of a type performed by a contractor licensed in a classification prescribed by the board that significantly affects the health, safety and welfare of members of the general public;

(d) The work is performed as a part of a larger project:

(1) The value of which is \$500 or more; or

(2) For which contracts of less than \$500 have been awarded to evade the provisions of this chapter; or

(e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of such a person.

6. The sale or installation of any finished product, material or article of merchandise which is not actually fabricated into and does not become a permanent fixed part of the structure.

7. The construction, alteration, improvement or repair of personal property.
8. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and carried on within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.
9. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his own use or occupancy and not intended for sale or lease.
10. An owner of property who builds or improves a structure upon his property and who contracts solely with a managing contractor licensed pursuant to the provisions of this chapter for the building or improvement, if the owner is and remains financially responsible for the building or improving of all buildings and structures built by the owner upon his property pursuant to the exemption of this subsection.

Sec. 331. (Deleted by amendment.)

Sec. 332. Section 4 of this act is hereby amended to read as follows:

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

703.010

As used in this chapter, unless the context otherwise requires:

1. "Alternative seller" has the meaning ascribed to it in section 30 of this act.
2. "Commission" means the public [service] *utilities* commission of Nevada.
- [3. "Fully regulated carrier" has the meaning ascribed to it in NRS 706.072.]

Sec. 332.5. Section 20 of this act is hereby amended to read as follows:

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

703.230

The commission may, in carrying out its duties:

1. Cooperate with the Federal Government, its departments and agencies.
2. Confer with the regulatory agencies of other states on matters of mutual concern and benefit to persons served by the public utilities [, motor carriers and brokers,] and alternative sellers of this state.
3. Use the services, records, facilities and cooperation of federal and state regulatory agencies, and hold joint hearings and participate in joint conferences to reach decisions in matters which require cooperation. All necessary expenses incurred in attending hearings and conferences outside this state are a charge against the state, and must be audited and paid as other claims against this state are paid. The claims must be sworn to by the commissioner who incurred the expense and approved by the chairman.

Sec. 333. Section 21 of this act is hereby amended to read as follows:

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

703.290

1. A division of consumer [relations] *complaint resolution* is hereby established within the commission.
2. Pursuant to regulations adopted by the commission, the division of consumer [relations] *complaint resolution* shall:
 - (a) Receive and investigate complaints made against any public utility [, motor carrier or broker,] or alternative seller;
 - (b) Conduct appropriate investigations of the service practices of utility companies [and motor carriers and brokers,] or alternative sellers; and

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

Sec. 333.5. Section 22 of this act is hereby amended to read as follows:

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

703.310

1. When a complaint is made against any public utility [, **fully regulated carrier or broker of regulated services**] or alternative seller by any person, that any of the rates, tolls, charges or schedules for regulated services, or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, [**or that any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, or the service of any broker in connection therewith,**] or any regulation, measurement, practice or act affecting or relating to the production, transmission or delivery or furnishing of heat, light, gas, coal slurry, water or power, or any service in connection therewith or the transmission thereof is, in any respect, unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate, the division of consumer [**relations**] *complaint resolution* shall investigate the complaint. After receiving the complaint, the division shall give a copy of it to the public utility [, **carrier or broker,**] or alternative seller against whom the complaint is made. Within a reasonable time thereafter, the public utility [, **carrier or broker,**] or alternative seller shall provide the commission with its written response to the complaint according to the regulations of the commission.
2. If the division of consumer [**relations**] *complaint resolution* is unable to resolve the complaint, the division shall transmit the complaint, the results of its investigation and its recommendation to the commission. If the commission determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.
3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 703.320.

Sec. 334. NRS 597.700 is hereby repealed.

Sec. 334.5. NRS 703.155, 706.106 and 706.174 are hereby repealed.

Sec. 335. The executive director of the department of taxation shall, not later than January 1, 1999, submit to the director of the legislative counsel bureau for distribution to the legislature a report including, but not limited to:

1. An analysis of the effect of the tax policies of this state on:
 - (a) The potential for effective competition in providing electric services to customers; and
 - (b) The effect of competition in providing electric services to customers on the revenue from taxes and franchise fees of this state and local governments.
2. Recommendations for legislation that would advance the purposes of sections 28 to 53, inclusive, of this act and ensure a minimal effect on the tax revenue of this state and local governments.

Sec. 336. In the quarterly report for the first quarter of 1999, which must be submitted by the public utilities commission of Nevada pursuant to section 53 of this act, the commission shall provide a comprehensive evaluation of the development of the markets for potentially competitive services since July 1, 1997.

Sec. 337. The public service commission of Nevada shall adopt regulations to carry out the provisions of sections 28 to 53, inclusive, of this act not later than July 1, 1999.

Sec. 338. The public service commission of Nevada shall adopt the regulations required by section 54

of this act not later than November 1, 1997.

Sec. 339. 1. Not later than January 1, 1999, the public utilities commission of Nevada shall establish a plan of organization for the public utilities commission of Nevada. The plan of organization must be submitted to:

- (a) The director of the legislative counsel bureau for transmittal to the appropriate legislative committee and the interim finance committee; and
- (b) The director of the department of administration.

2. The plan of organization of the public utilities commission of Nevada must:

- (a) Be consistent with the provisions of section 3 of this act; and
- (b) Include a proposed budget for the revenue, personnel and expenditures of the public utilities commission of Nevada.

Sec. 340. The public service commission of Nevada shall, on or before:

1. July 1, 1998, adopt the regulations required by sections 58 to 63, inclusive, of this act.
2. February 1, 1999, submit a written report concerning the alternative plan of regulation adopted pursuant to sections 58 to 63, inclusive of this act, including the names of the public utilities which supply natural gas that have elected to operate under the alternative plan, to the director of the legislative counsel bureau for transmittal to the 70th session of the legislature.
3. February 1, 2001, submit a written report concerning the alternative plan and any recommendations for legislation to the director of the legislative counsel bureau for transmittal to the 71st session of the legislature.

Sec. 341. 1. The terms of office of all members appointed to the public service commission of Nevada who are incumbent on September 30, 1997, expire on that date.

2. Not later than October 1, 1997, the governor shall appoint three persons as commissioners of the public utilities commission of Nevada, whose terms commence on October 1, 1997. For the initial term of the members of the public utilities commission, the governor shall appoint:

- (a) One member to a 2-year term;
- (b) One member to 3-year term; and
- (c) One member to a 4-year term.

3. Not later than August 1, 1997, the governor shall appoint three persons as members of the transportation services authority, whose terms commence on October 1, 1997. For the initial term of the members of the transportation services authority, the governor shall appoint:

- (a) Two members who were members of the public service commission of Nevada on January 1, 1997, and whose initial terms as members of the transportation services authority expire on the same date as their term in their most recent appointment to the public service commission of Nevada; and
- (b) One member to a 4-year term.

4. Members of the transportation services authority who are appointed pursuant to paragraph (a) of subsection 3:

- (a) Shall continue to serve on the public service commission of Nevada until October 1, 1997, but shall devote their full time and attention to matters pertaining to transportation, other than those matters relating to railroads, and to the creation of the transportation services authority;
- (b) On or after August 1, 1997, may not vote on or participate in any proceeding or hearing on any matter that is before the public service commission of Nevada, except for those matters pertaining to transportation, other than railroads; and
- (c) Are not entitled to any additional salary for their services performed in accordance with this subsection.

Sec. 342. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 343. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 344. The amendatory provisions section 225 of this act do not apply to offenses that are committed before October 1, 1997.

Sec. 345. 1. This section and sections 4, 20, 21, 22, 27 to 54, inclusive, 230 to 233, inclusive, 320 to 326, inclusive, 334, 335 to 344, inclusive, 346 and 347 of this act become effective upon passage and approval.

2. Sections 1, 2, 3, 5 to 19, inclusive, 23 to 26, inclusive, 55 to 70, inclusive, 71 to 150, inclusive, 152 to 172, inclusive, 174, 176, 178 to 221, inclusive, 223 to 229, inclusive, 234 to 319, inclusive, 327, 328, 329, 331 to 333.5, inclusive, and 334.5 of this act become effective on October 1, 1997.

3. Sections 151, 222 and 330 of this act become effective at 12:01 a.m. on October 1, 1997.

4. Sections 173, 175 and 177 of this act become effective on the date that the provisions of 49 U.S.C. § 11501 are repealed or judicially declared to be invalid.

Sec. 346. 1. Sections 134, 174, 176, 178 and 179 of this act expire by limitation on the date that the provisions of 49 U.S.C. § 11501 are repealed or judicially declared to be invalid.

2. Section 239 of this act expires by limitation on June 30, 2003.

Sec. 347. 1. The legislative counsel shall:

(a) In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

(b) In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

2. Any reference in a bill or resolution passed by the 69th session of the Nevada legislature to an officer or an agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency shall be deemed to refer to the officer or agency to which the responsibility is transferred.

Senate Bill No. 438–Committee on Commerce and Labor

CHAPTER.....

AN ACT relating to utilities; providing for the appointment of hearing officers to conduct proceedings before the public utilities commission of Nevada; revising the provisions governing recoverable costs; providing for the provision of basic electric services during the period of transition to a competitive market; providing for an auction of the right to provide such electric services; making various changes related to the provision of electricity in a competitive market; revising the provisions governing the statutory deadline by which customers may begin obtaining potentially competitive services; repealing provisions relating to deferred accounting; authorizing the use of the name or logo of a provider of a noncompetitive service by an affiliate of a provider of electric services or a provider of natural gas; and providing other matters properly relating thereto.

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

Section 1. NRS 703.130 is hereby amended to read as follows:

703.130 1. The commission shall appoint a deputy commissioner who shall serve in the unclassified service of the state.

2. The commission shall appoint a secretary who shall perform such administrative and other duties as are prescribed by the commission. The commission shall also appoint an assistant secretary.

3. The commission may employ such other clerks, experts or engineers as may be necessary.

4. The commission may appoint one or more hearing officers for a period specified by the commission to conduct proceedings or hearings that may be conducted by the commission pursuant to chapters 704, 704A, 705, 708 and 711 of NRS. The commission shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the commission.

Sec. 2. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. 1. *A vertically integrated electric utility that is in existence on January 1, 1999, or its successor electric distribution utility or any assignee of the utility shall comply with the terms of any existing obligations for the purchase of power.*

2. To recover any costs associated with an obligation for the purchase of power, a vertically integrated electric utility in existence on January 1, 1999, or its successor electric distribution utility or any assignee of the utility must demonstrate to the commission that it has made reasonable efforts to reduce the cost or increase the value of the obligation, including, without limitation, by:

(a) Evaluating the costs and benefits of the obligation and analyzing whether there are any reasonable options under the existing provisions of the obligation that may reduce the costs or increase the benefits of the obligation;

(b) Reporting on the good faith attempts by the utility or its assignee to seek an increase in value or reduction in cost from the provider of the purchased power under the existing provisions of the obligation;

(c) Showing that the utility or its assignee has exercised to the extent practicable the terms of the existing obligation to mitigate the cost of the obligation or has assessed the value of retaining the obligation;

(d) Providing a citation to an order of the commission approving the obligation, or if such an order does not exist or is not available, providing all information, including, without limitation, any actions or statements by the commission or any state or federal agency, that demonstrates the commitment of the utility or its assignee to the obligation; and

(e) Providing all information indicating the extent to which the rates previously established by the commission have compensated shareholders for the risk of not recovering the costs of the obligation.

3. The provisions of this section must not be construed to allow the commission, by direct or indirect action, to modify or terminate any obligation for the purchase of power in effect on June 1, 1999.

Sec. 4. The commission shall, for each class of customers of electric service in this state, establish a total rate for the components of electric service that are necessary to provide electric service to customers in this state pursuant to subsection 1 of NRS 704.982. The total rate for each class must be established at and must not exceed the total rate for each class of customers of electric service in this state which is in effect on July 1, 1999, except that the commission shall modify the rates to account for the effects of any decisions by the commission relating to any cases filed with the commission before October 1, 1999, which involve the use of deferred accounting. Upon approval by the commission, the provider designated pursuant to subsection 1 of NRS 704.982 may reduce the total rate for any class of customers. The total rates established pursuant to this subsection do not apply to any customer who obtains generation, aggregation or any other potentially competitive service from an alternative seller.

Sec. 5. 1. The provider of electric service designated pursuant to subsection 1 of NRS 704.982 is entitled to recover only from the gain, if any, from the sale by the provider of its generation assets any shortfall during the period commencing on March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976, and ending on March 1, 2003, that results from the netting of any difference between:

(a) The revenues generated by the total rates charged to all classes of customers pursuant to section 4 of this act; and

(b) The total cost incurred by the provider to provide that service to all classes of customers.

2. Upon approval of the amount of the net shortfall, if any, the commission shall authorize the designated provider to recover that

amount from the gain if any, on the sale of its generation assets, after the deduction of any taxes.

3. As used in this section, "total cost incurred by the provider" means the total revenues generated by all classes by the rates in effect on July 1, 1999, as adjusted to account for the effects of any decision of the commission relating to any cases filed with the commission before October 1, 1999, which involve the use of deferred accounting.

Sec. 6. *1. At any time after July 1, 2001, a licensed alternative seller may submit to the commission an offer to provide electric service that is being provided by the provider designated pursuant to subsection 1 of NRS 704.982. The offer must:*

(a) Request to serve at least 10 percent of the load of the provider designated pursuant to subsection 1 of NRS 704.982;

(b) Provide that the service will be provided by the alternative seller to more than one class of customers; and

(c) Provide that there will be a discount of 5 percent off the rate prescribed in subsection 2 of NRS 704.982.

2. Upon the receipt of such an offer, the commission may conduct an auction if the commission determines that it is in the public interest to conduct such an auction. If the commission determines that such an auction is in the public interest, the commission shall conduct the auction as soon as practicable. The commission shall determine the terms and conditions for continued service by the successful bidder at the auction. Any licensed alternative seller or affiliate of an electric distribution utility may submit a bid. Bidding must be done by sealed bid. Each bid must be not less than 10 percent of the load, as measured in megawatts or megawatt hours, of the load of the provider designated pursuant to subsection 1 of NRS 704.982.

3. The commission shall review the bids. If the successful bidder is an alternative seller or an affiliate of an electric distribution utility other than the electric distribution utility that provided the service before the auction, the successful bidder becomes the provider of the service for the percentage of the load as indicated in its bid. For the remainder of the load that is not awarded to a successful bidder, the electric distribution utility which provided service to the customers before the auction remains the provider of the service, and that service must continue to be provided under the same terms and conditions as existed for the provision of that service by the electric distribution utility immediately before the auction.

Sec. 7. NRS 704.110 is hereby amended to read as follows:

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

1. Whenever there is filed with the commission any schedule stating a new or revised individual or joint rate or charge, or any new or revised individual or joint regulation or practice affecting any rate or charge, or any schedule resulting in a discontinuance, modification or restriction of

service, the commission may, upon complaint or upon its own motion without complaint, at once, without answer or formal pleading by the interested utility, investigate or, upon reasonable notice, conduct a hearing concerning the propriety of the rate, charge, classification, regulation, discontinuance, modification, restriction or practice.

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

3. Whenever there is filed with the commission any schedule stating an increased individual or joint rate or charge for service or equipment, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. During any hearing concerning the increased rates or charges determined by the commission to be necessary, the commission shall consider evidence in support of the increased rates or charges based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but no new rates or charges may be placed into effect until the changes have been experienced and certified by the utility to the commission. The commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the filing with the commission of the certification required in this subsection, or before the expiration of any period of suspension ordered pursuant to subsection 2, whichever time is longer, the commission shall make such order in reference to those rates or charges as is required by this chapter.

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

classification, regulation, discontinuance, modification, restriction or practice has become effective.

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

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

~~[7.]~~ **6.** A public utility may not file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale more often than once every 30 days.

~~[8.]~~ **7.** A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

Sec. 8. NRS 704.185 is hereby amended to read as follows:

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

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

Sec. 9. NRS 704.965 is hereby amended to read as follows:

704.965 As used in NRS 704.965 to 704.990, inclusive, *and sections 3 to 6, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 704.966 to 704.975, inclusive, have the meanings ascribed to them in those sections.

Sec. 10. NRS 704.970 is hereby amended to read as follows:

704.970 “Electric distribution utility” means a utility that is in the business of supplying noncompetitive electric distribution or transmission service, or both, or a noncompetitive service pursuant to NRS 704.982, on or after ~~[July 1, 1999, or the date on which alternative sellers are authorized to provide potentially competitive services to customers in this state, as appropriate.]~~ *March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976.*

Sec. 11. NRS 704.975 is hereby amended to read as follows:

704.975 1. “Vertically integrated electric utility” means any public utility in the business of supplying electricity or its successor in interest that, as of December 31, 1996:

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

(b) Had an annual operating revenue of \$250,000,000 or more ~~[]~~ *in Nevada.*

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

Sec. 12. NRS 704.976 is hereby amended to read as follows:

704.976 1. The date upon which customers may begin obtaining generation, aggregation, *metering, billing* and any other potentially competitive services from an alternative seller must be no later than ~~[December 31, 1999,]~~ *March 1, 2000*, unless the *governor, after consultation with the* commission, determines that a different date is necessary to protect the public interest. ~~[If the commission determines that a different date is necessary, the commission shall provide a report to the director of the legislative counsel bureau for transmittal to the legislature by February 1, 1999, which:~~

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

~~—(b) States whether the commission will grant such an authorization by December 31, 1999.]~~

2. The commission may:

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

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

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

- (a) Will not harm any class of customers;
- (b) Will decrease the cost of providing the service to customers in this state or increase the quality or innovation of the service to customers in this state;
- (c) Is a service for which effective competition in the market is likely to develop;
- (d) Will advance the competitive position of this state relative to surrounding states; and
- (e) Will not otherwise jeopardize the safety and reliability of the electric service in this state.

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

- (a) Identify the relevant market;
- (b) Identify, where feasible, the alternative sellers that participate and are reasonably expected to participate in the relevant market; and
- (c) Calculate, where feasible, the market share of each participant in the market and evaluate the significance of each share.

5. On ~~for before October 1, 2000, the commission shall submit to the director of the legislative counsel bureau for transmittal to the appropriate legislative committee a report which:~~

- ~~—(a) Evaluates the effectiveness of competition in the market for each service which customers have the right to purchase from alternative sellers; and~~
- ~~—(b) Recommends actions which the legislature should take to increase the effectiveness of competition in the markets for all potentially competitive services.~~

~~6. On~~ or before October 1, 2001, an electric service that has been found *on or before that date* to be potentially competitive shall be deemed to be competitive.

~~[7.]~~ 6. The commission may reconsider any determination made pursuant to this section upon its own motion or upon a showing of good cause by a party requesting a reconsideration. Upon a finding by the commission that the market for a service previously found not to have

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

~~8.]~~ 7. A vertically integrated electric utility shall not provide a potentially competitive service except through an affiliate ~~;~~
~~—(a) On or after December 31, 1999; or~~
~~—(b) The date on which the commission determines that the service is potentially competitive,~~
whichever is later.] on or after March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to subsection 1.

Sec. 13. NRS 704.977 is hereby amended to read as follows:

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

2. ~~[Not later than January 1, 1999, or any different date as determined by the commission pursuant to NRS 704.976, as appropriate, the]~~ *The* commission shall by regulation set forth the procedures and conditions that alternative sellers must satisfy to obtain a license to sell any electric services to a customer in this state, including, but not limited to, procedures and conditions relating to:

- (a) Safety and reliability of service;
- (b) Financial and operational fitness; and
- (c) Billing practices and customer service, including the initiation and termination of service.

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

4. The commission may deny the application of an applicant for a license to operate as an alternative seller and may limit, suspend or revoke a license issued to an alternative seller if the action is necessary to protect the interests of the public or to enforce the provisions of NRS 704.965 to 704.990, inclusive, *and sections 3 to 6, inclusive, of this act*, or a regulation of the commission.

5. In determining whether an applicant is qualified for a license, whether to deny an application for a license to operate as an alternative seller or whether to limit, suspend or revoke a license issued to an alternative seller, the commission may consider whether the applicant for or holder of the license, or any affiliate thereof, has engaged in any activities which are inconsistent with effective competition.

6. A city, county or other local governmental entity or a public utility, or any affiliate thereof, which is authorized to provide electric service within the State of Nevada and which has an annual operating revenue of

less than \$250,000,000, ~~is~~ *becomes* subject to the provisions of NRS 704.965 to 704.990, inclusive, *and sections 3 to 6, inclusive, of this act*, and any regulations adopted ~~[by the commission that are in effect]~~ *pursuant thereto*, on the date on which the city, county or other local governmental entity or a public utility, or an affiliate thereof:

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

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

7. Notwithstanding the provisions of subsection 6, a city, county or other local governmental entity or a public utility, or any affiliate thereof, does not become subject to the provisions of NRS 704.965 to 704.990, inclusive, *and sections 3 to 6, inclusive, of this act*, or any regulations adopted pursuant thereto, solely because the city, county or other local governmental entity or a public utility, or any affiliate thereof, provides transmission or distribution services to an alternative seller pursuant to a contract, tariff or requirement of any state or federal law, except that the city, county or other local governmental entity or public utility, or an affiliate thereof, shall provide such transmission and distribution services on an open and nondiscriminatory basis to alternative sellers in accordance with such standards as the commission may establish by regulation for the provision of transmission and distribution services in accordance with this subsection.

8. Regulations adopted pursuant to subsection 2:

(a) Must not be unduly burdensome;

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

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

(1) Different services; or

(2) Similar services to different classes of customers,

whenever such different requirements are appropriate to carry out the provisions of NRS 704.965 to 704.990, inclusive ~~is~~, *and sections 3 to 6, inclusive, of this act*.

9. An alternative seller may combine two or more customers or any group of customers to provide aggregation service. The commission may not limit the ability of:

(a) An alternative seller to combine customers to provide aggregation service; or

(b) Customers to form groups to obtain aggregation service from alternative sellers.

Sec. 14. NRS 704.978 is hereby amended to read as follows:

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

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

3. In providing a potentially competitive service, an affiliate of a provider of a noncompetitive service may use the name or logo, or both, of the provider of noncompetitive service.

Sec. 15. NRS 704.981 is hereby amended to read as follows:

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

2. A noncompetitive service is subject to NRS 704.001 to 704.655, inclusive, 704.701 to 704.751, inclusive, and 704.800 to 704.900, inclusive.

3. The component rates for noncompetitive services established by the commission pursuant to NRS 704.986 must be used by customers who elect to receive competitive or potentially competitive services from alternative sellers or from the Colorado River Commission pursuant to NRS 704.987.

4. The commission shall adopt regulations for noncompetitive services that allow innovative pricing methods for noncompetitive services upon a finding that the innovative pricing, when compared to pricing of services provided pursuant to subsections 1 and 2, improves the performance of the service or lowers the cost of the service to the customer, or both. The regulations for innovative pricing must specify:

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

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

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

~~[4.]~~ **5.** The commission shall adopt regulations which ensure that a person who owns a transmission or distribution facility, or both, or a facility that provides access to a competitive service shall make the facilities available on equal and nondiscriminatory terms and conditions to all alternative sellers or to the customers of the alternative sellers, or both, as the commission may determine.

Sec. 16. NRS 704.982 is hereby amended to read as follows:

704.982 1. The commission shall designate a vertically integrated electric utility ***or its successor electric distribution utility*** to provide electric service to customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller. The provider so designated by the commission is obligated to provide electric service to

the customers. Electric service provided by the utility pursuant to this section shall be deemed to be a noncompetitive service for which the utility may recover its costs pursuant to NRS 704.001 to 704.655, inclusive, 704.701 to 704.751, inclusive, and 704.800 to 704.900, inclusive.

2. *The rate that the designated provider of electric service must charge a customer for the provision of electric service pursuant to subsection 1 is the total rate established for that class of customer by the commission pursuant to section 4 of this act.*

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

~~—3.], including, without limitation, an auction conducted pursuant to section 6 of this act. Any alternate methods prescribed by the commission pursuant to this subsection may not go into effect before July 1, 2001.~~

4. *A customer who has obtained generation, aggregation or any other potentially competitive service for at least 30 continuous days from an alternative seller after March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976, may reacquire service from the designated provider of electric service pursuant to tariffs approved by the commission.* The commission shall establish minimum terms and conditions under which electric service must be provided pursuant to this section, including a minimum period during which a customer must be obligated to pay for the electric service from the assigned provider. The price charged for electric service for a particular group of customers must reflect the incremental cost of serving the group.

~~[4.]~~ 5. If the designated provider of the electric service *pursuant to subsection 1* is a vertically integrated electric utility, the utility shall provide the electric service *on or after July 1, 2001, only* through an affiliate whose sole business activity is the provision of electric service.

~~[5.—Except as otherwise provided in this subsection and subsection 6, the rate charged for residential service provided pursuant to subsection 1 must not exceed the rate charged for that service on July 1, 1997. The limitation set forth in this subsection is effective until 2 years after the date upon which, in accordance with NRS 704.976, the commission repeals the regulations which established the pricing method for that service and the terms and conditions for providing that service.~~

~~—6.—The commission may, in accordance with NRS 704.110, 704.120 and 704.130, approve an increase in the rate charged for residential service provided pursuant to subsection 1 in an amount that does not exceed the increase necessitated, if any, to ensure the recovery by the vertically integrated electric utility of its just and reasonable costs. The provisions of~~

~~this section do not limit or prohibit in any manner the operation of any order issued by the commission before July 1, 1997.]~~

6. Except upon the application of the designated provider to reduce the total rate for any class of customers pursuant to section 4 of this act, the commission shall not initiate or conduct any proceedings to adjust the rates, earnings, rate base or rate of return of the designated provider of electric service during the period in which the provider is providing that service to customers pursuant to this section.

Sec. 17. NRS 704.982 is hereby amended to read as follows:

704.982 1. The commission shall designate ~~[a vertically integrated electric utility or its successor]~~ *an* electric distribution utility to provide electric service to customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller. The provider so designated by the commission is obligated to provide electric service to the customers. Electric service provided by the utility pursuant to this section shall be deemed to be a noncompetitive service for which the utility may recover its costs pursuant to NRS 704.001 to 704.655, inclusive, 704.701 to 704.751, inclusive, and 704.800 to 704.900, inclusive.

2. ~~[The rate that the designated provider of electric service must charge a customer for the provision of electric service pursuant to subsection 1 is the total rate established for that class of customer by the commission pursuant to section 4 of this act.~~

~~—3.]~~ Upon a finding by the commission that the public interest will be promoted, the commission may prescribe alternate methods for providing electric service to those customers described in subsection 1. The alternate methods may include, but are not limited to, the direct assignment of customers to alternative sellers or *other* electric distribution utilities or a process of competitive bidding for the right to provide electric service to the designated customers, including, without limitation, an auction conducted pursuant to section 6 of this act. ~~[Any alternate methods prescribed by the commission pursuant to this subsection may not go into effect before July 1, 2001.~~

~~—4.]~~ 3. A customer who has obtained generation, aggregation or any other potentially competitive service for at least 30 continuous days from an alternative seller ~~[after March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976,]~~ may reacquire service from the designated provider of electric service pursuant to tariffs approved by the commission. The commission shall establish minimum terms and conditions under which electric service must be provided pursuant to this section, including a minimum period during which a customer must be obligated to pay for the electric service from the assigned provider. The price charged for electric service for a particular group of customers must reflect the incremental cost of serving the group.

~~[5.]~~ 4. If the designated provider of the electric service pursuant to subsection 1 is ~~[a vertically integrated]~~ *an electric distribution utility*, the utility shall provide the electric service ~~[on or after July 1, 2001,]~~ only through an affiliate whose sole business activity is the provision of electric service.

~~[6.— Except upon the application of the designated provider to reduce the total rate for any class of customers pursuant to section 4 of this act, the commission shall not initiate or conduct any proceedings to adjust the rates, earnings, rate base or rate of return of the designated provider of electric service during the period in which the provider is providing that service to customers pursuant to this section.]~~

Sec. 18. NRS 704.983 is hereby amended to read as follows:

704.983 1. The commission shall determine the recoverable costs associated with assets and obligations that are documented in the accounting records of a vertically integrated electric utility *and its successor electric distribution utility* and that are properly allocable to a particular potentially competitive service as of the date on which alternative sellers of similar potentially competitive services begin providing such service to customers in this state. Shareholders of the vertically integrated electric utility must be compensated fully for all such costs determined by the commission. ~~[It]~~ *Except as otherwise provided in section 3 of this act, in* determining the recoverable costs, the commission shall take into account:

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

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

(c) ~~[The]~~ *Except as otherwise provided in this paragraph, the effectiveness of the efforts of the utility to increase the market value and realize the market value of any assets, and to decrease the costs of any obligations, associated with the provision of potentially competitive services . ~~[;]~~ If a utility purchases generation services pursuant to the approval of the appropriate governmental agencies to meet its obligations to provide electric service pursuant to NRS 704.982 from a generation unit that the utility has divested, the commission shall not impute a value to the generation unit other than the sales price of the unit.*

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

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

(f) If the utility had the discretion to determine whether to incur or mitigate the costs, the conduct of the utility with respect to the costs of the

assets and obligations when compared to other utilities with similar obligations to serve the public.

2. ~~{For the purposes of this section,}~~ *If the commission ~~{may impose a procedure}~~ determines that costs are recoverable pursuant to subsection 1, the commission shall, for the purposes of this section and section 3 of this act, adopt by regulation procedures to provide* for the direct and unavoidable recovery from ratepayers of the portion of the past costs which are determined by the commission to be owed by the ratepayers. The ~~{procedure}~~ *procedures* must include a determination of the period over which the recovery may occur and include the authority for the commission to assess charges on those customers on whose behalf the vertically integrated electric utility incurred costs who are no longer receiving transmission or distribution service, or both, from the vertically integrated electric utility. Such determinations and procedures must not discriminate against a participant in the market.

3. *Failure by a utility to minimize, in a reasonable and prudent manner, federal taxes resulting from the offsetting of gains and losses of assets and obligations properly allocable to a potentially competitive service must be considered by the commission in determining the recoverable costs for the utility.*

Sec. 19. NRS 704.984 is hereby amended to read as follows:

704.984 A vertically integrated electric utility shall take such reasonable steps as are necessary to minimize layoffs and any other adverse effects on the employees of the vertically integrated electric utility that result from the beginning of provision of potentially competitive services by alternative sellers. *In determining the recoverable costs of the vertically integrated electric utility pursuant to NRS 704.983, the commission shall consider any reasonable costs incurred by the vertically integrated electric utility pursuant to this section, including, without limitation, the costs for severance pay, retraining, job placement and early retirement for employees of the vertically integrated electric utility.*

Sec. 20. NRS 704.997 is hereby amended to read as follows:

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

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

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

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

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

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

4. *In providing a potentially competitive service, an affiliate of a provider of a noncompetitive service may use the name or logo, or both, of the provider of noncompetitive service.*

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

Sec. 21. On or before March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976, the commission shall, for the purposes of NRS 704.986, establish for each class of customers of electric service in this state the rate for each component and a total rate for electric services for customers based on the cost to provide electric service to each class of customers in this state. The total rate established for each class of customers pursuant to this section must be the same as the total rate for each class of customers that is in effect on June 1, 1999.

Sec. 22. On or before March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976, an alternative seller and a vertically integrated electric utility may negotiate and enter into a contract with a customer for the provision of electric service, but no such contract is effective before March 1, 2000, or such other date that is determined to be in the public interest by the governor pursuant to NRS 704.976.

Sec. 23. This act must not be construed to impair any existing rights under contracts with customers in effect on June 1, 1999.

Sec. 24. This act must not be construed to impair any existing rights under any labor agreement to which a vertically integrated electric utility or its successor electric distribution utility or an affiliate thereof is a party on July 1, 1999.

Sec. 25. 1. This section and sections 1 to 6, inclusive, 9 to 16, inclusive, 18 to 22, inclusive, and 26 of this act become effective on July 1, 1999.

2. Sections 23 and 24 become effective upon passage and approval.

3. Sections 7 and 8 of this act become effective on October 1, 1999.

4. Sections 4 and 16 expire by limitation on March 1, 2003.

5. Section 5 expires by limitation on September 1, 2003.

6. Section 17 becomes effective on March 1, 2003

Sec. 26. If the pending merger between Sierra Pacific Resources and Nevada Power Company, referred to in the records of the Public Utilities Commission of Nevada as Docket No. 98-7023, is terminated for any reason before the completion of the merger, this act expires by limitation on the date on which the pending merger is terminated.

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Assembly Bill No. 369--Select Committee on Energy

CHAPTER.....

AN ACT relating to utilities; revising and repealing various provisions governing the regulation of public utilities; preventing certain electric utilities from disposing of certain generation assets for a certain period; placing restrictions on the disposal of such assets after that period; requiring certain electric utilities to use deferred accounting under certain circumstances; repealing provisions pertaining to the competitive provision of retail electric service; requiring the public utilities commission of Nevada to take certain actions to carry out the provisions of this act; establishing certain requirements and making various changes relating to the rates charged by certain electric utilities; requiring certain entities to obtain approval from the commission before carrying out certain transactions; and providing other matters properly relating thereto.

WHEREAS, In 1997, the legislature enacted comprehensive legislation designed to prepare the electric industry in this state for retail competition; and

WHEREAS, In 1999, the legislature enacted additional legislation delaying the onset of such competition until March 1, 2000, unless a determination was made that a later date was necessary to protect the public interest; and

WHEREAS, On several occasions, a determination has been made that commencement of retail competition in the electric industry is not yet in the public interest of this state; and

WHEREAS, Many residents of this state are senior citizens whose health is especially vulnerable to extreme heat and extreme cold and who rely on electricity to provide safe temperatures in their homes; and

WHEREAS, In arid regions of this state, there are many population centers that cannot be sustained without electricity to pump potable drinking water; and

WHEREAS, Several of the major industries in this state are particularly dependent upon electricity; and

WHEREAS, Under present market conditions in the electric industry, comprehensive and effective regulation of electric utilities in this state is vital to the economy of this state and is essential to protect the health, safety and welfare of the residents of this state; and

WHEREAS, Until present market conditions have changed and adequate mechanisms have been developed to allow this state to adjust its comprehensive regulation of electric utilities in Nevada, this state has a compelling interest in continuing its comprehensive regulation of electric utilities to protect the consumers in this state, to safeguard the economy of this state and to ensure that the electric utilities in this state provide adequate and reliable electric service at just and reasonable prices; and

WHEREAS, As part of its comprehensive regulation of electric utilities in Nevada, this state has traditionally exercised its inherent jurisdiction over electric generation assets which have been dedicated to serve the public convenience and necessity in Nevada and which are used and useful for the convenience of the public in Nevada; and

WHEREAS, To control volatility in the price of electricity in the retail market and to ensure that the electric utilities in this state have necessary and sufficient resources to provide adequate and reliable electric service under present market conditions, this state must retain its traditional

jurisdiction and control over electric generation assets until other mechanisms are available to accomplish these goals; and

WHEREAS, In recent years, the western United States has experienced a severe and ongoing crisis in the electric industry marked by critical shortages in the supply of electricity and extreme volatility in the price of electricity in the wholesale and retail markets; and

WHEREAS, The severe and ongoing crisis in the electric industry in the western United States is both an immediate threat and a continuing danger to the economy of this state and to the health, safety and welfare of the residents of this state; and

WHEREAS, Until the severe and ongoing crisis in the electric industry in the western United States has sufficiently abated, this state must maintain its comprehensive regulation over electric utilities and its traditionally broad jurisdiction and control over electric generation assets to promote stability and predictability in the electric industry, to foster confidence in the financial markets, to ensure that consumers have adequate and reliable electric service and to protect the public from unjust and unreasonable utility rates; now, therefore,

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

Section 1. NRS 703.010 is hereby amended to read as follows:

703.010 As used in this chapter, unless the context otherwise requires:

1. "Alternative seller" ~~has the meaning ascribed to it in NRS 704.967.~~ *means a person who sells any competitive, discretionary or potentially competitive component of natural gas service pursuant to NRS 704.993 to 704.999, inclusive.*

2. "Commission" means the public utilities commission of Nevada.

Sec. 2. NRS 703.025 is hereby amended to read as follows:

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

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

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

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

2. The commission shall:

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

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

(c) ~~Take such~~ *If customers are authorized by a specific statute to obtain a competitive, discretionary or potentially competitive utility service, take any* actions *which are* consistent with ~~law as~~ *the statute and which* are necessary to encourage and enhance:

(1) A competitive market for the provision of *that* utility ~~{services}~~ *service* to customers in this state; and

(2) The reliability and safety of the provision of ~~{those services}~~ *that utility service* within that competitive market; and

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

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

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

(b) The director of the department of administration.

Sec. 3. NRS 703.130 is hereby amended to read as follows:

703.130 1. The commission shall appoint a deputy commissioner who shall serve in the unclassified service of the state.

2. The commission shall appoint a secretary who shall perform such administrative and other duties as are prescribed by the commission. The commission shall also appoint an assistant secretary.

3. The commission may employ such other clerks, experts or engineers as may be necessary.

4. ~~{The commission may}~~ *Except as otherwise provided in subsection 5, the commission:*

(a) *May* appoint one or more hearing officers for a period specified by the commission to conduct proceedings or hearings that may be conducted by the commission pursuant to chapters 704, 704A, 705, 708 and 711 of NRS. ~~{The commission shall}~~

(b) *Shall* prescribe by regulation the procedure for appealing a decision of a hearing officer to the commission.

5. *The commission shall not appoint a hearing officer to conduct proceedings or hearings pursuant to sections 8 to 18, inclusive, of this act.*

Sec. 4. NRS 703.151 is hereby amended to read as follows:

703.151 In adopting regulations pursuant to this Title relating to the provision of electric service, the commission shall ensure that the regulations:

1. ~~{Maximize the benefits of a competitive marketplace for the provision of electric services;~~

~~{2. Maintain, to the extent possible, even and fair competition among providers of electric service;~~

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

~~{4. Foster innovation in the provision of electric services;~~

~~{5. Ensure and enhance reliability and safety in the provision of electric services;~~

~~{6. Provide for flexible mechanisms for regulating electric services; and~~

~~{7.}~~ ***Protect, further and serve the public interest;***

2. Provide effective protection ~~{of persons}~~ *for customers* who depend upon electric ~~{services}~~ *service*;

3. ***Provide for stability in rates and for the availability and reliability of electric service;***

4. *Encourage the development and use of renewable energy resources; and*

5. *Require providers of electric service to engage in prudent business management, effective long-term planning, responsible decision making, sound fiscal strategies and efficient operations.*

Sec. 5. NRS 703.320 is hereby amended to read as follows:

703.320 1. ~~When, in~~ *In* any matter pending before the commission, *if* a hearing is required by ~~law,~~ *a specific statute* or is ~~normally~~ *otherwise* required by the commission, the commission shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The commission shall by regulation specify:

(a) The manner of giving notice ~~is~~ *in each type of proceeding*; and
(b) ~~Where not specified by law, the~~ *The* persons entitled to notice in each type of proceeding.

2. ~~Unless,~~ *The commission shall not dispense with a hearing in any matter pending before the commission pursuant to sections 8 to 18, inclusive, of this act.*

3. *In any other matter pending before the commission, the commission may dispense with a hearing and act upon the matter pending unless,* within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the commission a request that the hearing be held. ~~is, the commission may dispense with a hearing and act upon the matter pending.~~

~~3.~~ *If such* a request for a hearing is filed, the commission shall give at least 10 days' notice of the hearing.

Sec. 6. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 19, inclusive, of this act.

Sec. 7. *As used in this section and NRS 704.330 to 704.430, inclusive, unless the context otherwise requires, "electric utility" has the meaning ascribed to it in section 12 of this act.*

Sec. 8. *As used in sections 8 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 9 to 15, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 9. *"Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with an electric utility.*

Sec. 10. *"Consumer's advocate" means the consumer's advocate of the bureau of consumer protection in the office of the attorney general.*

Sec. 11. *"Dispose of a generation asset" means to:*

1. *Sell, lease, assign, transfer or divest an interest in a generation asset, in whole or in part, to another person; or*

2. *Perform any promise, covenant or obligation to sell, lease, assign, transfer or divest an interest in a generation asset, in whole or in part, to another person pursuant to the terms of a contract or agreement executed before, on or after the effective date of this act unless, before the effective date of this act:*

(a) *All terms and conditions of the contract or agreement were satisfied; and*

(b) All parties to the contract or agreement fully performed all promises, covenants and obligations under the contract or agreement.

Sec. 12. 1. "Electric utility" means:

(a) Any public utility or successor in interest that:

(1) Is in the business of providing electric service to customers;

(2) Holds a certificate of public convenience and necessity issued or transferred pursuant to this chapter; and

(3) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of \$250,000,000 or more in this state;

(b) A subsidiary or affiliate of such a public utility;

(c) A holding company or other person that holds a controlling interest in such a public utility; and

(d) A successor in interest to any public utility, subsidiary, affiliate, holding company or person described in paragraph (a), (b) or (c).

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

Sec. 13. 1. "Generation asset" means any plant, facility, equipment or system that:

(a) Converts other forms of energy into electricity or otherwise produces electricity;

(b) Is or was owned, possessed, controlled, leased, operated, administered, maintained, acquired or placed into service by an electric utility before, on or after January 1, 2001;

(c) Is subject, in whole or in part, to regulation by the commission; and

(d) Is used and useful for the convenience of the public in this state, as determined by the commission.

2. The term does not include:

(a) Any hydroelectric plant, facility, equipment or system which has a generating capacity of not more than 15 megawatts and which is located on the Truckee River or on a waterway that is appurtenant to or connected to the Truckee River.

(b) Any net metering system, as defined in NRS 704.771.

Sec. 14. 1. "Interest in a generation asset" means any interest, in whole or in part, in the physical plant, facility, equipment or system that makes up the generation asset, whether such interest is legal or equitable, present or future, or contingent or vested.

2. The term does not include any interest in the electricity or other energy produced by the generation asset.

Sec. 15. "Person" means:

1. A natural person;

2. Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization;

3. *A government or an agency or instrumentality of a government, including, without limitation, this state or an agency or instrumentality of this state; and*

4. *A political subdivision of this state or of any other government or an agency or instrumentality of a political subdivision of this state or of any other government.*

Sec. 16. *Except as otherwise provided in section 17 of this act:*

1. *Before July 1, 2003, an electric utility shall not dispose of a generation asset.*

2. *On or after July 1, 2003, an electric utility shall not dispose of a generation asset unless, before the disposal, the commission approves the disposal by a written order issued in accordance with the provisions of this section.*

3. *Not sooner than January 1, 2003, an electric utility may file with the commission an application to dispose of a generation asset on or after July 1, 2003. If an electric utility files such an application, the commission shall not approve the application unless the commission finds that the disposal of the generation asset will be in the public interest. The commission shall issue a written order approving or disapproving the application. The commission may base its approval of the application upon such terms, conditions or modifications as the commission deems appropriate.*

4. *If an electric utility files an application to dispose of a generation asset, the consumer's advocate shall be deemed a party of record.*

5. *If the commission approves an application to dispose of a generation asset before July 1, 2003, the order of the commission approving the application:*

(a) *May not become effective sooner than July 1, 2003;*

(b) *Does not create any vested rights before the effective date of the order; and*

(c) *For the purposes of NRS 703.373, shall be deemed a final decision on the date on which the order is issued by the commission.*

Sec. 17. 1. *An electric utility may dispose of its generation assets pursuant to a merger, acquisition or transaction that is authorized pursuant to NRS 704.329 or pursuant to a transfer of its certificate of public convenience and necessity that is authorized pursuant to NRS 704.410, if:*

(a) *The electric utility disposes of substantially all of its generation assets and substantially all of its other assets to the other person in the merger, acquisition, transaction or transfer; and*

(b) *The other person in the merger, acquisition, transaction or transfer is not a subsidiary or affiliate of the electric utility or a holding company or other person that holds a controlling interest in the electric utility.*

2. *Any person who assumes or has assumed ownership, possession, control, operation, administration or maintenance of a generation asset pursuant to a merger, acquisition, transaction or transfer described in subsection 1 is subject to the provisions of sections 8 to 18, inclusive, of this act.*

Sec. 18. If an electric utility disposes of a generation asset in violation of sections 8 to 18, inclusive, of this act, the disposal is void and unenforceable and is not valid for any purpose.

Sec. 19. 1. Except as otherwise provided in section 36 of this act, beginning on March 1, 2001, an electric utility that purchases fuel or power shall use deferred accounting by recording upon its books and records in deferred accounts all increases and decreases in costs for purchased fuel and purchased power that are prudently incurred by the electric utility.

2. An electric utility using deferred accounting shall include in its annual report to the commission a statement showing, for the period of recovery, the allocated rate of return for each of its operating departments in this state using deferred accounting. If, during the period of recovery, the rate of return for any operating department using deferred accounting is greater than the rate of return authorized by the commission in the most recently completed rate proceeding for the electric utility, the commission shall order the electric utility that recovered costs for purchased fuel or purchased power through its rates during the reported period to transfer to the next energy adjustment period that portion of the amount recovered by the electric utility that exceeds the authorized rate of return.

3. Except as otherwise provided in subsection 4, an electric utility using deferred accounting shall file an application to clear its deferred accounts after the end of each 12-month period of deferred accounting.

4. An electric utility using deferred accounting may file an application to clear its deferred accounts after the end of a 6-month period of deferred accounting if the net increase or decrease in revenues necessary to clear its deferred accounts for the 6-month period is more than 5 percent of the total revenues generated by the electric utility during that period from its rates for purchased fuel and purchased power most recently authorized by the commission.

5. The commission shall adopt regulations prescribing the period within which an electric utility must file an application to clear its deferred accounts after the end of a period of deferred accounting.

6. As used in this section:

(a) "Application to clear its deferred accounts" means an application filed by an electric utility pursuant to this section and subsection 7 of NRS 704.110.

(b) "Costs for purchased fuel and purchased power" means all costs which are prudently incurred by an electric utility and which are required to purchase fuel, to purchase capacity and to purchase energy. The term does not include any costs that the commission determines are not recoverable pursuant to subsection 8 of NRS 704.110.

(c) "Electric utility" means any public utility or successor in interest that:

- (1) Is in the business of providing electric service to customers;*
- (2) Holds a certificate of public convenience and necessity issued or transferred pursuant to this chapter; and*
- (3) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the*

most recently completed calendar year, had a gross operating revenue of \$250,000,000 or more in this state.

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

Sec. 20. NRS 704.030 is hereby amended to read as follows:

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

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

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

(a) They serve 25 persons or less; and

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

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

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

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

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

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

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

Sec. 21. NRS 704.110 is hereby amended to read as follows:

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

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

2. Pending the investigation or hearing and the decision thereon, the commission, upon delivering to the utility affected thereby a statement in writing of its reasons for the suspension, may suspend the operation of the schedule and defer the use of the rate, charge, classification, regulation, discontinuance, modification, restriction or practice . ~~†, but†~~ *If the rate, charge, classification, regulation, discontinuance, modification, restriction or practice is part of:*

(a) A filing made pursuant to subsection 7, the suspension must not be effective for more than 90 days beyond the time when the rate, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.

(b) Any other filing made pursuant to this section, the suspension must not be effective for more than 150 days beyond the time when the rate, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.

3. Whenever there is filed with the commission any schedule stating an increased individual or joint rate or charge for service or equipment, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. During any hearing concerning the increased rates or charges determined by the commission to be necessary, the commission shall consider evidence in support of the increased rates or charges based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but no new rates or charges may be placed into effect until the changes have been experienced and certified by the utility to the commission. The commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the filing with the commission of the certification required in this subsection, or before the expiration of any period of suspension ordered pursuant to subsection 2, whichever time is longer, the commission shall make such order in reference to those rates or charges as is required by this chapter. *An electric utility shall file a general rate application pursuant to this subsection at least once every 24 months.*

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

classification, regulation, discontinuance, modification, restriction or practice has become effective.

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

6. A public utility may ~~not~~ file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale ~~more often than~~ once every 30 days. *The provisions of this subsection do not apply to an electric utility using deferred accounting pursuant to section 19 of this act.*

7. *Except as otherwise provided in subsection 8, whenever an electric utility using deferred accounting pursuant to section 19 of this act files an application to clear its deferred accounts and to change one or more of its rates or charges based upon changes in the costs for purchased fuel or purchased power, the commission, after a public hearing and by an appropriate order:*

(a) Shall allow the electric utility to clear its deferred accounts by refunding any credit balance or recovering any debit balance over a period not to exceed 3 years, as determined by the commission.

(b) Shall not allow the electric utility to recover any debit balance, or portion thereof, in an amount that would result in a rate of return during the period of recovery that exceeds the rate of return authorized by the commission in the most recently completed rate proceeding for the electric utility.

8. *Before allowing an electric utility to clear its deferred accounts pursuant to subsection 7, the commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric utility collected from customers in this state for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility.*

9. *Whenever an electric utility files an application to clear its deferred accounts pursuant to subsection 7 while a general rate application is pending, the electric utility shall:*

(a) Submit with its application to clear its deferred accounts information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

10. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted

pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

11. As used in this section, "electric utility" has the meaning ascribed to it in section 19 of this act.

Sec. 22. NRS 704.329 is hereby amended to read as follows:

704.329 1. Except as otherwise provided in ~~subsection 4, no person may~~ *this section, a person shall not* merge with, *directly acquire, indirectly* acquire through a subsidiary or affiliate, or otherwise directly or indirectly obtain control of a public utility doing business in this state or an entity that holds a controlling interest in such a public utility without first submitting to the commission an application for authorization of the proposed *merger, acquisition or other* transaction and obtaining authorization from the commission. ~~pursuant to subsection 2.~~

2. Any merger, acquisition or ~~change in control in violation~~ *other transaction that violates the provisions* of this section *is void and unenforceable and* is not valid for any purpose.

~~2.~~ 3. Before authorizing ~~the~~ *a proposed* merger, acquisition or ~~change in control of a public utility doing business in this state,~~ *other transaction pursuant to this section,* the commission shall consider the effect of the proposed *merger, acquisition or other* transaction ~~on the public interest and the customers in this state. The commission shall not authorize the proposed merger, acquisition or other transaction unless~~ the commission finds that the proposed merger, acquisition or ~~change in control is~~ *other transaction:*

(a) *Will be* in the public interest ~~the commission shall authorize the proposed transaction.~~

~~3.~~ *; and*

(b) *Complies with the provisions of sections 8 to 18, inclusive, of this act, if the proposed merger, acquisition or other transaction is subject to those provisions.*

4. *The commission may base its authorization of the proposed merger, acquisition or other transaction upon such terms, conditions or modifications as the commission deems appropriate.*

5. If the commission does not issue a final ~~determination~~ *order* regarding the proposed *merger, acquisition or other* transaction within 180 days after the date on which an application or amended application for authorization of the proposed *merger, acquisition or other* transaction was filed with the commission, *and the proposed merger, acquisition or other transaction is not subject to the provisions of sections 8 to 18, inclusive, of this act,* the *proposed merger, acquisition or other* transaction shall be deemed ~~approved~~ *to be authorized by the commission.*

~~4.~~ 6. The provisions of this section do not apply to the transfer of stock of a public utility doing business in this state or to the transfer of the stock of an entity holding a controlling interest in such a public utility, if a transfer of not more than 25 percent of the common stock of such a public utility or entity is proposed.

Sec. 23. NRS 704.370 is hereby amended to read as follows:

704.370 1. The commission shall have the power, after hearing, to issue or refuse such certificate of public convenience, or to issue it for the

construction of a portion only of the contemplated line, plant or systems, or extension thereof, and may attach thereto such terms and conditions as, in its judgment, the public convenience and necessity may require.

2. ~~The~~ *Except as otherwise provided in subsection 3, the commission, in its discretion ~~it~~ and after investigation, may dispense with the hearing on the application if, upon the expiration of the time fixed in the notice thereof, no protest against the granting of the ~~certificate~~ application has been filed by or on behalf of any interested person.*

3. *The commission shall not dispense with the hearing on the application of an electric utility.*

Sec. 24. NRS 704.390 is hereby amended to read as follows:

704.390 1. It ~~shall be~~ *is* unlawful for any public utility to discontinue, modify or restrict service to any city, town, municipality, community or territory theretofore serviced by it, except upon 30 days' notice filed with the commission, specifying in detail the character and nature of the discontinuance or restriction of the service intended, and upon order of the commission, made after hearing, permitting such discontinuance, modification or restriction of service.

2. ~~The~~ *Except as otherwise provided in subsection 3, the commission, in its discretion and after investigation, may dispense with the hearing on the application for discontinuance, modification or restriction of service ~~it~~ if, upon the expiration of the time fixed in the notice thereof, no protest against the granting of the application has been filed by or on behalf of any interested person.*

3. *The commission shall not dispense with the hearing on the application of an electric utility.*

Sec. 25. NRS 704.410 is hereby amended to read as follows:

704.410 1. Any public utility subject to the provisions of NRS ~~704.005~~ *704.001* to 704.751, inclusive, *and sections 8 to 18, inclusive, of this act* to which a certificate of public convenience and necessity has been issued pursuant to NRS ~~704.005~~ *704.001* to 704.751, inclusive, *and sections 8 to 18, inclusive, of this act* may transfer the certificate to any person qualified under NRS ~~704.005~~ *704.001* to 704.751, inclusive, ~~but the~~ *and sections 8 to 18, inclusive, of this act. Such a transfer is void and unenforceable and is* not valid for any purpose ~~until a~~ *unless:*

(a) *A joint application to make the transfer has been made to the commission by the transferor and the transferee ~~and the~~; and*

(b) *The commission has authorized the substitution of the transferee for the transferor. If the transferor is an electric utility, the commission shall not authorize the transfer unless the transfer complies with the provisions of sections 8 to 18, inclusive, of this act.*

2. The commission ~~may~~ *:*

(a) *Shall conduct a hearing on a transfer involving an electric utility. The hearing must be noticed and conducted in the same manner as other contested hearings before the commission.*

(b) *May direct that a hearing be ~~had in the matter of the transfer~~ conducted on a transfer involving any other public utility.* If the commission determines that *such* a hearing should be held, the hearing must be noticed and conducted in the same manner as other contested hearings before the commission.

~~3. The commission has the sole discretion to direct that a hearing be held if the application seeks to transfer the certificate from a person or partners to a corporation when the officers of the corporation will be substantially the same person or partners.~~

~~4.~~ The commission may dispense with *such* a hearing if, upon the expiration of the time fixed in the notice thereof, no protest to the proposed transfer has been filed by or on behalf of any interested person.

~~5.~~ **3.** In determining whether the transfer of a certificate of public convenience and necessity to an applicant transferee should be authorized, the commission must take into consideration:

(a) The utility service performed by the transferor and the proposed utility service of the transferee;

(b) Other authorized utility services in the territory for which the transfer is sought; ~~and~~

(c) Whether the transferee is fit, willing and able to perform the services of a public utility and whether the proposed operation will be consistent with the legislative policies set forth in NRS ~~704.005~~ **704.001** to 704.751, inclusive ~~;~~

~~6.~~, *and sections 8 to 18, inclusive, of this act; and*

(d) Whether the transfer will be in the public interest.

4. The commission may make such amendments, restrictions or modifications in a certificate upon transferring it as the public interest requires.

~~7.~~ **5.** No transfer is valid beyond the life of the certificate transferred.

Sec. 26. NRS 704.430 is hereby amended to read as follows:

704.430 1. Any person, firm, association or corporation who ~~shall violate~~ **violates** any provisions of NRS 704.330 to ~~704.410,~~ **704.430**, inclusive, *and section 7 of this act* shall be punished by a fine of not more than \$250.

2. Each day's operation without a certificate as provided in NRS 704.330 to ~~704.410,~~ **704.430**, inclusive, *and section 7 of this act* or each day that service is discontinued, modified or restricted, as defined in NRS 704.330 to ~~704.410, inclusive, shall~~ **704.430, inclusive, and section 7 of this act must** be considered a separate offense.

Sec. 27. NRS 704.961 is hereby amended to read as follows:

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

Sec. 28. NRS 704.989 is hereby amended to read as follows:

704.989 1. The commission shall establish portfolio standards for domestic energy that ~~sets~~ **set** forth the minimum percentage of the total amount of electricity sold *by an electric utility to its retail customers in this state* during each calendar year that must be derived from renewable energy resources. The portfolio standards must:

(a) ~~Be~~ **On January 1, 2001, be** set at two-tenths of ~~one~~ **1** percent of the total amount of electricity ~~annually consumed~~ **sold by the electric utility to its retail** customers in this state ~~as of January 1, 2001.~~

~~(b) Be increased biannually thereafter~~ during the immediately preceding calendar year.

(b) On January 1 of each successive odd-numbered year, be increased by two-tenths of ~~one~~ 1 percent of the total ~~annual electric consumption~~ amount of electricity sold by the electric utility to its retail customers in this state during the immediately preceding calendar year until the ~~standard reaches~~ portfolio standards reach a total of 1 percent of the total amount of electricity ~~consumed~~ sold by the electric utility to its retail customers in this state during the immediately preceding calendar year.

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

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

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

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

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

(a) Credits are issued for renewable energy resources for each kilowatt hour of energy which it produces; and

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

4. For the purposes of this section, ~~a vertically integrated electric utility which,~~ if, on January 1, 1997, ~~has~~ at least 9 percent of ~~its electricity consumed by~~ the total amount of electricity sold by an electric utility to its retail customers ~~served by~~ in this state during the immediately preceding calendar year was derived from renewable energy resources, the electric utility shall be deemed to be in compliance until January 1, 2005, with the portfolio standards established by the commission pursuant to this section. Between January 1, 2005, and December 31, 2009, such ~~a vertically integrated~~ an electric utility ~~and its affiliated alternative seller, if any, shall reach a total of~~ shall have one-half of 1 percent of the total amount of electricity ~~consumed by~~ sold to its retail customers ~~in~~ in this state, increased in annual increments of one-tenth of 1 percent ~~in~~ during each calendar year of that period, derived from solar energy resources for full compliance with the portfolio ~~standard~~ standards established by the commission pursuant to this section.

5. ~~The~~ In addition to the report required by subsection 2, each electric utility ~~and alternative seller~~ shall submit a report ~~to~~, in a format approved by the commission, that provides information relating to the compliance by the ~~vertically integrated~~ electric utility ~~or alternative~~

~~seller~~ with the requirements of this section. Such reports must be made at least annually, unless the commission by regulation determines that such reports must be made more frequently than annually, and must include clear and concise information that sets forth:

(a) If the ~~{vertically-integrated}~~ electric utility installed a renewable energy system during the period for which the report is being made, the date of installation;

(b) The capacity of renewable energy systems of the ~~{vertically-integrated}~~ electric utility ; ~~{or alternative seller;}~~

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

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

(e) The quantity of energy from renewable energy systems that is transmitted or distributed, or both, to *retail* customers in this state by the ~~{vertically-integrated}~~ electric utility ; ~~{or alternative seller;}~~ and

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

6. ~~{Nothing in this section applies}~~ *The provisions of this section do not apply* to:

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

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

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

7. As used in this section:

(a) *“Electric utility” has the meaning ascribed to it in section 19 of this act.*

(b) “Renewable energy resources” means wind, solar, geothermal and biomass energy resources ~~{in this state}~~ that are naturally regenerated.

~~{(b)}~~ (c) “Renewable energy system” means an energy system ~~{in this state}~~ that utilizes renewable energy resources to produce electricity or solar thermal energy systems that reduce the consumption of electricity that was installed and commenced operations after July 1, 1997.

Sec. 29. NRS 228.360 is hereby amended to read as follows:

228.360 The consumer’s advocate ~~{may;}~~ :

1. Shall intervene in and represent the public interest in all proceedings conducted pursuant to sections 8 to 18, inclusive, of this act.

2. May, with respect to all public utilities except railroads and cooperative utilities, and except as provided in NRS 228.380:

~~{1-}~~ (a) Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

~~{2-}~~ (b) Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the public utilities commission of Nevada in the same manner and to the same extent as authorized by law for members of the public utilities commission of Nevada and its staff.

~~{3-}~~ *Petition*

(c) Except as otherwise provided in subsection 1, petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the public utilities commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the consumer's advocate may bring before or has brought before the public utilities commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The consumer's advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.

Sec. 30. NRS 228.390 is hereby amended to read as follows:

228.390 *Except as otherwise provided in sections 8 to 18, inclusive, of this act:*

1. The consumer's advocate has sole discretion to represent or refrain from representing the public interest and any class of customers in any proceeding.

2. In exercising his discretion, the consumer's advocate shall consider the importance and extent of the public interest or the customers' interests involved and whether those interests would be adequately represented without his participation.

3. If the consumer's advocate determines that there would be a conflict between the public interest and any particular class of customers or any inconsistent interests among the classes of customers involved in a particular matter, he may choose to represent one of the interests, to represent no interest, or to represent one interest through his office and another or others through outside counsel engaged on a case basis.

Sec. 31. NRS 538.181 is hereby amended to read as follows:

538.181 1. The commission shall hold and administer all rights and benefits pertaining to the distribution of the power and water mentioned in NRS 538.041 to 538.251, inclusive, for the State of Nevada ~~H~~ and, except as otherwise provided in NRS 538.186, may enter into contracts relating to that power and water, including the transmission and other distribution services, on such terms as the commission determines.

2. Every applicant, except a federal or state agency or political subdivision, for power or water to be used within the State of Nevada must, before the application is approved, provide an indemnifying bond by a corporation qualified pursuant to the laws of this state, or other collateral, approved by the state board of examiners, payable to the State of Nevada in such sum and in such manner as the commission may require, conditioned for the full and faithful performance of the lease, sublease, contract or other agreement.

3. The power and water must not be sold for less than the actual cost to the State of Nevada.

4. Except as otherwise provided in subsection 5, before any such sale or lease is made, a notice of it must be advertised in two papers of general circulation published in the State of Nevada at least once a week for 2 weeks. The commission shall require any person desiring to make objection thereto to file the objection with the commission within 10 days after the date of the last publication of the notice. If any objection is filed,

the commission shall set a time and place for a hearing of the objection not more than 30 days after the date of the last publication of the notice.

5. The provisions of subsection 4 do not apply to:

(a) Any contract by the commission to sell supplemental power to a holder of a long-term firm contract with the state for power if the supplemental power is procured by the commission from a prearranged source and is secured by the holder for his own use; or

(b) Any agreement by the commission to sell short-term or interruptible power on short notice for immediate acceptance to a holder of a long-term firm contract with the state for power who can take delivery of the short-term or interruptible power when it is available.

6. Except as otherwise provided in subsection 2 of NRS 538.251, any such lease, sublease, contract or sale of the water or power is not binding upon the State of Nevada until ratified and approved by the governor and, where required by federal law, until approved by the United States.

7. The commission shall, upon the expiration of a contract for the sale of power which is in effect on July 1, 1993, offer to the purchaser the right to renew the contract. If the commission is unable to supply the amount of power set forth in the contract because of a shortage of power available for sale, it shall reduce, on a pro rata basis, the amount of power it is required to sell pursuant to the renewed contract.

8. ~~Except as otherwise provided in NRS 704.987, notwithstanding~~ **Notwithstanding** any provision of chapter 704 of NRS, any purchase of:

(a) Power or water for distribution or exchange, and any subsequent distribution or exchange of power or water by the commission; or

(b) Water for distribution or exchange, and any subsequent distribution or exchange of water by any entity to which or with which the commission has contracted the water,

is not subject to regulation by the public utilities commission of Nevada.

Sec. 32. 1. NRS 704.965, 704.966, 704.967, 704.968, 704.969, 704.970, 704.971, 704.972, 704.973, 704.974, 704.975, 704.976, 704.977, 704.978, 704.979, 704.980, 704.981, 704.982, 704.9823, 704.9826, 704.9829, 704.983, 704.984, 704.985, 704.986, 704.9865, 704.987, 704.988 and 704.990 are hereby repealed.

2. Sections 335 and 337 of chapter 482, Statutes of Nevada 1997, at pages 2021 and 2022, respectively, and sections 17, 21, 22, 24 and 26 of chapter 600, Statutes of Nevada 1999, at pages 3269 and 3272, are hereby repealed.

3. Section 127 of Senate Bill No. 29 of this session is hereby repealed.

Sec. 33. The public utilities commission of Nevada shall:

1. Amend, modify, supplement, annul or vacate any order or directive issued by the commission before the effective date of this act that authorizes or requires an electric utility to dispose of any generation asset, if such disposal would violate the provisions of this act;

2. Take all appropriate action to request that the Federal Energy Regulatory Commission and any other officer, agency or department of the Federal Government:

(a) Not issue any order or directive that authorizes or requires an electric utility to dispose of any generation asset, if such an order or

directive could be interpreted as being in conflict with or preempting the provisions of this act; and

(b) Amend, modify, supplement, annul or vacate any order or directive issued before, on or after the effective date of this act that authorizes or requires an electric utility to dispose of any generation asset, if such an order or directive could be interpreted as being in conflict with or preempting the provisions of this act;

3. If any action taken pursuant to subsection 2 is unsuccessful, take all appropriate legal action to challenge any order or directive issued by the Federal Energy Regulatory Commission or any other officer, agency or department of the Federal Government that authorizes or requires an electric utility to dispose of any generation asset, if such an order or directive could be interpreted as being in conflict with or preempting the provisions of this act; and

4. Take any other action or issue any other orders necessary to carry out the provisions of this act.

Sec. 34. As used in this section and sections 35 and 36 of this act, unless the context otherwise requires:

1. "Affiliate" means an entity that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another entity.

2. "Commission" means the public utilities commission of Nevada.

3. "Comprehensive energy plan" means the application to adopt a comprehensive energy plan, designated in the records of the commission as Docket No. 01-1045, and all amendments and modifications to the application or the plan.

4. "Deferred account" means any account that is used to carry out deferred accounting pursuant to section 19 of this act.

5. "Electric utility" has the meaning ascribed to it in section 19 of this act.

6. "Electric utility holding company" means:

(a) An entity which is incorporated or organized under the laws of this state and which holds a controlling interest in an electric utility; and

(b) A successor in interest to any entity described in paragraph (a).

7. "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this state from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

8. "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this state from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.

Sec. 35. Except as otherwise provided in section 36 of this act and notwithstanding the provisions of any other specific statute to the contrary:

1. An electric utility shall not file an application for a fuel and purchased power rider on or after the effective date of this act.

2. Each application for a fuel and purchased power rider filed by an electric utility which is pending with the commission on the effective date of this act and which the electric utility did not place into effect before or on April 1, 2001, is void and unenforceable and is not valid for any purpose after April 1, 2001.

3. If, before March 1, 2001, an electric utility incurred any costs for fuel or purchased power, including, without limitation, any costs for fuel or purchased power recorded or carried on the books and records of the electric utility, and those costs were not recovered or could not be recovered pursuant to a fuel and purchased power rider placed into effect by the electric utility before March 1, 2001, the electric utility is not entitled, on or after March 1, 2001, to recover any of those costs for fuel or purchased power from customers, and the commission shall not allow the electric utility to recover any of those costs for fuel or purchased power from customers.

4. Except as otherwise provided in this section, on and after the effective date of this act:

(a) The commission shall not take any further action on the comprehensive energy plan, and each electric utility that jointly filed the comprehensive energy plan shall be deemed to have withdrawn the comprehensive energy plan;

(b) The rates that each electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan shall be deemed to be a component of the electric utility's rates for fuel and purchased power; and

(c) The revenues collected by each electric utility before April 1, 2001, from the rates that each electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan shall be deemed to be a credit in the electric utility's deferred accounts.

5. On or before October 1, 2001, each electric utility that primarily serves densely populated counties shall file a general rate application pursuant to subsection 3 of NRS 704.110, as amended by this act. On or before December 1, 2001, each electric utility that primarily serves densely populated counties shall file an application to clear its deferred accounts pursuant to subsection 7 of NRS 704.110, as amended by this act. After such an electric utility files the application to clear its deferred accounts, the commission shall investigate and determine whether the rates that the electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan are just and reasonable and reflect prudent business practices. On the date on which the commission issues a final order on the general rate application, the commission shall issue a final order on the electric utility's application to clear its deferred accounts. The total rates to provide electric service that were in effect on April 1, 2001, for the electric utility must remain in effect until the date on which the commission issues a final order on the general rate application. The commission shall not adjust the rates of the electric utility during this period unless such an adjustment is absolutely necessary to avoid rates that are confiscatory under the Constitution of the United States or the constitution of this state. The commission:

(a) May make such an adjustment only to the extent that it is absolutely necessary to avoid an unconstitutional result; and

(b) Shall not, in any proceedings concerning such an adjustment, approve any rate or grant any relief that is not absolutely necessary to avoid an unconstitutional result.

After the electric utility files the general rate application that is required by this subsection, the electric utility shall file general rate applications in accordance with subsection 3 of NRS 704.110, as amended by this act. After the electric utility files the application to clear its deferred accounts that is required by this subsection, the electric utility shall file applications to clear its deferred accounts in accordance with section 19 of this act and subsection 7 of NRS 704.110, as amended by this act.

6. On or before December 1, 2001, each electric utility that primarily serves less densely populated counties shall file a general rate application pursuant to subsection 3 of NRS 704.110, as amended by this act. On or before February 1, 2002, each electric utility that primarily serves less densely populated counties shall file an application to clear its deferred accounts pursuant to subsection 7 of NRS 704.110, as amended by this act. After such an electric utility files the application to clear its deferred accounts, the commission shall investigate and determine whether the rates that the electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan are just and reasonable and reflect prudent business practices. On the date on which the commission issues a final order on the general rate application, the commission shall issue a final order on the electric utility's application to clear its deferred accounts. The total rates to provide electric service that were in effect on April 1, 2001, for the electric utility must remain in effect until the date on which the commission issues a final order on the general rate application. The commission shall not adjust the rates of the electric utility during this period unless such an adjustment is absolutely necessary to avoid rates that are confiscatory under the Constitution of the United States or the constitution of this state. The commission:

(a) May make such an adjustment only to the extent that it is absolutely necessary to avoid an unconstitutional result; and

(b) Shall not, in any proceedings concerning such an adjustment, approve any rate or grant any relief that is not absolutely necessary to avoid an unconstitutional result.

After the electric utility files the general rate application that is required by this subsection, the electric utility shall file general rate applications in accordance with subsection 3 of NRS 704.110, as amended by this act. After the electric utility files the application to clear its deferred accounts that is required by this subsection, the electric utility shall file applications to clear its deferred accounts in accordance with section 19 of this act and subsection 7 of NRS 704.110, as amended by this act.

Sec. 36. Notwithstanding the provisions of any other specific statute to the contrary:

1. If, on or after January 1, 1999, and before the effective date of this act, an electric utility holding company entered into any transaction to acquire a controlling interest in a public utility that provides electric service primarily to customers located outside of this state, the electric utility holding company shall not carry out the transaction unless, on or after the effective date of this act:

(a) The electric utility holding company files with the commission an application for authorization of the transaction; and

(b) The commission issues a written order that authorizes the transaction. The commission shall not authorize the transaction unless the commission finds that the transaction will be in the public interest. The commission may base its authorization of the transaction upon such terms, conditions or modifications as the commission deems appropriate.

2. If the commission authorizes a transaction described in subsection 1 and, before July 1, 2003, the electric utility holding company acquires a controlling interest in such a public utility, or any affiliate thereof, pursuant to the transaction:

(a) Each electric utility in which the electric utility holding company holds a controlling interest shall not use deferred accounting pursuant to section 19 of this act on or after the date on which the electric utility holding company acquires a controlling interest in the public utility, or any affiliate thereof;

(b) Not later than 90 days after that date, each such electric utility shall file one final application to clear the remaining balance in its deferred accounts pursuant to subsection 7 of NRS 704.110, as amended by this act;

(c) For each such electric utility, the commission shall not carry out the provisions of section 35 of this act concerning deferred accounting and deferred accounts; and

(d) The commission shall carry out the remaining provisions of section 35 of this act, including, without limitation, the commission's investigation and determination whether the rates that each electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan are just and reasonable and reflect prudent business practices.

3. Any transaction that violates the provisions of this section is void and unenforceable and is not valid for any purpose.

Sec. 37. Any license issued to an alternative seller pursuant to NRS 704.977 is void on and after the effective date of this act.

Sec. 38. 1. The provisions of this act are hereby declared to be severable.

2. If any provision of this act is held invalid, or if the application of any such provision to any person, thing or circumstance is held invalid, such invalidity does not affect any other provision of this act that can be given effect without the invalid provision or application.

Sec. 39. This act becomes effective upon passage and approval.

Assembly Bill No. 661–Select Committee on Energy

CHAPTER.....

AN ACT relating to energy; authorizing certain eligible customers to purchase electrical energy, capacity and certain ancillary services from providers of new electric resources; establishing the universal energy charge to fund low-income energy assistance and conservation; requiring certain retail customers to pay the universal energy charge; requiring certain public utilities and municipal utilities to perform certain functions related to the universal energy charge; creating the fund for energy assistance and conservation and setting forth the criteria to determine the eligibility of a household to receive assistance from money in the fund; authorizing certain agencies to render emergency assistance to households in certain circumstances; revising and repealing various provisions concerning the regulation of public utilities and the process of establishing and changing rates; expanding the public utilities commission of Nevada from three to five members; revising the authority of the commission to regulate mergers, acquisitions and certain other transactions involving public utilities and other entities; making various changes with respect to net metering; authorizing the director of the department of business and industry to issue industrial development revenue bonds for certain renewable energy generation projects; creating the task force for renewable energy and energy conservation and prescribing its membership and duties; creating the trust fund for renewable energy and energy conservation; creating the office of energy within the office of the governor; transferring control of the Nevada state energy office from the director of the department of business and industry to the office of energy within the office of the governor; requiring certain lodging establishments to include certain information concerning energy costs on their statement of rates; and providing other matters properly relating thereto.

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

Section 1. For the purposes of sections 3 to 26, inclusive, of this act, the legislature hereby finds and declares that:

1. A reliable and reasonably priced supply of electricity is critical to the economy of this state and to the health, safety and welfare of the residents of this state;

2. The electric utilities in this state depend on regional energy markets to purchase approximately 50 percent of the electricity needed to serve their customers in this state, and such purchases are often made pursuant to agreements with terms of 1 year or less;

3. The energy markets in the western United States currently are characterized by critical shortages in the supply of electricity and extremely high prices for electricity, both of which are damaging to the strength of the economy of this state and to the well-being of the residents of this state;

4. The residents of this state would benefit from construction of new generation assets in this state and from access to other new electric resources, wherever located, that provide lower-priced electricity;

5. The economic development that would result from construction in this state of new generation assets, supporting gas pipelines and additional infrastructure would be of special benefit to the rural areas of this state where the new generation assets are most likely to be located;

6. During this session, the legislature has considered a number of different but complementary approaches to developing and using new

generation assets and other new electric resources and to increasing the supply of reasonably priced electricity in this state;

7. The development and use of new generation assets and other new electric resources by eligible customers would permit the electric utilities in this state to reduce their dependence on purchases of excessively priced electricity from dysfunctional, short-term energy markets and would thereby reduce the average system costs for such electric utilities;

8. The development and use of new generation assets and other new electric resources can be encouraged by allowing eligible customers to use their own resources, initiative, expertise and credit to develop, access and enter into agreements for the purchase of electricity from new generation assets and other new electric resources; and

9. To protect the electric utilities in this state and their remaining customers, all transactions proposed by eligible customers pursuant to sections 3 to 26, inclusive, of this act must be carefully reviewed by the public utilities commission of Nevada to ensure that the electric utilities in this state and their remaining customers are not subject to increased costs as a result of the proposed transactions and that the proposed transactions are not otherwise contrary to the public interest.

Sec. 2. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 3 to 26, inclusive, of this act.

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Ancillary services” means those generation services that:*

1. Are necessary to support the transmission of energy and capacity from resources to loads while maintaining reliable operation of the transmission system of the electric utility; and

2. Are defined and established in applicable transmission tariffs on file with the Federal Energy Regulatory Commission.

Sec. 5. *“Calendar quarter” means each period of 3 consecutive calendar months ending on March 31, June 30, September 30 and December 31 in each calendar year.*

Sec. 6. *“Commission” means the public utilities commission of Nevada.*

Sec. 7. *1. “Electric utility” means any public utility or successor in interest that:*

(a) Is in the business of providing electric service to customers;

(b) Holds a certificate of public convenience and necessity issued or transferred pursuant to chapter 704 of NRS; and

(c) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of \$250,000,000 or more in this state.

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

Sec. 8. *“Electric utility that primarily serves densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this state from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.*

Sec. 9. *“Electric utility that primarily serves less densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this state from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.*

Sec. 10. *“Eligible customer” means an end-use customer which is:*

1. A nongovernmental commercial or industrial end-use customer that has an average annual load of 1 megawatt or more in the service territory of an electric utility.

2. A governmental entity, including, without limitation, a governmental entity providing educational or health care services, that:

(a) Performs its functions using one or more facilities which are operated under a common budget and common control; and

(b) Has an average annual load of 1 megawatt or more in the service territory of an electric utility.

Sec. 11. *“Energy” means electrical energy.*

Sec. 12. *“Generation asset” means any plant, facility, equipment or system which is located within or outside this state and which converts nonelectrical energy into electrical energy or otherwise produces electrical energy.*

Sec. 13. *“New electric resource” means:*

1. The energy, capacity or ancillary services and any increased or additional energy, capacity or ancillary services which are:

(a) Made available from a generation asset that is not owned by an electric utility or is not subject to contractual commitments to an electric utility that make the energy, capacity or ancillary services from the generation asset unavailable for purchase by an eligible customer; and

(b) Able to be delivered to an eligible customer.

2. Any increased energy, capacity or ancillary services made available from a generation asset pursuant to an agreement described in section 18 of this act.

Sec. 14. *“Person” means:*

1. A natural person.

2. Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization.

3. A governmental entity other than:

(a) This state or an agency or instrumentality of this state; or

(b) A political subdivision of this state or an agency or instrumentality of a political subdivision of this state.

Sec. 15. *“Provider of new electric resources” and “provider” mean a person who makes energy, capacity or ancillary services from a new electric resource available to an eligible customer.*

Sec. 16. *“Time-of-use meter” means a meter that:*

1. Measures and records the electric demand, energy and power factor on 15-minute intervals; and

2. Is suitable for use with an electric demand of 1 megawatt or more.

Sec. 17. *1. The provisions of this chapter do not alter, diminish or otherwise affect any rights or obligations arising under any contract which requires an electric utility to purchase energy, capacity or ancillary services from another party and which exists on the effective date of this act.*

2. Each electric utility or its assignee shall comply with the terms of any contract which requires the electric utility or its assignee to purchase energy, capacity or ancillary services from another party and which exists on the effective date of this act.

Sec. 18. *1. Except as otherwise provided in this section, an electric utility may, at its discretion, enter into agreements relating to its generation assets and the energy, capacity or ancillary services provided by its generation assets with one or more other persons who are not electric utilities. Such agreements, without limitation:*

(a) May include agreements to construct or install a new generation asset on real property that is adjacent to an existing generation asset owned by the electric utility; and

(b) May provide for the sharing of available common facilities with the existing generation asset or the reengineering, repowering or expansion of the existing generation asset to generate energy more efficiently and at a lower cost and to make more energy available to customers in this state.

2. Any increased energy, capacity or ancillary services made available from a new generation asset or an existing generation asset pursuant to an agreement described in subsection 1 shall be deemed to be a new electric resource that may be:

(a) Owned by the parties to the agreement who are not electric utilities; and

(b) Used or consumed by such parties for their own purposes, sold at wholesale by such parties or sold by such parties to one or more eligible customers pursuant to the provisions of this chapter.

3. A transaction undertaken pursuant to an agreement described in subsection 1:

(a) Must not impair system reliability or the ability of the electric utility to provide electric service to its customers; and

(b) Must not violate the provisions of sections 8 to 18, inclusive, of Assembly Bill No. 369 of this session.

4. The provisions of this section do not exempt any party to an agreement described in subsection 1 from any applicable statutory or regulatory requirements relating to siting, construction and operation of a generation asset.

5. The commission shall encourage the development of new electric resources and shall not exercise its regulatory authority in a manner that

unnecessarily or unreasonably restricts, conditions or discourages any agreement described in subsection 1 that is likely to result in increased energy, capacity or ancillary services from a generation asset or improved or more efficient operation or management of a generation asset.

Sec. 19. 1. *Except as otherwise provided in this section, a provider of new electric resources may sell energy, capacity or ancillary services to one or more eligible customers if the eligible customers have been approved to purchase energy, capacity and ancillary services from the provider pursuant to the provisions of sections 20 and 21 of this act.*

2. A provider of new electric resources shall not sell energy, capacity or ancillary services to an eligible customer:

(a) Before April 1, 2002, if the eligible customer's load is in the service territory of an electric utility that primarily serves less densely populated counties;

(b) Before June 1, 2002, if the eligible customer's load is in the service territory of an electric utility that primarily serves densely populated counties; or

(c) If the transaction violates the provisions of this chapter.

3. *A provider of new electric resources that sells energy, capacity or ancillary services to an eligible customer pursuant to the provisions of this chapter:*

(a) Does not become and shall not be deemed to be a public utility solely because of that transaction; and

(b) Does not become and shall not be deemed to be subject to the jurisdiction of the commission except as otherwise provided in this chapter or by specific statute.

4. *If a provider of new electric resources is not a public utility in this state and is not otherwise authorized by the provisions of a specific statute to sell energy, capacity or ancillary services at retail in this state, the provider shall not sell energy, capacity or ancillary services at retail in this state to a person or entity that is not an eligible customer.*

Sec. 20. 1. *An eligible customer that is purchasing electric service from an electric utility shall not purchase energy, capacity or ancillary services from a provider of new electric resources and an eligible customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources shall not purchase energy, capacity or ancillary services from another provider unless:*

(a) The eligible customer files an application with the commission not later than 180 days before the date on which the eligible customer intends to begin purchasing energy, capacity or ancillary services from the provider; and

(b) The commission approves the application by a written order issued in accordance with the provisions of this section and section 21 of this act.

The date on which the eligible customer intends to begin purchasing energy, capacity or ancillary services from the provider must not be sooner than the date on which the provider is authorized by section 19 of this act to begin selling energy, capacity or ancillary services to the eligible customer.

2. *Except as otherwise provided in subsection 3, each application filed pursuant to this section must include:*

(a) Information demonstrating that the person filing the application is an eligible customer;

(b) Information demonstrating that the proposed provider will provide energy, capacity or ancillary services from a new electric resource;

(c) Information concerning the terms and conditions of the proposed transaction that is necessary for the commission to evaluate the impact of the proposed transaction on customers and the public interest, including, without limitation, information concerning the duration of the proposed transaction and the amount of energy, capacity or ancillary services to be purchased from the provider; and

(d) Any other information required pursuant to the regulations adopted by the commission.

3. *Except as otherwise provided in section 21 of this act, the commission shall not require the eligible customer or provider to disclose:*

(a) The price that is being paid by the eligible customer to purchase energy, capacity or ancillary services from the provider; or

(b) Any other terms or conditions of the proposed transaction that the commission determines are commercially sensitive.

4. *The commission shall provide public notice of the application of the eligible customer and an opportunity for a hearing on the application in a manner that is consistent with the provisions of NRS 703.320 and the regulations adopted by the commission.*

5. *The commission shall approve the application of the eligible customer unless the commission finds that the proposed transaction:*

(a) Will be contrary to the public interest; or

(b) Does not comply with the provisions of section 21 of this act, if those provisions apply to the proposed transaction.

6. *In determining whether the proposed transaction will be contrary to the public interest, the commission shall consider, without limitation:*

(a) Whether the electric utility that has been providing electric service to the eligible customer will be burdened by increased costs as a result of the proposed transaction or whether any remaining customer of the electric utility will pay increased costs for electric service as a result of the proposed transaction;

(b) Whether the proposed transaction will impair system reliability or the ability of the electric utility to provide electric service to its remaining customers; and

(c) Whether the proposed transaction will add energy, capacity or ancillary services to the supply in this state.

7. *If the commission approves the application of the eligible customer:*

(a) The eligible customer shall not begin purchasing energy, capacity or ancillary services from the provider pursuant to the proposed transaction sooner than 180 days after the date on which the application was filed; and

(b) The commission shall order such terms, conditions and payments as the commission deems necessary and appropriate to ensure that the

proposed transaction will not be contrary to the public interest. Such terms, conditions and payments:

(1) Must be fair and nondiscriminatory as between the eligible customer and the remaining customers of the electric utility; and

(2) Must include, without limitation, payment by the eligible customer to the electric utility of the eligible customer's load-share portion of any unrecovered balance in the deferred accounts of the electric utility.

8. If the commission does not enter a final order on the application of the eligible customer within 90 days after the date on which the application was filed with the commission:

(a) The application shall be deemed to be approved by the commission; and

(b) The eligible customer shall not begin purchasing energy, capacity or ancillary services from the provider pursuant to the proposed transaction sooner than 180 days after the date on which the application was filed.

Sec. 21. *1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this state that is available to the electric utility and the existing demand for energy in this state that is consumed by the customers of the electric utility, as determined by the commission.*

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to section 20 of this act all information concerning the contract offered to the electric utility that is necessary for the commission to determine whether it is in the best interest of the remaining customers of the electric utility for the electric utility to accept the rights to the contract. Such information must include, without limitation, the amount of the energy

and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the commission determines are commercially sensitive:

(a) Must not be disclosed by the commission except to the regulatory operations staff of the commission, the consumer's advocate and his staff and the electric utility for the purposes of carrying out the provisions of this section; and

(b) Shall be deemed to be confidential for all other purposes, and the commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to sections 3 to 12, inclusive, of Senate Bill No. 372 of this session to comply with its portfolio standard for renewable energy. The commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

7. As used in this section, "consumer's advocate" means the consumer's advocate of the bureau of consumer protection in the office of the attorney general.

Sec. 22. *1. If an eligible customer is purchasing energy, capacity or ancillary services from a provider of new electric resources, the eligible customer may, pursuant to tariffs approved by the commission, replace some or all, but not less than all at a single time-of-use meter, of the energy, capacity or ancillary services purchased from the provider of new electric resources with energy, capacity or ancillary services purchased from an electric utility.*

2. The tariffs approved by the commission pursuant to this section must include, without limitation:

(a) Provisions requiring the eligible customer to pay any incremental costs that are incurred by the electric utility to provide energy to the eligible customer;

(b) Provisions requiring the eligible customer to provide reasonable and adequate notice to the electric utility;

(c) Provisions establishing minimum terms during which the eligible customer must continue to purchase energy from the electric utility; and

(d) Any other provisions that the commission determines are necessary and reasonable to carry out and enforce the provisions of this section.

Sec. 23. 1. A provider of new electric resources shall not sell energy, capacity or ancillary services to an eligible customer unless the customer has a time-of-use meter installed at the point of delivery of energy to the eligible customer.

2. An electric utility shall install a time-of-use meter at each point of delivery of energy to the eligible customer if the eligible customer does not have a time-of-use meter at that point of delivery. If the eligible customer is:

(a) A nongovernmental commercial or industrial end-use customer, the eligible customer or the provider shall pay all costs for the time-of-use meter and for installation of the time-of-use meter by the electric utility.

(b) A governmental entity, the provider shall pay all costs for the time-of-use meter and for installation of the time-of-use meter by the electric utility.

3. Not more than one person or entity may sell the energy that is delivered to an eligible customer through any one time-of-use meter.

4. The provisions of this section do not prohibit:

(a) An eligible customer from having more than one time-of-use meter installed for the same service location; or

(b) An eligible customer from installing any other meter or equipment that is necessary or appropriate to the transaction with the provider, if such a meter or equipment is otherwise consistent with system reliability.

Sec. 24. 1. An electric utility shall provide all transmission, distribution, metering and other components of electric service that are necessary for a provider of new electric resources to sell energy, capacity and ancillary services to an eligible customer pursuant to the provisions of this chapter. An electric utility shall provide each such component of electric service pursuant to the tariffs and service agreements filed with and approved by the appropriate regulatory authorities having jurisdiction over each such component of electric service.

2. For each such component of electric service that is within the jurisdiction of the commission, the commission shall establish just, reasonable and nondiscriminatory rates.

3. The provisions of this chapter do not enlarge or expand any existing rights under federal law or create any other rights with regard to the transmission system of the electric utility.

4. When providing service pursuant to this chapter, an electric utility is subject to all applicable statutes and regulations of this state and the United States.

Sec. 25. *Not later than 30 days after the end of each calendar quarter, the commission shall submit to the legislative commission a written report which summarizes for that calendar quarter:*

1. Each application which was filed with the commission pursuant to the provisions of this chapter and which requested approval of a proposed transaction between an eligible customer and a provider of new electric resources;

2. The information that the eligible customer included with the application;

3. The findings of the commission concerning the effect of the proposed transaction on the public interest; and

4. Whether the commission approved the application and, if so, the effective date of the proposed transaction, the terms and conditions of the proposed transaction, and the terms, conditions and payments ordered by the commission.

Sec. 26. *The commission shall adopt regulations to carry out and enforce the provisions of this chapter.*

Sec. 26.05 Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 26.1 to 26.95, inclusive, of this act.

Sec. 26.1. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 26.15 to 26.6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 26.15. *“Calendar quarter” means each period of 3 consecutive calendar months ending on March 31, June 30, September 30 and December 31 in each calendar year.*

Sec. 26.2. *“Commission” means the public utilities commission of Nevada.*

Sec. 26.25. *“Fund” means the fund for energy assistance and conservation created by section 26.8 of this act.*

Sec. 26.3. *“Housing division” means the housing division of the department of business and industry.*

Sec. 26.35. *“Municipal utility” includes, without limitation:*

1. A utility established pursuant to chapter 709 or 710 of NRS.

2. Any other utility that is owned, operated or controlled by a county, city or other local governmental entity.

Sec. 26.4. *“Person” means:*

1. A natural person;

2. Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization;

3. A government or an agency or instrumentality of a government, including, without limitation, this state or an agency or instrumentality of this state; and

4. A political subdivision of this state or of any other government or an agency or instrumentality of a political subdivision of this state or of any other government.

Sec. 26.45. *“Public utility” has the meaning ascribed to it in NRS 704.020 and 704.030.*

Sec. 26.5. 1. *“Retail customer” means an end-use customer that purchases natural gas or electricity for consumption in this state.*

2. The term includes, without limitation:

(a) A residential, commercial or industrial end-use customer that purchases natural gas or electricity for consumption in this state, including, without limitation, an eligible customer that purchases electricity for consumption in this state from a provider of new electric resources pursuant to the provisions of sections 3 to 26, inclusive, of this act.

(b) A landlord of a mobile home park or owner of a company town who is subject to any of the provisions of NRS 704.905 to 704.960, inclusive.

(c) A landlord who pays for natural gas or electricity that is delivered through a master meter and who distributes or resells the natural gas or electricity to one or more tenants for consumption in this state.

3. The term does not include this state, a political subdivision of this state or an agency or instrumentality of this state or political subdivision of this state when it is an end-use customer that purchases natural gas or electricity for consumption in this state, including, without limitation, when it is an eligible customer that purchases electricity for consumption in this state from a provider of new electric resources pursuant to the provisions of sections 3 to 26, inclusive, of this act.

Sec. 26.55. *“Universal energy charge” means the charge imposed pursuant to section 26.7 of this act.*

Sec. 26.6. *“Welfare division” means the welfare division of the department of human resources.*

Sec. 26.65. 1. *The provisions of section 26.7 of this act do not apply to any therm of natural gas or any kilowatt-hour of electricity that a retail customer purchases from:*

(a) A rural electric cooperative established pursuant to chapter 81 of NRS.

(b) A general improvement district established pursuant to chapter 318 of NRS.

(c) A cooperative association, nonprofit corporation, nonprofit association or provider of service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

2. If a retail customer is exempted from paying the universal energy charge pursuant to subsection 1, the retail customer may not receive money or other assistance from:

(a) The welfare division pursuant to section 26.85 of this act for any utility service for which the retail customer is exempted from paying the universal energy charge; or

(b) The housing division pursuant to section 26.9 of this act.

Sec. 26.7. 1. *Except as otherwise provided in this section and section 26.65 of this act, each retail customer shall pay:*

(a) A universal energy charge of 3.30 mills on each therm of natural gas that the retail customer purchases from another person for consumption in this state; and

(b) A universal energy charge of 0.39 mills on each kilowatt-hour of electricity that the retail customer purchases from another person for consumption in this state.

2. The provisions of subsection 1 do not apply to:

(a) Any therm of natural gas used as a source of energy to generate electricity.

(b) Any kilowatt-hour of electricity used in industries utilizing electrolytic-manufacturing processes.

3. If a retail customer uses the distribution services of a public utility or municipal utility to acquire natural gas or electricity that is subject to the universal energy charge, the public utility or municipal utility providing the distribution services shall:

(a) Collect the universal energy charge from each such retail customer;

(b) Ensure that the universal energy charge is set forth as a separate item or entry on the bill of each such retail customer; and

(c) Not later than 30 days after the end of each calendar quarter, remit to the commission the total amount of money collected by the public utility or municipal utility for the universal energy charge for the immediately preceding calendar quarter.

4. If a retail customer does not use the distribution services of a public utility or municipal utility to acquire natural gas or electricity that is subject to the universal energy charge, not later than 30 days after the end of each calendar quarter, the retail customer shall remit to the commission the total amount of money owed by the retail customer for the universal energy charge for the immediately preceding calendar quarter.

5. If, during a calendar quarter, a single retail customer or multiple retail customers under common ownership and control pay, in the aggregate, a universal energy charge of more than \$25,000 for all consumption of natural gas and electricity during the calendar quarter, such retail customers are entitled to a refund, for that calendar quarter, of the amount of the universal energy charge that exceeds \$25,000. To receive a refund pursuant to this section, not later than 90 days after the end of the calendar quarter for which the refund is requested, such retail customers must file with the commission a request for a refund. If a request for a refund is filed with the commission:

(a) The commission shall determine and certify the amount of the refund; and

(b) The refund must be paid as other claims against the state are paid from money in the fund.

Sec. 26.75. *1. The commission shall adopt regulations to carry out and enforce the provisions of section 26.7 of this act. Such regulations may require public utilities, municipal utilities and retail customers that are required to collect or remit money for the universal energy charge to file reports and to provide the commission with information relating to compliance with the requirements of the universal energy charge.*

2. In carrying out the provisions of section 26.7 of this act, the commission shall solicit advice from the consumer's advocate of the

bureau of consumer protection in the office of the attorney general, public utilities and municipal utilities and other knowledgeable persons.

3. The commission may conduct audits and investigations of public utilities, municipal utilities and retail customers that are required to collect or remit money for the universal energy charge, if the commission determines that such audits and investigations are necessary to verify compliance with the requirements of the universal energy charge. In conducting such audits and investigations, the commission may exercise any of the investigative powers granted to the commission pursuant to chapter 703 of NRS, including, without limitation, the power to issue orders to compel the appearance of witnesses and the production of books, accounts, papers and records.

4. To carry out its powers and duties pursuant to this chapter, the commission is entitled to an administrative charge of not more than 3 percent of the money collected for the universal energy charge. After deduction of its administrative charge, the commission shall deposit the remaining money collected for the universal energy charge in the state treasury for credit to the fund.

5. The commission may bring an appropriate action in its own name for recovery of any money that a person fails to pay, collect or remit in violation of the requirements of the universal energy charge.

Sec. 26.8. *1. There is hereby created as a special revenue fund in the state treasury the fund for energy assistance and conservation. The welfare division shall administer the fund.*

2. In addition to the money that must be credited to the fund from the universal energy charge, all money received from private or public sources to carry out the purposes of this chapter must be deposited in the state treasury for credit to the fund.

3. The welfare division shall, to the extent practicable, ensure that the money in the fund is administered in a manner which is coordinated with all other sources of money that are available for energy assistance and conservation, including, without limitation, money contributed from private sources, money obtained from the Federal Government and money obtained from any agency or instrumentality of this state or political subdivision of this state.

4. The interest and income earned on the money in the fund, after deducting any applicable charges, must be credited to the fund. All claims against the fund must be paid as other claims against the state are paid.

5. After deduction of any refunds paid from the fund pursuant to section 26.7 of this act, the money in the fund must be distributed pursuant to sections 26.85 and 26.9 of this act.

Sec. 26.85. *1. Seventy-five percent of the money in the fund must be distributed to the welfare division for programs to assist eligible households in paying for natural gas and electricity. The welfare division may use not more than 3 percent of the money distributed to it pursuant to this section for its administrative expenses.*

2. Except as otherwise provided in section 26.65 of this act, after deduction for its administrative expenses, the welfare division may use the money distributed to it pursuant to this section only to:

- (a) Assist eligible households in paying for natural gas and electricity.*
- (b) Carry out activities related to consumer outreach.*
- (c) Pay for program design.*
- (d) Pay for the annual evaluations conducted pursuant to section 26.95 of this act.*

3. Except as otherwise provided in subsection 4, to be eligible to receive assistance from the welfare division pursuant to this section, a household must have a household income that is not more than 150 percent of the federally designated level signifying poverty, as determined by the welfare division.

4. The welfare division is authorized to render emergency assistance to a household if an emergency related to the cost or availability of natural gas or electricity threatens the health or safety of one or more of the members of the household. Such emergency assistance may be rendered upon the good faith belief that the household is otherwise eligible to receive assistance pursuant to this section.

5. Before July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the welfare division shall determine the amount of assistance that the household will receive by using the existing formulas set forth in the state plan for low-income home energy assistance.

6. On or after July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the welfare division:

(a) Shall, to the extent practicable, determine the amount of assistance that the household will receive by determining the amount of assistance that is sufficient to reduce the percentage of the household's income that is spent on natural gas and electricity to the median percentage of household income spent on natural gas and electricity statewide.

(b) May adjust the amount of assistance that the household will receive based upon such factors as:

- (1) The income of the household;*
- (2) The size of the household;*
- (3) The type of energy that the household uses; and*
- (4) Any other factor which, in the determination of the welfare division, may make the household particularly vulnerable to increases in the cost of natural gas or electricity.*

7. The welfare division shall adopt regulations to carry out and enforce the provisions of this section and section 26.8 of this act.

8. In carrying out the provisions of this section, the welfare division shall:

(a) Solicit advice from the housing division and from other knowledgeable persons;

(b) Identify and implement appropriate delivery systems to distribute money from the fund and to provide other assistance pursuant to this section;

(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;

(d) Establish a process for evaluating the programs conducted pursuant to this section;

(e) Develop a process for making changes to such programs; and

(f) Engage in annual planning and evaluation processes with the housing division as required by section 26.95 of this act.

Sec. 26.9. *1. Twenty-five percent of the money in the fund must be distributed to the housing division for programs of energy conservation, weatherization and energy efficiency for eligible households. The housing division may use not more than 6 percent of the money distributed to it pursuant to this section for its administrative expenses.*

2. Except as otherwise provided in section 26.65 of this act, after deduction for its administrative expenses, the housing division may use the money distributed to it pursuant to this section only to:

(a) Provide an eligible household with services of basic home energy conservation and home energy efficiency or to assist an eligible household to acquire such services, including, without limitation, services of load management.

(b) Pay for appropriate improvements associated with energy conservation, weatherization and energy efficiency.

(c) Carry out activities related to consumer outreach.

(d) Pay for program design.

(e) Pay for the annual evaluations conducted pursuant to section 26.95 of this act.

3. Except as otherwise provided in subsection 4, to be eligible to receive assistance from the housing division pursuant to this section, a household must have a household income that is not more than 150 percent of the federally designated level signifying poverty, as determined by the housing division.

4. The housing division is authorized to render emergency assistance to a household if the health or safety of one or more of the members of the household is threatened because of the structural, mechanical or other failure of:

(a) The unit of housing in which the household dwells; or

(b) A component or system of the unit of housing in which the household dwells.

Such emergency assistance may be rendered upon the good faith belief that the household is otherwise eligible to receive assistance pursuant to this section.

5. The housing division shall adopt regulations to carry out and enforce the provisions of this section.

6. In carrying out the provisions of this section, the housing division shall:

(a) Solicit advice from the welfare division and from other knowledgeable persons;

(b) Identify and implement appropriate delivery systems to distribute money from the fund and to provide other assistance pursuant to this section;

(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to

the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;

(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;

(e) Establish a process for evaluating the programs conducted pursuant to this section;

(f) Develop a process for making changes to such programs; and

(g) Engage in annual planning and evaluation processes with the welfare division as required by section 26.95 of this act.

Sec. 26.95. *1. The welfare division and the housing division jointly shall establish an annual plan to coordinate their activities and programs pursuant to this chapter. In preparing the annual plan, the divisions shall solicit advice from knowledgeable persons. The annual plan must include, without limitation, a description of:*

(a) The resources and services being used by each program and the efforts that will be undertaken to increase or improve those resources and services;

(b) The efforts that will be undertaken to improve administrative efficiency;

(c) The efforts that will be undertaken to coordinate with other federal, state and local agencies, nonprofit organizations and any private business or trade organizations that provide energy assistance or conservation services to low-income persons;

(d) The measures concerning program design that will be undertaken to improve program effectiveness; and

(e) The efforts that will be taken to address issues identified during the most recently completed annual evaluation conducted pursuant to subsection 2.

2. The welfare division and the housing division jointly shall:

(a) Conduct an annual evaluation of the programs that each division carries out pursuant to sections 26.85 and 26.9 of this act;

(b) Solicit advice from the commission as part of the annual evaluation; and

(c) Prepare a report concerning the annual evaluation and submit the report to the governor, the legislative commission and the interim finance committee.

3. The report prepared pursuant to subsection 2 must include, without limitation:

(a) A description of the objectives of each program;

(b) An analysis of the effectiveness and efficiency of each program in meeting the objectives of the program;

(c) The amount of money distributed from the fund for each program and a detailed description of the use of that money for each program;

(d) An analysis of the coordination between the divisions concerning each program; and

(e) Any changes planned for each program.

Sec. 27. Chapter 703 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any contested case pending before the commission, the regulatory operations staff of the commission may, without filing a petition for leave to intervene:

(a) Appear and participate in the contested case as an independent party; and

(b) Be represented by legal counsel in the contested case.

2. A commissioner may not discuss with a member of the regulatory operations staff of the commission any substantive issues of fact or law concerning a contested case pending before the commission except upon notice to all parties to the contested case and an opportunity for all such parties to participate.

3. As used in this section, "contested case" has the meaning ascribed to it in NRS 233B.032.

Sec. 28. NRS 703.030 is hereby amended to read as follows:

703.030 1. The commission consists of ~~three~~ *five* commissioners appointed by the governor. ~~For terms of~~ *After the initial terms, the term of each commissioner is* 4 years.

2. The governor shall appoint ~~as members of the commission persons~~:

(a) One commissioner to represent the general public.

(b) Four commissioners who have at least 2 years of experience in one or more of the following fields:

~~(a)~~ *(1)* Accounting.

~~(b)~~ *(2)* Business administration.

~~(c)~~ *(3)* Finance or economics.

~~(d)~~ *(4)* Administrative law.

~~(e)~~ *(5)* Professional engineering.

Not more than two of the commissioners appointed pursuant to this paragraph may be from the same field of experience.

3. Not more than ~~two~~ *three* of the commissioners may be ~~two~~

~~(a) Members~~ *members* of the same political party.

~~(b) From the same field of experience.~~

4. A vacancy on the commission must be filled for the remainder of the unexpired term in the same manner as the original appointment.

Sec. 29. NRS 703.110 is hereby amended to read as follows:

703.110 1. ~~The~~ *Except as otherwise provided in subsection 2, a* majority of the commissioners ~~have~~ *has* full power to act in all matters within ~~their jurisdiction~~ *the jurisdiction of the commission and shall exercise all the powers of the commission.*

2. If ~~two~~ *a majority of the* commissioners are disqualified or if there are ~~two~~ vacancies within the ~~commission~~ *offices of a majority of the commissioners, the remaining commissioners or, if only one commissioner is remaining, the remaining* commissioner ~~to~~ *has* full power to act in all matters within the jurisdiction of the commission and shall exercise all the powers of the commission.

3. Except as otherwise provided in this chapter, all hearings and meetings conducted by the commission must be open to the public.

Sec. 30. NRS 703.130 is hereby amended to read as follows:

703.130 1. The commission shall appoint a deputy commissioner who shall serve in the unclassified service of the state.

2. The commission shall appoint a secretary who shall perform such administrative and other duties as are prescribed by the commission. The commission shall also appoint an assistant secretary.

3. The commission may employ such other clerks, experts or engineers as may be necessary.

4. Except as otherwise provided in subsection 5, the commission:

(a) May appoint one or more hearing officers for a period specified by the commission to conduct proceedings or hearings that may be conducted by the commission pursuant to chapters 704, 704A, 705, 708 and 711 of NRS ~~H~~ *and sections 3 to 26, inclusive, and sections 26.7 and 26.75 of this act.*

(b) Shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the commission.

5. The commission shall not appoint a hearing officer to conduct proceedings or hearings :

(a) In any matter pending before the commission pursuant to sections 8 to 18, inclusive, of ~~this act.~~ Assembly Bill No. 369 of this session; or

(b) In any matter pending before the commission pursuant to NRS 704.070 to 704.110, inclusive, and sections 41 to 46, inclusive, of this act in which an electric utility has filed a general rate application or an application to clear its deferred accounts.

6. As used in this section, "electric utility" has the meaning ascribed to it in section 19 of Assembly Bill No. 369 of this session.

Sec. 30.5. NRS 703.147 is hereby amended to read as follows:

703.147 1. The public utilities commission regulatory fund is hereby created as a special revenue fund. Except as otherwise provided in section 12 of *Senate Bill No. 372 of this ~~act.~~ session and section 26.75 of this act*, all money collected by the commission pursuant to law must be deposited in the state treasury for credit to the fund. Money collected for the use of the consumer's advocate of the bureau of consumer protection in the office of the attorney general must be transferred pursuant to the provisions of subsection 8 of NRS 704.035.

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

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

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

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

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

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

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

Sec. 31. NRS 703.164 is hereby amended to read as follows:

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

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

(b) Prosecute in the name of the ~~public utilities commission of Nevada~~ **commission** all civil actions for the enforcement of chapters 704, 704A, 705 and 708 of NRS **and sections 3 to 26, inclusive, and sections 26.7 and 26.75 of this act** and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the commission in the performance of its duties and the enforcement of chapters 704, 704A, 705 and 708 of NRS ~~and~~ **and sections 3 to 26, inclusive, and sections 26.7 and 26.75 of this act.**

2. Each district attorney shall:

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

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

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

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

Sec. 32. NRS 703.196 is hereby amended to read as follows:

703.196 1. Any books, accounts, records, minutes, papers and property of any public utility that are subject to examination pursuant to NRS 703.190 or 703.195 and are made available to the commission, any officer or employee of the commission, the bureau of consumer protection in the office of the attorney general or any other person under the condition that the disclosure of such information to the public be withheld or otherwise limited, must not be disclosed to the public unless the commission first determines that the disclosure is justified.

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

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

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

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

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

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

4. A representative of the *regulatory operations* staff of the commission and the bureau of consumer protection:

- (a) May attend any closed hearing held pursuant to this section; and
- (b) Have access to any records or other information determined to be confidential pursuant to this section.

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

Sec. 32.5. NRS 703.197 is hereby amended to read as follows:

703.197 1. The commission may collect fees for the filing of any official document required by this chapter and chapters 704, 704A, 705 and 708 of NRS *and sections 3 to 26, inclusive, of this act* or by a regulation of the commission.

2. Filing fees may not exceed:

- (a) For applications, \$200.
- (b) For petitions seeking affirmative relief, \$200.
- (c) For each tariff page which requires public notice and is not attached to an application, \$10. If more than one page is filed at one time, the total fee may not exceed the cost of notice and publication.
- (d) For all other documents which require public notice, \$10.

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

4. The commission may not charge any fee for filing ~~it~~ :

(a) A complaint.

(b) A request for a refund pursuant to section 26.7 of this act.

Sec. 33. NRS 703.320 is hereby amended to read as follows:

703.320 1. In any matter pending before the commission, if a hearing is required by a specific statute or is otherwise required by the commission, the commission shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The commission shall by regulation specify:

- (a) The manner of giving notice in each type of proceeding; and
- (b) The persons entitled to notice in each type of proceeding.

2. The commission shall not dispense with a hearing ~~it~~ :

(a) In any matter pending before the commission pursuant to sections 8 to 18, inclusive, of ~~this act~~ Assembly Bill No. 369 of this session; or

(b) Except as otherwise provided in subsection 4 of NRS 704.100, in any matter pending before the commission pursuant to NRS 704.070 to 704.110, inclusive, and sections 41 to 46, inclusive, of this act in which an electric utility has filed a general rate application or an application to clear its deferred accounts.

3. In any other matter pending before the commission, the commission may dispense with a hearing and act upon the matter pending unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the commission a request that the hearing

be held. If such a request for a hearing is filed, the commission shall give at least 10 days' notice of the hearing.

4. *As used in this section, "electric utility" has the meaning ascribed to it in section 19 of Assembly Bill No. 369 of this session.*

Sec. 34. NRS 703.330 is hereby amended to read as follows:

703.330 1. A complete record must be kept of all hearings before the commission . ~~[-, and all]~~ *All testimony at such hearings* must be taken down by the stenographer appointed by the commission, or, under the direction of any competent person appointed by the commission, *must be* reported by sound recording equipment in the manner authorized for reporting testimony in district courts. The testimony reported by a stenographer must be transcribed, and the transcript filed with the record in the matter. The commission may by regulation provide for the transcription or safekeeping of sound recordings. Cost of recording and transcribing testimony at any hearing, except those hearings ordered pursuant to NRS 703.310, must be paid by the applicant. If a complaint is made pursuant to NRS 703.310 by a customer or by a political subdivision of the state or municipal organization, the complainant is not liable for any costs. Otherwise, if there are several applicants or parties to any hearing, the commission may apportion the costs among them in its discretion.

2. ~~[-Whenever any complaint]~~ *If a petition* is served upon the commission as provided in NRS 703.373 for the bringing of an action against the commission, before the action is reached for trial, the commission shall file a certified copy of all proceedings and testimony taken with the clerk of the court in which the action is pending.

3. A copy of the proceedings and testimony must be furnished to any party, on payment of a reasonable amount, to be fixed by the commission, and the amount must be the same for all parties.

4. The provisions of this section do not prohibit the commission from ~~[-restricting]~~ :

(a) Restricting access to the records and transcripts of a hearing pursuant to paragraph (a) of subsection 3 of NRS 703.196.

(b) Protecting the confidentiality of information pursuant to section 20 or 21 of this act.

Sec. 35. NRS 703.374 is hereby amended to read as follows:

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

- (a) The applicant has filed a motion for a preliminary injunction;
- (b) The applicant has served the motion on the commission and other interested parties within 20 days after the rendition of the order on which the complaint is based;
- (c) The court finds there is a reasonable likelihood that the applicant will prevail on the merits of the matter and will suffer irreparable injury if injunctive relief is not granted; and
- (d) The applicant files a bond or other undertaking to secure the adverse parties in such manner as the court finds sufficient.

2. The decision of the commission on each matter considered shall be deemed reasonable and just until set aside by the court . ~~[-, and in]~~ *In* all actions for *an* injunction or ~~[-otherwise]~~ *for any other relief*, the burden of

proof is upon the party attacking or resisting the order of the commission to show by clear and satisfactory evidence that the order is unlawful ~~or~~ or unreasonable. ~~As the case may be.~~

3. If an injunction is granted by the court and the order complained of is one which ~~permanently suspends~~:

(a) *Disapproves a public utility's proposed changes in* a schedule of rates ~~and charges or a~~, or any part thereof, ~~filed by any public utility~~ pursuant to NRS 704.070 to 704.110, inclusive, ~~for which otherwise~~ and sections 41 to 46, inclusive, of this act; or

(b) *Otherwise prevents the proposed changes in the* schedule, or any part thereof, from taking effect, the public utility complaining may ~~keep in effect or put~~ place into effect ~~as the case may be, the suspended~~ the proposed changes in the schedule, or any part thereof, pending final determination by the court having jurisdiction, by filing a bond with the court in such an amount as the court may fix, conditioned upon the refund to persons entitled to the excess amount if the ~~rate or rates so suspended~~ proposed changes in the schedule, or any part thereof, are finally determined by the court to be excessive.

Sec. 36. NRS 703.377 is hereby amended to read as follows:

703.377 1. ~~No~~ Any certificate of public convenience and necessity, permit or license issued *or transferred* in accordance with the ~~terms~~ provisions of NRS ~~704.005~~ 704.001 to 704.751, inclusive, is ~~either~~ not a franchise or irrevocable.

2. Upon receipt of a written complaint or on its own motion, the commission may, after investigation and hearing, revoke any certificate, permit or license, ~~but as to~~ *except that the commission may not revoke the certificate of* a public utility ~~only if~~ unless the commission has arranged for another public utility to provide the service for which the certificate was granted.

3. ~~The proceedings thereafter are governed by~~ *If the commission revokes any certificate, permit or license, the person who held the certificate, permit or license may seek judicial review pursuant to* the provisions of NRS 703.373 to 703.376, inclusive.

Sec. 37. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 38 to 46, inclusive, of this act.

Sec. 38. *"Biomass" means any organic matter that is available on a renewable basis, including, without limitation:*

1. *Agricultural crops and agricultural wastes and residues;*
2. *Wood and wood wastes and residues;*
3. *Animal wastes;*
4. *Municipal wastes; and*
5. *Aquatic plants.*

Sec. 39. *"Consumer's advocate" means the consumer's advocate of the bureau of consumer protection in the office of the attorney general.*

Sec. 40. *"Renewable energy" has the meaning ascribed to it in section 7 of Senate Bill No. 372 of this session.*

Sec. 40.5. 1. *For the purposes of protecting the health of residential customers who receive gas, water or electricity from public utilities, the commission shall adopt or amend regulations that:*

(a) Establish the criteria that will be used to determine when a public utility is required to postpone its termination of utility service to the residence of a residential customer who has failed to pay for such service. Such criteria may be based in part upon the residential customer's ability to pay.

(b) Require a public utility to postpone its termination of utility service to the residence of a residential customer who has failed to pay for such service if the residential customer satisfies the criteria established by the commission and termination of the utility service is reasonably likely to threaten the health of an occupant of the residence of the residential customer.

2. In addition to the regulations adopted pursuant to subsection 1, for the purposes of regulating public utilities that provide gas, water or electricity to landlords who pay for the utility service and who distribute or resell the gas, water or electricity to one or more residential tenants, the commission shall adopt or amend regulations to require a public utility to use its best efforts to post, in a conspicuous location, notice of the intent of the public utility to terminate utility service because the landlord has failed to pay for such service. Such notice must provide sufficient information to allow residential tenants or their occupants to contact the public utility if termination of the utility service is reasonably likely to threaten the health of an occupant of the residence of a residential tenant.

3. A public utility shall not terminate utility service for gas, water or electricity without complying with the regulations adopted by the commission pursuant to this section.

4. As used in this section:

(a) "Gas" includes, without limitation, liquefied petroleum gas and natural gas.

(b) "Landlord" means a landlord who is subject, in whole or in part, to the provisions of chapter 118A or 118B of NRS.

Sec. 41. As used in NRS 704.070 to 704.110, inclusive, and sections 41 to 46, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 42, 43 and 44 of this act have the meanings ascribed to them in those sections.

Sec. 42. "Application to make changes in any schedule" and "application" include, without limitation:

- 1. A general rate application;*
- 2. An application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale; and*
- 3. An application to clear deferred accounts.*

Sec. 43. "Rate" means any individual or joint rate, toll or charge imposed by a public utility for a service performed or product furnished by the public utility.

Sec. 44. "Schedule" means any schedule that establishes or otherwise sets the rates for a public utility and any individual or joint rule, regulation, practice, classification or measurement that in any manner affects those rates.

Sec. 45. For the purposes of NRS 704.070 to 704.110, inclusive, and sections 41 to 46, inclusive, of this act, a public utility shall be deemed to

make changes in a schedule if the public utility implements a new schedule or amends an existing schedule.

Sec. 46. *1. The commission shall conduct a consumer session to solicit comments from the public in any matter pending before the commission pursuant to NRS 704.070 to 704.110, inclusive, and sections 41 to 46, inclusive, of this act in which:*

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale or an application to clear its deferred accounts; and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.

2. In addition to the case-specific consumer sessions required by subsection 1, the commission shall, during each calendar year, conduct at least one general consumer session in the county with the largest population in this state and at least one general consumer session in the county with the second largest population in this state. At each general consumer session, the commission shall solicit comments from the public on issues concerning public utilities. Not later than 60 days after each general consumer session, the commission shall submit the record from the general consumer session to the legislative commission.

Sec. 47. NRS 704.005 is hereby amended to read as follows:

704.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 704.010 to 704.030, inclusive, *and sections 38 and 39 of this act* have the meanings ascribed to them in those sections.

Sec. 48. NRS 704.033 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

Sec. 49. NRS 704.035 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

Sec. 50. NRS 704.070 is hereby amended to read as follows:

704.070 Unless exempt under the provisions of NRS 704.075 , **704.095** or 704.097:

1. ~~{Every}~~ *Each* public utility shall file with the commission, within a time to be fixed by the commission, *a copy of all schedules* ~~{which}~~ *that are currently in force for the public utility. Such schedules* must be open to public inspection . ~~{showing all rates, tolls and charges which it has established and which are in force at the time for any service performed or product furnished in connection therewith by any public utility controlled and operated by it.~~

~~— 2. — All rules or regulations that in any manner affect the rates charged or to be charged for any service or product must be filed with that schedule.~~

2. A copy of each schedule that is currently in force for the public utility, or so much of the schedule as the commission deems necessary for inspection by the public, must be:

(a) Printed in plain type and posted in each office of the public utility where payments are made to the public utility by its customers; and

(b) Open to inspection by the public and in such form and place as to be readily accessible to and conveniently inspected by the public.

Sec. 51. NRS 704.075 is hereby amended to read as follows:

704.075 1. As used in this section, with respect to the sale of *natural* gas:

(a) “Generating customer” means a customer who generates electricity by burning natural gas.

(b) “Industrial customer” means a customer engaged primarily in manufacturing or processing which changes raw or unfinished materials into another form or creates another product.

(c) “Large commercial customer” means a customer whose requirements equal or exceed ~~{50 thousand}~~ *50,000* cubic feet *of natural gas* per day on any day and which is an institution, an agency of federal, state or local government, or engaged primarily in renting out offices or other commercial space, in providing lodging or in the sale of other goods or services.

2. The commission shall establish standards for the setting, increase or decrease of rates ~~{and charges}~~ for natural gas to generating, industrial and large commercial customers. These standards must authorize increases or decreases on less than 30 days’ notice. Establishing different classes of customers, and charging different rates to customers of the same class, for these customers do not violate this chapter.

3. The commission may, for sales to generating, industrial and large commercial customers:

(a) Exempt the ~~{filing of}~~ rates *for natural gas* from those provisions of NRS ~~{704.080, 704.090,}~~ *704.070*, 704.100 and 704.110 ~~{which it}~~ *that the commission* determines are not needed to protect the public interest.

(b) Authorize the establishment of different classes of customer or the charging of different rates for customers of the same class, based on value of the service and on the customer’s ability to change from one fuel to another.

Sec. 52. NRS 704.100 is hereby amended to read as follows:

704.100 Except as otherwise provided in NRS 704.075 or as may otherwise be provided by the commission pursuant to NRS 704.095 ~~{704.097 or 704.275}~~:

~~1. No changes may be made} or 704.097:~~

~~1. A public utility shall not make changes~~ in any schedule, ~~including schedules of joint rates, or in the rules or regulations affecting any rates or charges, except upon 30 days' notice to the commission, and all changes must be plainly indicated, or by filing new schedules in lieu thereof 30 days before the time the schedules are to take effect. The commission, upon application of any public utility, may prescribe a shorter time within which a reduction may be made.~~

~~2. Copies} unless the public utility:~~

~~(a) Files with the commission an application to make the proposed changes and the commission approves the proposed changes pursuant to NRS 704.110; or~~

~~(b) Files the proposed changes with the commission using a letter of advice in accordance with the provisions of subsection 4.~~

~~2. A public utility shall post copies of all proposed } schedules and all new or amended schedules } in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.~~

~~3. A public utility may not set forth as justification for a rate increase any items of expense or rate base } that previously have been considered and disallowed by the commission, } unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the } prior decision }.~~

~~4. The commission shall determine whether a hearing must be held when} of the commission.~~

~~4. Except as otherwise provided in subsection 5, if the proposed change in any schedule } does not change any rate or will result in an increase in annual gross operating revenue , as certified by the } public utility, in an amount that does not exceed \$2,500:~~

~~(a) The public utility may file the proposed change with the commission using a letter of advice in lieu of filing an application; and~~

~~(b) The commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~5. If the applicant is a public utility furnishing telephone service and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~6. In making the determination pursuant to subsection 4 or 5, the commission shall first consider all timely written protests, any presentation that the regulatory operations staff of the commission may desire to present, the application of the public utility and any other matters deemed relevant by the commission.~~

Sec. 53. NRS 704.110 is hereby amended to read as follows:

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

1. ~~{Whenever there is filed}~~ *If a public utility files* with the commission *an application to make changes in* any schedule ~~{stating a new or revised individual or joint rate or charge, or any new or revised individual or joint regulation or practice affecting any rate or charge, or any schedule resulting}~~ , *including, without limitation, changes that will result* in a discontinuance, modification or restriction of service, the commission ~~{may, upon complaint or upon its own motion without complaint, at once, without answer or formal pleading by the interested utility, investigate or, upon reasonable notice, conduct a hearing concerning}~~ *shall investigate* the propriety of the ~~{rate, charge, classification, regulation, discontinuance, modification, restriction or practice.~~

~~—2.— Pending the investigation or hearing and the decision thereon, the commission, upon delivering to the utility affected thereby a statement in writing of its reasons for the suspension, may suspend the operation of the schedule and defer the use of the rate, charge, classification, regulation, discontinuance, modification, restriction or practice. If the rate, charge, classification, regulation, discontinuance, modification, restriction or practice is part of:~~

~~—(a) A filing made pursuant to subsection 7, the suspension must not be effective for more than 90 days beyond the time when the rate, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.~~

~~—(b) Any other filing made pursuant to this section, the suspension must not be effective for more than 150 days beyond the time when the rate, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.~~

~~—3.— Whenever there is filed}~~ *proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an application to clear its deferred accounts, the consumer's advocate shall be deemed a party of record.*

2. *Except as otherwise provided in subsection 3, if a public utility files with the commission an application to make changes in any schedule, not later than 180 days after the date on which the application is filed, the commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes.*

3. *If a public utility files* with the commission ~~{any schedule stating an increased individual or joint rate or charge for service or equipment.}~~ *a general rate application*, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. ~~{During any hearing concerning the increased rates or charges determined by the commission to be necessary.}~~ *In determining whether to approve or disapprove any increased rates*, the commission shall consider evidence in

support of the increased rates ~~for charges~~ based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but ~~no new rates or charges may be placed~~ *the public utility shall not place* into effect *any increased rates* until the changes have been experienced and certified by the *public* utility to the commission ~~and~~ *and the commission has approved the increased rates*. The commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the ~~filing with the commission of~~ *date on which* the certification required ~~in~~ *by* this subsection ~~or before the expiration of any period of suspension ordered pursuant to subsection 2.~~ *is filed with the commission, or within 180 days after the date on which the general rate application is filed with the commission*, whichever time is longer, the commission shall make such order in reference to ~~those rates or charges~~ *the increased rates* as is required by this chapter. An electric utility shall file a general rate application pursuant to this subsection at least once every 24 months.

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

~~5. Except as otherwise provided in subsection 6, whenever~~ *If a public utility files with the commission an application to make changes in any schedule and the commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the commission.*

5. *If a public utility files with the commission a general rate application* ~~for an increased rate or charge for, or classification, regulation, discontinuance, modification, restriction or practice involving service or equipment has been filed with the commission, a~~ *, the public utility shall not* ~~submit~~ *file with the commission* another general rate application until all pending general rate applications ~~for increases in rates submitted~~ *filed* by that public utility have been decided *by the commission* unless, after application and hearing, the commission determines that a substantial financial emergency would exist if the ~~other application~~ *public utility* is not permitted to ~~be submitted~~ *file another general rate application* sooner. *The provisions of this subsection do not prohibit the public utility from filing with the commission, while a general rate application is*

pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 6 or an application to clear its deferred accounts pursuant to subsection 7, if the public utility is otherwise authorized by those provisions to file such an application.

6. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to an electric utility using deferred accounting pursuant to section 19 of ~~this act~~ *Assembly Bill No. 369 of this session.*

7. Except as otherwise provided in subsection 8 ~~[, whenever]~~ *and subsection 4 of NRS 704.100, if* an electric utility using deferred accounting pursuant to section 19 of ~~this act~~ *Assembly Bill No. 369 of this session* files an application to clear its deferred accounts and to change one or more of its rates ~~for charges~~ based upon changes in the costs for purchased fuel or purchased power, the commission, after a public hearing and by an appropriate order:

(a) Shall allow the electric utility to clear its deferred accounts by refunding any credit balance or recovering any debit balance over a period not to exceed 3 years, as determined by the commission.

(b) Shall not allow the electric utility to recover any debit balance, or portion thereof, in an amount that would result in a rate of return during the period of recovery that exceeds the rate of return authorized by the commission in the most recently completed rate proceeding for the electric utility.

8. Before allowing an electric utility to clear its deferred accounts pursuant to subsection 7, the commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric utility collected from customers in this state for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility.

9. ~~Whenever~~ *If* an electric utility files an application to clear its deferred accounts pursuant to subsection 7 while a general rate application is pending, the electric utility shall:

(a) Submit with its application to clear its deferred accounts information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

10. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

11. As used in this section, "electric utility" has the meaning ascribed to it in section 19 of ~~this act~~ *Assembly Bill No. 369 of this session.*

Sec. 54. NRS 704.329 is hereby amended to read as follows:

704.329 1. Except as otherwise provided in ~~{this section,}~~ **subsection 6**, a person shall not merge with, directly acquire, indirectly acquire through a subsidiary or affiliate, or otherwise directly or indirectly obtain control of a public utility doing business in this state or an entity that holds a controlling interest in such a public utility without first submitting to the commission an application for authorization of the proposed ~~{merger, acquisition or other}~~ transaction and obtaining authorization from the commission.

2. Any ~~{merger, acquisition or other}~~ transaction that violates the provisions of this section is void and unenforceable and is not valid for any purpose.

3. Before authorizing a proposed ~~{merger, acquisition or other}~~ transaction pursuant to this section, the commission shall consider the effect of the proposed ~~{merger, acquisition or other}~~ transaction on the public interest and the customers in this state. The commission shall not authorize the proposed ~~{merger, acquisition or other}~~ transaction unless the commission finds that the proposed ~~{merger, acquisition or other}~~ transaction:

(a) Will be in the public interest; and

(b) Complies with the provisions of sections 8 to 18, inclusive, of ~~{this act,}~~ **Assembly Bill No. 369 of this session**, if the proposed ~~{merger, acquisition or other}~~ transaction is subject to those provisions.

4. The commission may base its authorization of the proposed ~~{merger, acquisition or other}~~ transaction upon such terms, conditions or modifications as the commission deems appropriate.

5. If the commission does not issue a final order regarding the proposed ~~{merger, acquisition or other}~~ transaction within 180 days after the date on which an application or amended application for authorization of the proposed ~~{merger, acquisition or other}~~ transaction was filed with the commission, and the proposed ~~{merger, acquisition or other}~~ transaction is not subject to the provisions of sections 8 to 18, inclusive, of ~~{this act,}~~ **Assembly Bill No. 369 of this session**, the proposed ~~{merger, acquisition or other}~~ transaction shall be deemed to be authorized by the commission.

6. The provisions of this section do not apply to ~~{the}~~ :

(a) *The* transfer of stock of a public utility doing business in this state or to the transfer of the stock of an entity ~~{holding}~~ **that holds** a controlling interest in such a public utility, if a transfer of not more than 25 percent of the common stock of such a public utility or entity is proposed.

(b) *Except as otherwise provided in this paragraph, a proposed transaction involving a public utility doing business in this state providing telecommunication services or an entity that holds a controlling interest in such a public utility if, in the most recently completed calendar year, not more than 10 percent of the gross operating revenue of the public utility or the entity that holds a controlling interest in the public utility was derived from intrastate telecommunication services provided to retail customers in this state by the public utility. Such a proposed transaction is not exempted from the provisions of this section if:*

(1) Not later than 30 days after the date on which the person undertaking the proposed transaction submits the notification required by 15 U.S.C. § 18a, the regulatory operations staff of the commission or the consumer's advocate requests an order from the commission requiring the person to file an application for authorization of the proposed transaction;

(2) The request alleges in sufficient detail that the proposed transaction may materially affect retail customers of public utilities in this state; and

(3) The commission issues an order requiring the person to file an application for authorization of the proposed transaction.

7. As used in this section:

(a) "Person" means:

(1) A natural person;

(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization;

(3) A government or an agency or instrumentality of a government, including, without limitation, this state or an agency or instrumentality of this state; and

(4) A political subdivision of this state or of any other government or an agency or instrumentality of a political subdivision of this state or of any other government.

(b) "Transaction" means a merger, acquisition or change in control described in subsection 1.

Sec. 55. NRS 704.68964 is hereby amended to read as follows:

704.68964 1. An electing carrier may, pursuant to this section and in accordance with NRS 704.68976, exercise flexibility in the pricing of:

(a) Competitive services and discretionary services. The commission shall not specify a maximum rate for any competitive services or discretionary services of the electing carrier. The electing carrier shall, with regard to any competitive or discretionary service that it provides, set the price of that service above the price floor of the service.

(b) A package of services, which may include basic network services, competitive services, discretionary services and other essential services.

2. Except as otherwise provided in this subsection, an electing carrier may, upon 30-days' notice to the commission in writing, exercise flexibility in the pricing of its services pursuant to subsection 1 and is exempt, with respect to the pricing of its services, from the provisions of NRS **704.100 and** 704.110 and the regulations of the commission relating thereto. The notice must include a description in reasonable detail of:

(a) The characteristics of the services that will be subject to flexibility in pricing;

(b) The terms and conditions applicable to the services;

(c) The nature of any limitations on the duration or geographical availability of the services;

(d) The price or prices of the services or packages of services; and

(e) A certificate which provides that the electing carrier has prepared a cost study of the price floor to support the price or prices for each service

and that, on and after the date on which the notice is filed with the commission, any affected person may, upon request, inspect and copy the cost study, subject to reasonable terms and conditions of any applicable confidentiality and nondisclosure agreement relating to the services.

The notice requirements of this subsection do not apply to an electing carrier with respect to the pricing of competitive services or for packages comprised exclusively of competitive services.

3. The price for a package of services must not be lower than the lesser of:

(a) The sum of the price floors for each of the services contained in the package; or

(b) The sum of the prices of the basic network services, as set forth in the tariffs of the electing carrier, and the price floors for each of the other services contained in the package.

4. The commission shall not specify a maximum rate for a package of services.

5. Each of the services included in a package pursuant to paragraph (b) of subsection 1 must be made available on an individual basis.

6. An electing carrier must provide 30-days' notice to the commission in writing before the electing carrier may implement any amendment or change to an existing service noticed pursuant to subsection 2.

Sec. 56. NRS 704.68972 is hereby amended to read as follows:

704.68972 1. An electing carrier may introduce new services upon 30-days' notice to the commission in writing. The notice must include a description in reasonable detail of:

(a) The characteristics of each new service;

(b) The terms and conditions applicable to each new service;

(c) The nature of any limitations on the duration or geographical availability of each new service;

(d) The price or prices of each new service; and

(e) A certificate that provides that the electing carrier has prepared a cost study of the price floor to support the price or prices for each new service and that, on and after the date on which the notice is filed with the commission, any affected person may, upon request, inspect and copy the cost study, subject to reasonable terms and conditions of any applicable confidentiality and nondisclosure agreement.

2. Each new service is subject to the conditions set forth in NRS 704.68964.

3. Each new service is exempt from ***the provisions of NRS 704.100 and 704.110*** and the regulations of the commission relating thereto.

4. Unless otherwise classified by the commission as a competitive service pursuant to its regulations, a new service must be classified as a discretionary service for which the commission shall not specify a maximum rate. The electing carrier shall set the price of the new service above the price floor of the service.

5. As used in this section, a "new service" means a telecommunication service:

- (a) That provides a function, feature or capability which is materially different from any service or services previously offered by the carrier; or
- (b) Combines two or more previously provided new services.

Sec. 57. NRS 704.743 is hereby amended to read as follows:

704.743 1. A utility which supplies electricity in this state may apply to the commission for authority to charge, as part of a program of optional pricing, a higher rate for electricity that is generated from renewable energy.

2. The program may provide the customers of the utility with the option of paying a higher rate for electricity to support the increased use by the utility of renewable energy in the generation of electricity.

3. As used in this section ~~+~~:

- ~~(a) "Biomass" has the meaning ascribed to it in section 4 of this act;~~
- ~~(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

- ~~(1) Wind;~~
- ~~(2) Solar energy;~~
- ~~(3) Geothermal energy; and~~
- ~~(4) Biomass.~~

~~The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.~~ **"renewable energy" has the meaning ascribed to it in section 7 of Senate Bill No. 372 of this session.**

Sec. 58. NRS 704.767 is hereby amended to read as follows:

704.767 As used in NRS ~~704.767~~ **704.766** to 704.775, inclusive, unless the context otherwise requires, the words and terms defined in NRS 704.768 to 704.772, inclusive, **and section 40 of this act** have the meanings ascribed to them in those sections.

Sec. 59. NRS 704.771 is hereby amended to read as follows:

704.771 "Net metering system" means a facility **or energy system** for the ~~production of electrical energy~~ **generation of electricity** that:

1. Uses ~~wind or solar~~ **renewable** energy as its primary source of ~~fuel;~~ **energy to generate electricity;**
2. Has a generating capacity of not more than 10 kilowatts;
3. Is located on the customer-generator's premises;
4. Operates in parallel with the utility's transmission and distribution facilities; and
5. Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

Sec. 60. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area . ~~until 100 of those customer-generators have accepted the offer.~~

2. A utility:

(a) Shall offer to make available to each of its customer-generators who has accepted its offer for net metering an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

Sec. 61. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering may be either a monthly period or, with the written consent of the customer-generator, an annual period.

2. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period ~~+, neither~~ :

(1) Neither the utility nor the customer-generator is entitled to compensation for electricity provided to the other during the billing period ~~+~~; *and*

(2) The excess electricity which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to sections 3 to 12, inclusive, of Senate Bill No. 372 of this session.

Sec. 62. NRS 228.360 is hereby amended to read as follows:

228.360 The consumer's advocate:

1. Shall intervene in and represent the public interest in ~~all~~ :

(a) All proceedings conducted pursuant to sections 8 to 18, inclusive, of ~~this act.~~ *Assembly Bill No. 369 of this session; and*

(b) All proceedings conducted pursuant to NRS 704.070 to 704.110, inclusive, and sections 41 to 46, inclusive, of this act in which an electric utility has filed a general rate application or an application to clear its deferred accounts.

2. May, with respect to all public utilities except railroads and cooperative utilities, and except as *otherwise* provided in NRS 228.380:

(a) Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

(b) Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the public utilities commission of Nevada in the same manner and to the same extent as authorized by law for members of the public utilities commission of Nevada and its staff.

(c) Except as otherwise provided in subsection 1, petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the public utilities commission of Nevada or any court, regulatory body, board,

commission or agency having jurisdiction over any matter which the consumer's advocate may bring before or has brought before the public utilities commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The consumer's advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.

3. As used in this section, "electric utility" has the meaning ascribed to it in section 19 of Assembly Bill No. 369 of this session.

Sec. 63. NRS 228.390 is hereby amended to read as follows:

228.390 Except as otherwise provided in *NRS 704.110 and* sections 8 to 18, inclusive, of ~~this act~~ *Assembly Bill No. 369 of this session:*

1. The consumer's advocate has sole discretion to represent or refrain from representing the public interest and any class of customers in any proceeding.

2. In exercising his discretion, the consumer's advocate shall consider the importance and extent of the public interest or the customers' interests involved and whether those interests would be adequately represented without his participation.

3. If the consumer's advocate determines that there would be a conflict between the public interest and any particular class of customers or any inconsistent interests among the classes of customers involved in a particular matter, he may choose to represent one of the interests, to represent no interest, or to represent one interest through his office and another or others through outside counsel engaged on a case basis.

Sec. 64. Chapter 349 of NRS is hereby amended by adding thereto the provisions set forth as sections 65 to 68, inclusive, of this act.

Sec. 65. *"Biomass" means any organic matter that is available on a renewable basis, including, without limitation:*

1. *Agricultural crops and agricultural wastes and residues;*
2. *Wood and wood wastes and residues;*
3. *Animal wastes;*
4. *Municipal wastes; and*
5. *Aquatic plants.*

Sec. 66. *"Fuel cell" means a device or contrivance that, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.*

Sec. 67. 1. *"Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

- (a) *Biomass;*
- (b) *Fuel cells;*
- (c) *Geothermal energy;*
- (d) *Solar energy;*
- (e) *Waterpower; and*
- (f) *Wind.*

2. *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 68. 1. *“Renewable energy generation project” means a project involving an electric generating facility or system that uses renewable energy as its primary source of energy to generate electricity.*

2. *The term does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity.*

Sec. 69. NRS 349.400 is hereby amended to read as follows:

349.400 As used in NRS 349.400 to 349.670, inclusive, unless the context otherwise requires, the words and terms defined in NRS 349.410 to 349.540, inclusive, *and sections 65 to 68, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 70. NRS 349.430 is hereby amended to read as follows:

349.430 “Cost of a project” means all or a designated part of the cost of any project, including any incidental cost pertaining to the project. The cost of a project may include, among other costs, the costs of:

1. Surveys, audits, preliminary plans, other plans, specifications, estimates and other costs of preparations;

2. Appraising, printing, estimating, advice, services of engineers, architects, financial consultants, attorneys, clerical personnel and other agents and employees;

3. Publishing, posting, mailing and otherwise giving notice, filing or recording instruments, taking options and fees to banks;

4. Establishment of a reserve for contingencies;

5. Interest on bonds for any time which does not exceed *the estimated period of construction plus* 1 year, discounts on bonds, reserves for the payment of the principal of and interest on bonds, replacement expenses and other costs of issuing bonds;

6. Amending any resolution or other instrument authorizing the issuance of, or otherwise relating to, bonds for the project; and

7. Short-term financing,
and the expense of operation and maintenance of the project.

Sec. 71. NRS 349.510 is hereby amended to read as follows:

349.510 “Project” means:

1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, suitable for new construction, improvement, rehabilitation or redevelopment for:

(a) Industrial uses, including assembling, fabricating, manufacturing, processing or warehousing;

(b) Research and development relating to commerce or industry, including professional, administrative and scientific offices and laboratories;

(c) Commercial enterprises;

(d) Civic and cultural enterprises open to the general public, including theaters, museums and exhibitions, together with buildings and other structures, machinery, equipment, facilities and appurtenances thereto which the director deems useful or desirable in connection with the conduct of any such enterprise;

(e) An educational institution operated by a nonprofit organization not otherwise directly funded by the state which is accredited by a nationally recognized educational accrediting association;

(f) Health and care facilities and supplemental facilities for health and care; ~~for~~

(g) The purposes of a corporation for public benefit ~~H~~; *or*

(h) A renewable energy generation project.

2. Any real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire.

3. The preservation of a historic structure or its restoration for its original or another use, if the plan has been approved by the office of historic preservation of the department of cultural affairs.

Sec. 72. NRS 349.560 is hereby amended to read as follows:

349.560 It is the intent of the legislature to authorize the director to finance, acquire, own, lease, improve and dispose of properties to:

1. Promote industry and employment and develop trade by inducing manufacturing, industrial, warehousing and commercial enterprises and organizations for research and development to locate, remain or expand in this state to further prosperity throughout the state and to further the use of the agricultural products and the natural resources of this state.

2. Enhance public safety by protecting hotels, motels, apartment buildings, casinos, office buildings and their occupants from fire.

3. Promote the public health by enabling the acquisition, development, expansion and maintenance of health and care facilities and supplemental facilities for health and care facilities which will provide services of high quality at reasonable rates to the residents of the community in which the facilities are situated.

4. Promote the educational, cultural, economic and general welfare of the public by financing civic and cultural enterprises, certain educational institutions and the preservation or restoration of historic structures.

5. Promote the social welfare of the residents of this state by enabling a corporation for public benefit to acquire, develop, expand and maintain facilities that provide services for those residents.

6. Promote the generation of electricity in this state.

Sec. 73. NRS 349.565 is hereby amended to read as follows:

349.565 1. The director may not, under NRS 349.400 to 349.670, inclusive:

(a) Operate any manufacturing, industrial, warehousing or commercial enterprise or an organization for research and development or any health and care facility to which he provided assistance; or

(b) Except as otherwise provided in subsection 2, assist any manufacturing, industrial, warehousing or commercial enterprise or an organization for research and development to locate in a county or city which would result in the abandonment or closure of an existing facility of a like nature located within that county or city, unless the existing facility is operated by the contemplated lessee, purchaser or other obligor or an affiliate of such a person and the facility is to be abandoned or closed because of obsolescence, lack of available labor or limitations at the site of the facility.

2. The provisions of paragraph (b) of subsection 1 do not apply to:
- (a) Health and care facilities and supplemental facilities for a health and care facility;
 - (b) Civic and cultural enterprises open to the general public;
 - (c) Enterprises located in a redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive;
 - (d) Enterprises located in an area designated as an empowerment zone pursuant to sections 1391 to 1397, inclusive, of the Internal Revenue Code of 1986, 26 U.S.C. §§ 1391-97, future amendments to those sections and the corresponding provisions of future internal revenue laws;
 - (e) Facilities established by a corporation for public benefit; ~~land~~
 - (f) Enterprises whose products are substantially sold, used or distributed outside this state ~~H~~; **and**
 - (g) Renewable energy generation projects.**

Sec. 74. NRS 349.580 is hereby amended to read as follows:

349.580 Except as otherwise provided in NRS 349.595 and 349.640, the director shall not finance a project unless, before financing:

1. The director finds that:

- (a) The project to be financed has been approved for financing pursuant to the requirements of NRS 244A.669 to 244A.763, inclusive, or 268.512 to 268.568, inclusive; and
- (b) There has been a request by a city or county to have the director issue bonds to finance the project; or

2. The director finds and both the board and the governing body of the city or county where the project is to be located approve the findings of the director that:

(a) The project consists of any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, which is suitable for new construction, improvement, preservation, restoration, rehabilitation or redevelopment:

(1) For manufacturing, industrial, warehousing, civic, cultural or other commercial enterprises, educational institutions, corporations for public benefit or organizations for research and development;

(2) For a health and care facility or a supplemental facility for a health and care facility;

(3) Of real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire; ~~or~~

(4) Of a historic structure; **or**

(5) For a renewable energy generation project;

(b) The project will provide a public benefit;

(c) The contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement;

(d) There are sufficient safeguards to assure that all money provided by the department will be expended solely for the purposes of the project;

(e) The project would be compatible with existing facilities in the area adjacent to the location of the project;

(f) The project ~~is~~ :

(1) Is compatible with the plan of the state for economic diversification and development or for the marketing and development of tourism in this state; or

(2) Promotes the generation of electricity in this state;

(g) Through the advice of counsel or other reliable source, the project has received all approvals by the local, state and federal governments which may be necessary to proceed with construction, improvement, rehabilitation or redevelopment of the project; and

(h) There has been a request by a city, county, lessee, purchaser, other obligor or other enterprise to have the director issue revenue bonds for industrial development to finance the project.

Sec. 75. Chapter 523 of NRS is hereby amended by adding thereto the provisions set forth as sections 76 to 87, inclusive, of this act.

Sec. 76. *“Biomass” means any organic matter that is available on a renewable basis, including, without limitation:*

- 1. Agricultural crops and agricultural wastes and residues;*
- 2. Wood and wood wastes and residues;*
- 3. Animal wastes;*
- 4. Municipal wastes; and*
- 5. Aquatic plants.*

Sec. 77. *“Consumer’s advocate” means the consumer’s advocate of the bureau of consumer protection in the office of the attorney general.*

Sec. 78. *“Director” means the director of the office of energy appointed pursuant to section 87 of this act.*

Sec. 79. *“Fuel cell” means a device or contrivance that, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.*

Sec. 80. 1. *“Renewable energy” means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

- (a) Biomass;*
- (b) Fuel cells;*
- (c) Geothermal energy;*
- (d) Solar energy;*
- (e) Waterpower; and*
- (f) Wind.*

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 81. 1. *“Renewable energy generation project” means a project involving an electric generating facility or system that uses renewable energy as its primary source of energy to generate electricity.*

2. The term does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity.

Sec. 82. *“Task force” means the task force for renewable energy and energy conservation created by section 84 of this act.*

Sec. 83. 1. *The trust fund for renewable energy and energy conservation is hereby created in the state treasury.*

2. *The task force shall administer the fund. As administrator of the fund, the task force:*

- (a) Shall maintain the financial records of the fund;*
- (b) Shall invest the money in the fund as the money in other state funds is invested;*
- (c) Shall manage any account associated with the fund;*
- (d) Shall maintain any instruments that evidence investments made with the money in the fund;*
- (e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and*
- (f) May perform any other duties that are necessary to administer the fund.*

3. *The interest and income earned on the money in the fund must, after deducting any applicable charges, be credited to the fund. All claims against the fund must be paid as other claims against the state are paid.*

4. *Not more than 2 percent of the money in the fund may be used to pay the costs of administering the fund.*

5. *The money in the fund remains in the fund and does not revert to the state general fund at the end of any fiscal year.*

6. *All money that is deposited or paid into the fund may only be expended pursuant to an allocation made by the task force. Money expended from the fund must not be used to supplant existing methods of funding that are available to public agencies.*

Sec. 84. 1. *The task force for renewable energy and energy conservation is hereby created. The task force consists of nine members who are appointed as follows:*

(a) Two members appointed by the majority leader of the senate, one of whom represents the interests of the renewable energy industry in this state with respect to biomass and the other of whom represents the interests of the mining industry in this state.

(b) Two members appointed by the speaker of the assembly, one of whom represents the interests of the renewable energy industry in this state with respect to geothermal energy and the other of whom represents the interests of a nonprofit organization dedicated to the protection of the environment or to the conservation of energy or the efficient use of energy.

(c) One member appointed by the minority leader of the senate to represent the interests of the renewable energy industry in this state with respect to solar energy.

(d) One member appointed by the minority leader of the assembly to represent the interests of the public utilities in this state.

(e) Two members appointed by the governor, one of whom represents the interests of the renewable energy industry in this state with respect to wind and the other of whom represents the interests of the gaming industry in this state.

(f) One member appointed by the consumer's advocate to represent the interests of the consumers in this state.

2. *A member of the task force:*

- (a) Must be a citizen of the United States and a resident of this state.*

(b) Must have training, education, experience or knowledge concerning:

- (1) The development or use of renewable energy;*
- (2) Financing, planning or constructing renewable energy generation projects;*
- (3) Measures which conserve or reduce the demand for energy or which result in more efficient use of energy;*
- (4) Weatherization;*
- (5) Building and energy codes and standards;*
- (6) Grants or incentives concerning energy;*
- (7) Public education or community relations; or*
- (8) Any other matter within the duties of the task force.*

(c) Must not be an officer or employee of the legislative or judicial department of state government.

3. After the initial terms, the term of each member of the task force is 3 years. A vacancy on the task force must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member may be reappointed to the task force.

4. A member of the task force who is an officer or employee of this state or a political subdivision of this state must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the task force and perform any work that is necessary to carry out the duties of the task force in the most timely manner practicable. A state agency or political subdivision of this state shall not require an officer or employee who is a member of the task force to:

- (a) Make up the time he is absent from work to carry out his duties as a member of the task force; or*
- (b) Take annual leave or compensatory time for the absence.*

Sec. 85. 1. *The members of the task force shall select a chairman and vice chairman from among their membership. The vice chairman shall perform the duties of the chairman during any absence of the chairman.*

2. The chairman and vice chairman serve in those positions for terms of 1 year. If a vacancy occurs in the chairmanship or vice chairmanship, the vacancy must be filled for the remainder of the unexpired term in the same manner as the original selection.

3. A majority of the members of the task force constitutes a quorum. A majority of the members present during a quorum may exercise all the power and authority conferred on the task force.

4. The task force shall meet at least four times annually or more frequently at the discretion of the chairman.

5. Except as otherwise provided in this subsection, the members of the task force serve without compensation and are not entitled to the per diem and travel expenses provided for state officers and employees generally. For each day of attendance at a meeting of the task force and while engaged in the business of the task force, a member of the task force who:

- (a) Is an officer or employee of this state or a political subdivision of this state is entitled to receive the per diem and travel expenses provided*

for state officers and employees generally, paid by his governmental employer.

(b) Represents the interests of a nonprofit organization is entitled to receive the per diem and travel expenses provided for state officers and employees generally, paid from the trust fund for renewable energy and energy conservation.

6. The consumer's advocate shall provide the task force with administrative and clerical support and with such other assistance as may be necessary for the task force to carry out its duties. Such support and assistance must include, without limitation, making arrangements for facilities, equipment and other services in preparation for and during meetings.

Sec. 86. 1. The task force shall:

(a) Advise the office of energy in the development and periodic review of the comprehensive state energy plan with regard to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(b) Coordinate its activities and programs with the activities and programs of the office of energy, the consumer's advocate and the public utilities commission of Nevada and other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(c) Spend the money in the trust fund for renewable energy and energy conservation to:

(1) Educate persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(2) Create incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(3) Distribute grants and other money to establish programs and projects which incorporate the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(4) Conduct feasibility studies, including, without limitation, a feasibility study concerning the establishment of an incentive fund, grants or other programs to enable or assist residential, small commercial and agricultural customers to reduce the cost of purchasing on-site generation systems, net metering systems and distributed generation systems that use renewable energy.

(d) Take any other actions that the task force deems necessary to carry out its duties, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the task force in carrying out its duties.

2. The task force shall prepare an annual report concerning its activities and programs and submit the report to the legislative commission and the governor on or before January 30 of each year. The annual report must include, without limitation:

- (a) *A description of the objectives of each activity and program;*
- (b) *An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;*
- (c) *The amount of money distributed for each activity and program from the trust fund for renewable energy and energy conservation and a detailed description of the use of that money for each activity and program;*
- (d) *An analysis of the coordination between the task force and other officers and agencies; and*
- (e) *Any changes planned for each activity and program.*

3. *As used in this section:*

(a) *“Distributed generation system” means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed.*

(b) *“Net metering system” has the meaning ascribed to it in NRS 704.771.*

Sec. 87. 1. *The office of energy is hereby created within the office of the governor.*

2. *The governor shall appoint the director. The director:*

(a) *Is in the unclassified service of the state; and*

(b) *Serves at the pleasure of the governor.*

3. *The director may, within the limits of available money, employ:*

(a) *Such persons in the unclassified service of the state as the director determines to be necessary to carry out the duties of the office of energy pursuant to this chapter; and*

(b) *Such additional personnel as may be required to carry out the duties of the office of energy pursuant to this chapter, who must be in the classified service of the state.*

4. *A person employed by the director pursuant to this section must be qualified by training and experience to perform the duties for which the director employs him.*

5. *The director and the persons employed by the director shall not have any conflict of interest relating to the performance of their duties pursuant to this chapter.*

6. *The provisions of NRS 223.085 do not apply to the director or to any person employed by the director pursuant to this section.*

Sec. 88. NRS 523.011 is hereby amended to read as follows:

523.011 1. The legislature finds that:

(a) Energy is essential to the economy of the state and to the health, safety and welfare of the people of the state.

(b) The state has a responsibility to encourage the maintenance of a reliable and economical supply of energy at a level which is consistent with the protection of environmental quality.

(c) The state has a responsibility to encourage the utilization of a wide range of measures which reduce wasteful uses of energy resources.

(d) Planning for energy conservation and future energy requirements should include consideration of state, regional and local plans for land use, urban expansion, transportation systems, environmental protection and economic development.

(e) Government and private enterprise need to accelerate research and development of ~~{alternative}~~ sources of *renewable* energy and to improve technology related to the research and development of existing sources of energy.

(f) While government and private enterprise are seeking to accelerate research and development of ~~{alternative}~~ sources of *renewable* energy, they must also prepare for and respond to the advent of competition within the electrical energy industry and are, therefore, encouraged to maximize the use of indigenous energy resources to the extent competitively and economically feasible.

(g) Prevention of delays and interruptions in providing energy, protecting environmental values and conserving energy require expanded authority and capability within state government.

2. It is the policy of this state to encourage participation with all levels of government and private enterprise in cooperative state, regional and national programs to assure adequate supplies of energy resources and markets for such energy resources.

3. It is the policy of this state to assign the responsibility for managing and conserving energy and its sources to agencies whose other programs are similar, to avoid duplication of effort in developing policies and programs for energy.

Sec. 89. NRS 523.021 is hereby amended to read as follows:

523.021 As used in this chapter, unless the context otherwise requires

~~±~~

~~1. "Department" means the department of business and industry.~~

~~2. "Director" means the director of the department.] , the words and terms defined in sections 76 to 82, inclusive, of this act have the meanings ascribed to them in those sections.~~

Sec. 90. NRS 523.051 is hereby amended to read as follows:

523.051 The director may:

1. Administer any gifts or grants which the department is authorized to accept for the purposes of this chapter.

2. Expend money received from those gifts or grants or from legislative appropriations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to that program.

5. Assist developers of renewable energy generation projects in preparing and making requests to obtain money for development through the issuance industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive and sections 65 to 68, inclusive, of this act.

6. Adopt any regulations that the director determines are necessary to carry out the duties of the office of energy pursuant to this chapter.

Sec. 91. NRS 523.131 is hereby amended to read as follows:

523.131 The director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources.

2. Utilize all available public and private means to provide information to the public about problems relating to energy and to explain how conservation of energy and its sources may be accomplished.

3. Review and evaluate information which identifies trends and permits forecasting of the energy available to the state. Such forecasts must include estimates on:

(a) The level of demand for energy in the state for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The *sources of renewable energy and other* alternative sources of energy which are available and their possible effects.

4. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the state.

5. Encourage the development of ~~any existing and alternative~~ :

(a) Any sources of renewable energy and any other energy projects which will benefit the state ~~H~~; and

(b) Any measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. In conjunction with the desert research institute, review policies relating to the research and development of the state's geothermal resources and make recommendations to the appropriate state and federal agencies for establishing methods of developing the geothermal resources within the state.

7. *Solicit and serve as the point of contact for grants and other money from the Federal Government and other sources to promote:*

(a) Energy projects that enhance the economic development of the state;

(b) The use of renewable energy; and

(c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

8. *Coordinate the activities and programs of the office of energy with the activities and programs of the task force, the consumer's advocate and the public utilities commission of Nevada and other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.*

9. *Carry out all other directives concerning energy that are prescribed by the governor.*

Sec. 92. NRS 523.141 is hereby amended to read as follows:

523.141 1. The director shall prepare a *comprehensive* state energy ~~conservation~~ plan which provides ~~methods for conserving and improving efficiency in the use of energy resources and establishes procedures for reducing the rate of growth of energy demand and minimizing the adverse social, economic, political and environmental effects of increasing energy resource consumption.~~

~~2. The plan must be presented to the governor, and upon approval by the governor, may be submitted by him in compliance with any program established by the Federal Government.] for the promotion of:~~

(a) Energy projects that enhance the economic development of the state;

(b) The use of renewable energy; and

(c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

2. The comprehensive state energy plan must include provisions for:

(a) The assessment of the potential benefits of proposed energy projects on the economic development of the state.

(b) The education of persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(c) The creation of incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(d) Grants and other money to establish programs and conduct activities which promote:

(1) Energy projects that enhance the economic development of the state;

(2) The use of renewable energy; and

(3) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(e) The development or incorporation by reference of model and uniform building and energy codes and standards which are written in language which is easy to understand and which include performance standards for conservation of energy and efficient use of energy.

(f) Oversight and accountability with respect to all programs and activities described in this subsection.

(g) Any other matter that the task force determines to be relevant to the issues of energy resources, energy use, energy conservation and energy efficiency.

Sec. 93. NRS 523.161 is hereby amended to read as follows:

523.161 1. ~~Except for those energy resources for whose priorities of use are established by the public utilities commission of Nevada, the~~ The director may recommend to state agencies, local governments and appropriate private persons and entities, standards for conservation of energy and its sources and for carrying out the state *comprehensive energy* plan. ~~for the conservation of energy.]~~

2. In recommending such standards, the director shall consider the usage of energy and its sources in the state and the methods available for conservation of those sources.

Sec. 94. NRS 523.164 is hereby amended to read as follows:

523.164 1. The director shall adopt regulations for the conservation of energy in buildings, including manufactured homes, which establish the minimum standards for:

(a) The construction of floors, walls, ceilings and roofs;

(b) The equipment and systems for heating, ventilation and air-conditioning;

- (c) Electrical equipment and systems;
- (d) Insulation; and
- (e) Other factors which affect the use of energy in a building.

2. The director may exempt a building from a standard if he determines that application of the standard to the building would not accomplish the purpose of the regulations.

3. The regulations must authorize allowances in design and construction for ~~{solar, wind or any other renewable source}~~ *sources* of *renewable* energy used to supply all or a part of the energy required in a building.

4. The standards adopted by the director are the minimum standards for the conservation of energy which apply only to areas in which the governing body of the local government has not adopted standards for the conservation of energy in buildings. Such governing bodies shall assist the director in the enforcement of the regulations adopted pursuant to this section.

5. The director shall solicit comments regarding the adoption of regulations pursuant to this section from:

- (a) Persons in the business of constructing and selling homes;
- (b) Contractors;
- (c) Public utilities;
- (d) Local building inspectors; and
- (e) The general public,

before adopting any regulations. The director must conduct at least three hearings in different locations in the state, after giving 30 days' notice of each hearing, before he may adopt any regulations pursuant to this section.

Sec. 95. NRS 651.040 is hereby amended to read as follows:

651.040 1. As used in this section, unless the context otherwise requires:

- (a) "Establishment" means any hotel, motel, inn or motor court.
- (b) "Owner" or "keeper" means any person, firm, association or corporation.
- (c) "Rates" means the total charge levied at the establishment for rooms or accommodations.

2. The rates listed on the printed statement required to be maintained by an owner or keeper of an establishment pursuant to NRS 651.030 must include ~~{the}~~ :

- (a) *The* daily rate of the room for occupancy by one person ~~{}~~ *and* for occupancy by two persons ~~{, the}~~ ;
- (b) *The* additional charge, if any, for *occupancy by* each *additional* person over two persons ~~{and the}~~ ;
- (c) *The* additional charge, if any, for each additional bed provided in the room ~~{}~~ ; *and*
- (d) *The additional charge, if any, to offset energy costs incurred by the establishment.*

3. Every establishment shall maintain a registration card for each room and supply the person or persons registering for accommodations a receipt. Both the registration card and the receipt must reflect the type of accommodations supplied, the number of persons occupying the accommodation and the rate charged each person therefor. An

establishment shall not charge more than the rates listed on the printed statement required to be maintained by an owner or keeper of an establishment pursuant to NRS 651.030

~~13.1~~ 4. For any violation of this section, or any provision herein contained, the offender shall forfeit to the injured party 3 times the amount of the sum charged in excess of what he is entitled to charge.

~~14.1~~ 5. Any owner or keeper of any establishment who violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 96. Section 1 of Assembly Bill No. 197 of this session is hereby amended to read as follows:

Section 1. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On and after October 1, 2001, each electric utility shall disclose to its retail customers information about electric services, and any products and services relating thereto, that are being provided to or purchased for those retail customers by the electric utility. The disclosure must:

(a) Be in a standard, uniform format established by the commission by regulation;

(b) Be included:

(1) At least two times each calendar year, as an insert in the bills that the electric utility sends to its retail customers; and

(2) If the electric utility maintains a website on the Internet or any successor to the Internet, on that website; and

(c) Include adequate information so that a retail customer can readily evaluate his options for obtaining electric services or any products or services relating thereto.

2. A disclosure required by this section must include, if applicable:

(a) The average mix of energy sources used to generate the electricity sold by the electric utility to the retail customer. An electric utility may, if available, use a regional average that has been determined by the commission for that portion of electricity sold by the electric utility to the retail customer for which the specific mix of energy sources cannot be discerned.

(b) The average emissions, measured in pounds per megawatt-hour, of:

(1) Any high-level radioactive waste, sulfur dioxide, carbon dioxide, oxides of nitrogen and heavy metals released in this state from the generation of the electricity sold by the electric utility to the retail customer; and

(2) Any other substances released in this state from the generation of the electricity sold by the electric utility to the retail customer which the commission, in cooperation with the division of environmental protection of the state department of conservation and natural resources, determines may cause a significant health or environmental impact and for which sufficiently accurate and reliable data is available.

If an electric utility uses a regional average for the mix of energy sources pursuant to paragraph (a), the electric utility shall, if

available, use for the average emissions pursuant to this paragraph a regional calculation that has been determined by the commission.

(c) Information concerning customer service.

(d) Information concerning any energy programs that provide assistance to retail customers with low incomes, including, without limitation, information on the procedures to apply for such programs.

3. An electric utility:

(a) Shall make the disclosures required pursuant to this section in accordance with the requirements adopted by the commission as to form and substance; and

(b) Shall ensure that it provides the information in compliance with all applicable state and federal law governing unfair advertising and labeling.

4. The commission shall adopt such regulations concerning form and substance for the disclosures required by this section as are necessary to ensure that retail customers are provided with sufficient information so that they can readily evaluate their options for obtaining electric services and any products and services relating thereto.

5. The provisions of this section do not require an electric utility to disclose to its retail customers any information about electric services, and any products and services relating thereto, that are subject to the provisions of sections 3 to 26, inclusive, of Assembly Bill No. 661 of this session.

6. As used in this section:

(a) "Electric utility" has the meaning ascribed to it in section 19 of Assembly Bill No. 369 of this session.

(b) "Energy source" includes, without limitation:

(1) Coal, natural gas, oil, propane and any other fossil fuel;

(2) Geothermal energy, solar energy, hydroelectric energy, nuclear energy, wind, biofuel and biomass; and

(3) Any other specific energy source that is used to generate the electricity provided to the retail customer.

Sec. 97. Assembly Bill No. 369 of this session is hereby amended by adding thereto a new section designated sec. 15.5, following sec. 15, to read as follows:

Sec. 15.5. The provisions of sections 8 to 18, inclusive, of this act do not prohibit an electric utility from pledging, mortgaging, granting a security interest in or otherwise encumbering any of its generation assets or other property for the purpose of securing indebtedness of the electric utility which exists on the effective date of this act or which is issued or incurred by the electric utility after the effective date of this act in financing transactions approved by the commission.

Sec. 98. Section 35 of Assembly Bill No. 369 of this session is hereby amended to read as follows:

Sec. 35. Except as otherwise provided in section 36 of this act and notwithstanding the provisions of any other specific statute to the contrary:

1. An electric utility shall not file an application for a fuel and purchased power rider on or after the effective date of this act.

2. Each application for a fuel and purchased power rider filed by an electric utility which is pending with the commission on the effective date of this act and which the electric utility did not place into effect before or on April 1, 2001, is void and unenforceable and is not valid for any purpose after April 1, 2001.

3. If, before March 1, 2001, an electric utility incurred any costs for fuel or purchased power, including, without limitation, any costs for fuel or purchased power recorded or carried on the books and records of the electric utility, and those costs were not recovered or could not be recovered pursuant to a fuel and purchased power rider placed into effect by the electric utility before March 1, 2001, the electric utility is not entitled, on or after March 1, 2001, to recover any of those costs for fuel or purchased power from customers, and the commission shall not allow the electric utility to recover any of those costs for fuel or purchased power from customers.

4. Except as otherwise provided in this section, on and after the effective date of this act:

(a) The commission shall not take any further action on the comprehensive energy plan, and each electric utility that jointly filed the comprehensive energy plan shall be deemed to have withdrawn the comprehensive energy plan;

(b) The rates that each electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan shall be deemed to be a component of the electric utility's rates for fuel and purchased power; and

(c) The revenues ~~collected~~ *for services provided* by each electric utility ~~before April~~ *for the period of March 1, 2001, to March 31, 2001, inclusive*, from the rates that each electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan shall be deemed to be a credit in the electric utility's deferred accounts.

5. On or before October 1, 2001, each electric utility that primarily serves densely populated counties shall file a general rate application pursuant to subsection 3 of NRS 704.110, as amended by this act ~~H~~ *and Assembly Bill No. 661 of this session*. On or before December 1, 2001, each electric utility that primarily serves densely populated counties shall file an application to clear its deferred accounts pursuant to subsection 7 of NRS 704.110, as amended by this act ~~H~~ *and Assembly Bill No. 661 of this session*. After such an electric utility files the application to clear its deferred accounts, the commission shall investigate and determine whether the rates that the electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan are just and reasonable and reflect prudent business practices. On the date on which the commission issues a final order on the general rate application, the commission shall issue a final order on the electric utility's application to clear its deferred accounts. The total rates to provide electric service that were in effect on April 1, 2001, for the electric utility must remain in effect until the

date on which the commission issues a final order on the general rate application. The commission shall not adjust the rates of the electric utility during this period unless such an adjustment is absolutely necessary to avoid rates that are confiscatory under the Constitution of the United States or the constitution of this state. The commission:

(a) May make such an adjustment only to the extent that it is absolutely necessary to avoid an unconstitutional result; and

(b) Shall not, in any proceedings concerning such an adjustment, approve any rate or grant any relief that is not absolutely necessary to avoid an unconstitutional result.

After the electric utility files the general rate application that is required by this subsection, the electric utility shall file general rate applications in accordance with subsection 3 of NRS 704.110, as amended by this act **H and Assembly Bill No. 661 of this session**. After the electric utility files the application to clear its deferred accounts that is required by this subsection, the electric utility shall file applications to clear its deferred accounts in accordance with section 19 of this act and subsection 7 of NRS 704.110, as amended by this act **H and Assembly Bill No. 661 of this session**.

6. On or before December 1, 2001, each electric utility that primarily serves less densely populated counties shall file a general rate application pursuant to subsection 3 of NRS 704.110, as amended by this act **H and Assembly Bill No. 661 of this session**. On or before February 1, 2002, each electric utility that primarily serves less densely populated counties shall file an application to clear its deferred accounts pursuant to subsection 7 of NRS 704.110, as amended by this act **H and Assembly Bill No. 661 of this session**. After such an electric utility files the application to clear its deferred accounts, the commission shall investigate and determine whether the rates that the electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan are just and reasonable and reflect prudent business practices. On the date on which the commission issues a final order on the general rate application, the commission shall issue a final order on the electric utility's application to clear its deferred accounts. The total rates to provide electric service that were in effect on April 1, 2001, for the electric utility must remain in effect until the date on which the commission issues a final order on the general rate application. The commission shall not adjust the rates of the electric utility during this period unless such an adjustment is absolutely necessary to avoid rates that are confiscatory under the Constitution of the United States or the constitution of this state. The commission:

(a) May make such an adjustment only to the extent that it is absolutely necessary to avoid an unconstitutional result; and

(b) Shall not, in any proceedings concerning such an adjustment, approve any rate or grant any relief that is not absolutely necessary to avoid an unconstitutional result.

After the electric utility files the general rate application that is required by this subsection, the electric utility shall file general rate applications in accordance with subsection 3 of NRS 704.110, as

amended by this act **H and Assembly Bill No. 661 of this session.** After the electric utility files the application to clear its deferred accounts that is required by this subsection, the electric utility shall file applications to clear its deferred accounts in accordance with section 19 of this act and subsection 7 of NRS 704.110, as amended by this act **H and Assembly Bill No. 661 of this session.**

Sec. 99. Section 36 of Assembly Bill No. 369 of this session is hereby amended to read as follows:

Sec. 36. Notwithstanding the provisions of any other specific statute to the contrary:

1. If, on or after January 1, 1999, and before the effective date of this act, an electric utility holding company entered into any transaction to acquire a controlling interest in a public utility that provides electric service primarily to customers located outside of this state, the electric utility holding company shall not carry out the transaction unless, on or after the effective date of this act:

(a) The electric utility holding company files with the commission an application for authorization of the transaction; and

(b) The commission issues a written order that authorizes the transaction. The commission shall not authorize the transaction unless the commission finds that the transaction will be in the public interest. The commission may base its authorization of the transaction upon such terms, conditions or modifications as the commission deems appropriate.

2. If the commission authorizes a transaction described in subsection 1 and, before July 1, 2003, the electric utility holding company acquires a controlling interest in such a public utility, or any affiliate thereof, pursuant to the transaction:

(a) Each electric utility in which the electric utility holding company holds a controlling interest shall not use deferred accounting pursuant to section 19 of this act on or after the date on which the electric utility holding company acquires a controlling interest in the public utility, or any affiliate thereof;

(b) Not later than 90 days after that date, each such electric utility shall file one final application to clear the remaining balance in its deferred accounts pursuant to subsection 7 of NRS 704.110, as amended by this act **H and Assembly Bill No. 661 of this session;**

(c) For each such electric utility, the commission shall not carry out the provisions of section 35 of this act concerning deferred accounting and deferred accounts; and

(d) The commission shall carry out the remaining provisions of section 35 of this act, including, without limitation, the commission's investigation and determination whether the rates that each electric utility placed into effect on March 1, 2001, pursuant to the comprehensive energy plan are just and reasonable and reflect prudent business practices.

3. Any transaction that violates the provisions of this section is void and unenforceable and is not valid for any purpose.

Sec. 100. Section 1 of Senate Bill No. 210 of this session is hereby amended to read as follows:

Section 1. NRS 704.033 is hereby amended to read as follows:

704.033 1. ~~The~~ *Except as otherwise provided in subsection 6, the* commission shall levy and collect an annual assessment from all public utilities , *providers of discretionary natural gas service and alternative sellers* subject to the jurisdiction of the commission.

2. Except as otherwise provided in ~~subsection 3,~~ *subsections 3 and 4,* the annual assessment must be:

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

(b) For the use of the consumer's advocate, not more than 0.75 mills,

on each dollar of gross operating revenue derived from the intrastate operations of such utilities , *providers of discretionary natural gas service and alternative sellers* in the State of Nevada . ~~Except that the minimum assessment in any 1 year must be \$10.~~ The total annual assessment must be not more than 4.25 mills.

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

4. The minimum assessment in any 1 year must be \$100.

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

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

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

(c) All public utilities, *providers of discretionary natural gas service and alternative sellers,* the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility , *provider of discretionary natural gas service or alternative seller* for resale.

6. *Providers of commercial mobile radio service are not subject to the annual assessment and, in lieu thereof, shall pay to the commission an annual licensing fee of \$200.*

Sec. 101. Section 2 of Senate Bill No. 210 of this session is hereby amended to read as follows:

Sec. 2. NRS 704.035 is hereby amended to read as follows:

704.035 1. On or before June 1 of each year, the commission shall mail revenue report forms to all public utilities , *providers of discretionary natural gas service and alternative sellers* under its jurisdiction, to the address of those utilities , *providers of discretionary natural gas service and alternative sellers* on file with the commission. The revenue report form serves as notice of the commission's intent to assess ~~the utilities,~~ *such entities,* but failure to notify any ~~utility~~ *such entity* does not invalidate the assessment with respect thereto.

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

3. The assessment is due on July 1 of each year, but may, at the option of the public utility, *provider of discretionary natural gas service or alternative seller* be paid quarterly on July 1, October 1, January 1 and April 1.

4. The assessment computed by the utility , *provider of discretionary natural gas service or alternative seller* is subject to review and audit by the commission, and the amount of the assessment may be adjusted by the commission as a result of the audit and review.

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

6. When a public utility , *provider of discretionary natural gas service or alternative seller* sells, transfers or conveys substantially all of its assets or , *if applicable, its* certificate of public convenience and necessity, the commission shall determine, levy and collect the accrued assessment for the current year not later than 30 days after the sale, transfer or conveyance, unless the transferee has assumed liability for the assessment. For purposes of this subsection , the jurisdiction of the commission over the selling, transferring or conveying public utility , *provider of discretionary natural gas service or alternative seller* continues until it has paid the assessment.

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

8. The commission shall, on a quarterly basis, transfer to the account for the consumer's advocate that portion of the assessments collected which belongs to the consumer's advocate.

Sec. 102. Section 6 of Senate Bill No. 372 of this session is hereby amended to read as follows:

Sec. 6. 1. "Provider of electric service" and "provider" mean any person or entity that is in the business of selling electricity to retail customers *for consumption* in this state, regardless of whether the person or entity is otherwise subject to regulation by the commission.

2. *The term includes, without limitation, a provider of new electric resources that is selling electricity to an eligible customer for consumption in this state pursuant to the provisions of sections 3 to 26, inclusive, of Assembly Bill No. 661 of this session.*

3. The term does not include:
- (a) This state or an agency or instrumentality of this state.
 - (b) A rural electric cooperative established pursuant to chapter 81 of NRS.
 - (c) A general improvement district established pursuant to chapter 318 of NRS.
 - (d) A utility established pursuant to chapter 709 or 710 of NRS.
 - (e) A cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.
 - (f) A landlord of a mobile home park or owner of a company town who is subject to any of the provisions of NRS 704.905 to 704.960, inclusive.

(g) A landlord who pays for electricity that is delivered through a master meter and who distributes or resells the electricity to one or more tenants for consumption in this state.

Sec. 103. Section 8 of Senate Bill No. 372 of this session is hereby amended to read as follows:

Sec. 8. "Renewable energy system" means:

- 1. A facility or energy system that:
 - (a) Uses renewable energy to generate electricity; and
 - (b) Transmits or distributes the electricity that it generates from renewable energy via:
 - (1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service; or
 - (2) A power line which is shared with not more than one facility or energy system generating electricity from nonrenewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service.

2. A solar thermal energy system that reduces the consumption of electricity.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive.

Sec. 104. Section 9 of Senate Bill No. 372 of this session is hereby amended to read as follows:

Sec. 9. 1. "Retail customer" means ~~{a customer who}~~ *an end-use customer that* purchases electricity ~~{at retail; and}~~ *for consumption in this state.*

2. The term includes, without limitation:

- (a) This state, a political subdivision of this state or an agency or instrumentality of this state or political subdivision of this state when it *is an end-use customer that* purchases electricity ~~{at retail; and}~~ *for consumption in this state, including, without limitation, when it is an eligible customer that purchases electricity for consumption in this state from a provider of new electric resources pursuant to the provisions of sections 3 to 26, inclusive, of Assembly Bill No. 661 of this session.*

(b) A residential, commercial or industrial end-use customer that purchases electricity for consumption in this state, including, without limitation, an eligible customer that purchases electricity for consumption in this state from a provider of new electric resources pursuant to the provisions of sections 3 to 26, inclusive, of Assembly Bill No. 661 of this session.

(c) A landlord of a mobile home park or owner of a company town who is subject to any of the provisions of NRS 704.905 to 704.960, inclusive.

(d) A landlord who pays for electricity that is delivered through a master meter and who distributes or resells the electricity to one or more tenants for consumption in this state.

Sec. 105. 1. NRS 523.171, 704.080, 704.090 and 704.275 are hereby repealed.

2. Section 2 of Assembly Bill No. 197 of this session is hereby repealed.

3. Section 10 of Assembly Bill No. 369 of this session is hereby repealed.

4. Section 4 of Senate Bill No. 372 of this session is hereby repealed.

Sec. 106. 1. For the purposes of sections 3 to 26, inclusive, of this act:

(a) An electric utility that provides distribution services to an eligible customer who is purchasing energy, capacity or ancillary services from a provider of new electric resources shall charge the eligible customer based upon the rates for the electric utility's distribution services that were on file with the commission on April 1, 2001, until the commission approves a change in those rates and such a change becomes effective.

(b) Not later than March 1, 2002, the commission shall establish the initial rates for all other components of electric service which are within the jurisdiction of the commission and which are necessary for a provider of new electric resources to sell energy, capacity and ancillary services to an eligible customer pursuant to the provisions of sections 3 to 26, inclusive, of this act. The commission may establish such initial rates as a part of a general rate application that is pending or filed with the commission on or after the effective date of this act.

2. The commission shall:

(a) Not later than November 1, 2001, adopt regulations to carry out and enforce the provisions of sections 3 to 26, inclusive, of this act.

(b) Not later than March 1, 2002, approve tariffs to carry out and enforce the provisions of section 22 of this act.

3. Notwithstanding the provisions of section 25 of this act, the commission is not required to submit a report to the legislative commission for any calendar quarter that ends before October 1, 2001.

4. As used in this section, the words and terms defined in sections 4 to 16, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 107. 1. As soon as practicable after July 1, 2003, the governor shall appoint two additional commissioners to the public utilities commission of Nevada in accordance with the provisions of section 28 of

this act. For the initial terms of those commissioners, the governor shall appoint:

(a) One commissioner whose term begins on October 1, 2003, and expires on September 30, 2005; and

(b) One commissioner whose term begins on October 1, 2003, and expires on September 30, 2006.

2. The provisions of this act do not abrogate or affect the term of office of any other commissioner of the public utilities commission of Nevada.

Sec. 108. 1. The provisions of section 54 of this act do not apply to any transaction entered into by a local governmental entity before January 1, 2002, to acquire or otherwise obtain control of the assets of a public utility providing water services.

2. As used in this section:

(a) "Assets" includes, without limitation, any hydroelectric plant, facility, equipment or system which has a generating capacity of not more than 15 megawatts and which is located on the Truckee River or on a waterway that is appurtenant to or connected to the Truckee River.

(b) "Local governmental entity" means a political subdivision of this state or an agency or instrumentality of one or more political subdivisions of this state. The term includes, without limitation, a public water authority consisting of one or more political subdivisions of this state.

Sec. 109. 1. As soon as practicable after the effective date of this act, the appointing authorities set forth in section 84 of this act shall appoint members to the task force for renewable energy and energy conservation which is created by section 84 of this act.

2. At the first meeting of the task force following the appointment of the initial members of the task force, the initial members of the task force shall draw lots to determine which:

(a) Five members of the task force will serve initial terms that expire on June 30, 2004.

(b) Four members of the task force will serve initial terms that expire on June 30, 2003.

3. Not later than 10 days after the first meeting of the task force following the appointment of the initial members of the task force, the public utilities commission of Nevada shall transfer the sum of \$250,000 from its reserve account in the public utilities commission regulatory fund, created by NRS 703.147, to the trust fund for renewable energy and energy conservation, created by section 83 of this act.

Sec. 110. 1. Notwithstanding the provisions of this act and except as otherwise provided in subsection 2, the department of business and industry and its director shall exercise all the power and perform all the duties that are assigned to the office of energy and its director pursuant to the provisions of chapter 523 of NRS, as amended by this act, until the date on which the governor certifies that the office of energy and its director are prepared to carry out those provisions, or until January 1, 2002, whichever occurs earlier.

2. During the period described in subsection 1, the office of energy and its director may exercise any power and perform any duty assigned to them pursuant to the provisions of chapter 523 of NRS, as amended by this act, if the exercise of the power or the performance of the duty is necessary as

an organizational, preparatory or preliminary measure to prepare the office of energy and its director to carry out those provisions.

Sec. 111. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 112. 1. This section and sections 1 to 27, inclusive, 30 to 94, inclusive, 96 to 111, inclusive, and 113 of this act become effective upon passage and approval.

2. Section 95 of this act becomes effective on July 1, 2001.

3. Sections 28 and 29 of this act become effective on October 1, 2003.

Sec. 113. 1. The legislative counsel shall:

(a) In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

(b) In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

2. Any reference in a bill or resolution passed by the 71st session of the Nevada legislature to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency shall be deemed to refer to the officer or agency to which the responsibility is transferred.