

**THE ONE HUNDRED AND EIGHTEENTH DAY**

---

CARSON CITY (Saturday), June 4, 2005

Senate called to order at 10:21 a.m.

President Hunt presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Elaine Morgan.

Dear Lord, as the 73rd Session of the Nevada State Legislature has nearly been completed, we thank You for Your continued guidance. We also thank You for providing wisdom, patience, vision and a loving concern for each citizen of the State of Nevada by the 21 Senators and staff who served during this 73rd Session. We pray that You will continue to bless them in their work.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

**REPORTS OF COMMITTEES**

*Madam President:*

Your Committee on Finance, to which was referred Assembly Bill No. 47, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

**MESSAGES FROM THE ASSEMBLY**

ASSEMBLY CHAMBER, Carson City, June 3, 2005

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 347, 569; Senate Bills Nos. 34, 209, 514, 515, 517.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 422, 462.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 107, Amendment No. 958; Senate Bill No. 392, Amendment No. 1151, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolutions Nos. 45, 46.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 897 to Assembly Bill No. 210.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 1012 to Assembly Bill No. 505.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 356, Assembly Amendment No. 906, and requests a conference, and appointed Assemblymen Ocegüera, Parks and Sibley as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Parks, Horne and Hardy as a first Conference Committee concerning Assembly Bill No. 39.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Conklin, Giunchigliani and Carpenter as a first Conference Committee concerning Assembly Bill No. 64.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Giunchigliani, Kirkpatrick and Sibley as a first Conference Committee concerning Assembly Bill No. 87.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Parnell, Smith and Hardy as a first Conference Committee concerning Assembly Bill No. 180.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Buckley, Conklin and Allen as a first Conference Committee concerning Assembly Bill No. 195.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Horne, Buckley and Allen as a first Conference Committee concerning Assembly Bill No. 208.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Atkinson, Hogan and Sherer as a first Conference Committee concerning Assembly Bill No. 239.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Conklin, Pierce and Allen as a first Conference Committee concerning Assembly Bill No. 260.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Horne, Allen and Manendo as a first Conference Committee concerning Assembly Bill No. 290.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Parks, Gerhardt and Weber as a first Conference Committee concerning Assembly Bill No. 380.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Manendo, Carpenter and Ocegüera as a first Conference Committee concerning Assembly Bill No. 550.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Giunchigliani, Gerhardt and Mabey as a first Conference Committee concerning Assembly Bill No. 555.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Giunchigliani, Leslie and Seale as a first Conference Committee concerning Assembly Joint Resolution No. 5.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the first Conference Committee concerning Senate Bill No. 173.

DIANE KEETCH

*Assistant Chief Clerk of the Assembly*

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Beers moved that Assembly Bill No. 534 be taken from the Secretary's desk and placed on the bottom of the General File.

Remarks by Senator Beers.

Motion carried.

#### INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 347.

Senator Amodei moved that the bill be referred to the Committee on Taxation.

Motion carried.

Assembly Bill No. 422.

Senator Nolan moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 462.

Senator Nolan moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 569.

Senator Nolan moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senator Washington moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 10:28 a.m.

#### SENATE IN SESSION

At 10:29 a.m.

President Hunt presiding.

Quorum present.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Nolan moved that the action whereby Assembly Bill No. 422 was referred to the Committee on Government Affairs be rescinded.

Remarks by Senator Nolan.

Motion carried.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Remarks by Senator Nolan.

Motion carried.

Senator Nolan moved that Senate Concurrent Resolution No. 42 be taken from the Secretary's desk and placed on the Resolution File on the second agenda.

Remarks by Senator Nolan.

Motion carried.

#### SECOND READING AND AMENDMENT

Assembly Joint Resolution No. 17.

Resolution read second time.

The following amendment was proposed by Senator Nolan:

Amendment No. 1158.

Amend the bill as a whole by adding the following Senators as joint sponsors:

Senators Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Raggio, Rhoads, Schneider, Tiffany, Titus, Townsend, Washington and Wiener.

Senator Nolan moved the adoption of the amendment.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the General File.

GENERAL FILE AND THIRD READING

Assembly Bill No. 47.

Bill read third time.

Remarks by Senator Raggio.

Senator Raggio moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 10:33 a.m.

SENATE IN SESSION

At 10:41 a.m.

President Hunt presiding.

Quorum present.

Roll call on Assembly Bill No. 47:

YEAS—21.

NAYS—None.

Assembly Bill No. 47 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 534.

Bill read third time.

The following amendment was proposed by Senator Beers:

Amendment No. 1178.

Amend sec. 10, page 5, line 5, by deleting "\$339,055,000" and inserting "\$289,055,000".

Senator Beers moved the adoption of the amendment.

Remarks by Senators Beers and Raggio.

Senator Beers requested that the following remarks be entered in the Journal.

SENATOR BEERS:

I apologize for the late period in the session that Amendment No. 1178 is being brought forward. Last night, we heard testimony in the Committee on Finance to expand the bonding authority for the Board of Regents to build new buildings on the University of Nevada, Reno (UNR), and the University of Nevada, Las Vegas (UNLV), campuses. One of the projects at UNLV is a \$55 million recreation center. Several committee members including me did not have a positive reaction to that testimony for a couple of reasons. First, UNLV, we sometimes hear, is "land-locked," essentially short on space, and is in need of additional classroom space. Second, the decision to build this center was made by a small, elite group of students who are paid by the

Regents to function as the student government and was never brought to a broader vote of the student population. Third is the funding mechanism which puts it squarely on the shoulders of the broader student population. The cost of the center, when the fee is fully implemented in the fall of 2006, is going to be \$207.60 per student per year. This figure presumes the fee does not go up between now and then. This is roughly 60 percent of the combined line-item fee that covers both the new student union and the new recreation center.

Those who opposed this amendment to essentially eliminate the bonding authority for the recreation center pointed out it would be foolish to delay the construction of this project because concrete and steel are only going to become more expensive. I do not seek to delay construction of this facility. I seek to derail construction of this facility. I would like to see that land used for classrooms, laboratories and academic purposes. The school was built to enable the learning process, and that is the direction we should be heading. Our University land is diminishing, and we will need to expand to an additional campus in Clark County within, approximately, ten years.

This is the argument for the amendment. It has been awhile since I have spent any significant amount of time near Flamingo and Maryland Parkway. If memory serves me, there are at least three gymnasium workout facilities within about a five-mile circumference of the UNLV campus. A new recreation center would be the fourth facility in the area and would be expensive to build and to operate. The cost would be assessed against students who do not want to use it and who, instead, are working their way through college seeking to improve their lives by the acquisition of knowledge and skills and better paying jobs.

SENATOR RAGGIO:

I voted against this amendment in committee for this reason. This is the revenue bond bill. The large amount is an accumulation of many years of bonds which have been authorized for capital improvements to the University and Community College System campuses. While I may agree with some of the things Senator Beers said, in the overall picture, this matter is better determined by the Board of Regents. I do not think we should question their authority in this type of issue. I believe they are mindful of the very things that were mentioned during testimony. There was considerable discussion with the Board of Regents as to whether the recreation center should be included in their request for revenue bonds. We have consistently heard testimony that even though this is added to the cost of student tuition, the student fees in the University and Community College System remain comparable to fees at institutions in other western states. This amendment substitutes our judgment for that of the elected Board of Regents.

Motion lost on a division of the house.

Roll call on Assembly Bill No. 534:

YEAS—21.

NAYS—None.

Assembly Bill No. 534 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

#### UNFINISHED BUSINESS

##### RECEDE FROM SENATE AMENDMENTS

Senator Amodei moved that the Senate do not recede from its action on Assembly Bill No. 485, that a conference be requested, and that Madam President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

## APPOINTMENT OF CONFERENCE COMMITTEES

Madam President appointed Senators McGinness, Washington and Hardy as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 485.

## MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 42.

Resolution read.

The following amendment was proposed by Senator Nolan:

Amendment No. 1172.

Amend the resolution, pages 1 and 2, by deleting lines 17 through 23 on page 1 and lines 1 through 3 on page 2, and inserting: "ASSEMBLY CONCURRING, That in accordance with the provisions of NRS".

Amend the resolution, page 2, by deleting lines 21 through 24 and inserting:

"RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Administrator of the Health Division of the Department of Human Resources, the Commissioner of Mortgage Lending and the Secretary of State."

Senator Nolan moved the adoption of the amendment.

Remarks by Senators Nolan, Care, Horsford and Townsend.

Conflict of interest declared by Senator Wiener.

Motion lost by a division of the house.

Senator Cegavske moved the adoption of the resolution.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

## UNFINISHED BUSINESS

## APPOINTMENT OF CONFERENCE COMMITTEES

Madam President appointed Senators McGinness, Amodei and Rhoads as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 356.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:01 a.m.

## SENATE IN SESSION

At 11:13 a.m.

President Hunt presiding.

Quorum present.

## REPORTS OF COMMITTEES

*Madam President:*

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 569, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RANDOLPH J. TOWNSEND, *Chair*

*Madam President:*

Your Committee on Transportation and Homeland Security, to which was referred Assembly Bill No. 411, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 569.

Bill read third time.

Roll call on Assembly Bill No. 569:

YEAS—21.

NAYS—None.

Assembly Bill No. 569 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 17.

The following Assembly amendments were read:

Amendment No. 753.

Amend sec. 2, pages 3 and 4, by deleting lines 32 through 44 on page 3 and lines 1 through 12 on page 4, and inserting:

"233B.0675 1. If the Legislative Commission *or the subcommittee to review regulations* has objected to a regulation, the agency ~~[may revise it]~~ shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel ~~[.]~~ within 60 days after the agency received the written notice of the objection to the regulation pursuant to NRS 233B.067. Upon receipt of the revised regulation, the Legislative Counsel shall resubmit the regulation to the Commission ~~[at its next regularly scheduled meeting. If the Commission does not object]~~ or subcommittee for review. If there is no objection to the revised regulation, the Legislative Counsel shall promptly file the revised regulation with the Secretary of State and notify the agency of the filing.

2. If the Legislative Commission *or subcommittee* objects to the revised regulation, the ~~[agency may continue to revise it and resubmit it to the Commission.]~~

3. ~~If the agency refuses to revise a regulation to which the Legislative Commission has objected, the Commission may suspend the filing of the regulation until the final day of the next regular session of the Legislature. Before the final day of the next regular session the Legislature may, by concurrent resolution or other appropriate legislative measure, declare that the regulation will not become effective. The Legislative Counsel shall thereupon notify the agency that the regulation will not be filed and must not be enforced. If the Legislature has not so declared by the final day of the~~

~~session, the Legislative Counsel shall promptly file the regulation and notify the agency of the filing.]~~ *Legislative Counsel shall:*

*(a) Revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority;*

*(b) Submit the regulation to the Legislative Commission or subcommittee for its approval; and*

*(c) Upon approval of the regulation by the Legislative Commission or subcommittee, promptly file the regulation with the Secretary of State and provide the agency with a copy of the filing."*

Amend the bill as a whole by renumbering sec. 3 as sec. 4 and adding a new section designated sec. 3, following sec. 2, to read as follows:

"Sec. 3. NRS 233B.0675, as amended by section 2 of this act, applies to regulations for which filing was suspended on or after July 1, 2003, by the Legislative Commission or the Committee to Review Regulations appointed pursuant to NRS 233B.067. Those regulations include, without limitation, R114-03, R147-04 and R159-04. Within 60 days after the effective date of this act, the Legislative Counsel shall revise those regulations to conform to the statutory authority pursuant to which they were adopted and to carry out the intent of the Legislature in granting that authority and submit the regulations to the Legislative Commission or subcommittee to review regulations appointed pursuant to NRS 233B.067 for approval."

Amend sec. 3, page 4, line 13, by deleting: "on July 1, 2005." and inserting: "upon passage and approval."

Amendment No. 1051.

Amend sec. 3, page 4, by deleting lines 41 through 45 and inserting: "applies to R147-04 and R159-04 for which filing was suspended by the Legislative Commission or the Committee to Review Regulations appointed pursuant to NRS 233B.067. Within 60 days after the effective date of this act, the".

Senator Cegavske moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 17.

Remarks by Senator Cegavske.

Conflict of interest declared by Senator Wiener.

Motion carried.

Bill ordered transmitted to the Assembly.

#### REPORTS OF CONFERENCE COMMITTEES

*Madam President:*

The first Conference Committee concerning Assembly Bill No. 51, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 801 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 9, which is attached to and hereby made a part of this report.

Conference Amendment.

Amend section 1, pages 3 through 5, by deleting lines 2 through 40 on page 3, lines 1 through 43 on page 4 and lines 1 through 16 on page 5, and inserting:



"125.480 1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is the best interest of the child. If it appears to the court that joint custody would be in the best interest of the child, the court may grant custody to the parties jointly.

2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly pursuant to NRS 125.490 or to either parent. If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent's application. ~~{When awarding custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.}~~

(b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.

(c) To any person related within the third degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

(d) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

4. In determining the best interest of the child, the court shall consider ~~{}~~ and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his custody. ~~{}~~

(b) Any nomination by a parent or a guardian for the child. ~~{; and}~~

(c) *Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.*

(d) *The level of conflict between the parents.*

(e) *The ability of the parents to cooperate to meet the needs of the child.*

(f) *The mental and physical health of the parents.*

(g) *The physical, developmental and emotional needs of the child.*

(h) *The nature of the relationship of the child with each parent.*

(i) *The ability of the child to maintain a relationship with any sibling.*

(j) *Any history of parental abuse or neglect of the child or a sibling of the child.*

(k) Whether either parent or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving either party;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

- (c) The likelihood of future injury;
- (d) Whether, during the prior acts, one of the parties acted in self-defense; and
- (e) Any other factors which the court deems relevant to the determination.

➡ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. As used in this section, "domestic violence" means the commission of any act described in NRS 33.018."

Amend the bill as a whole by deleting sec. 13 and the text of the repealed section.

Amend the title of the bill by deleting the first through third lines and inserting:

"AN ACT relating to domestic relations; revising provisions concerning the considerations of the court in determining the best interests of a child for the purpose of determining custody of the child;"

MAURICE E. WASHINGTON

DENNIS NOLAN

TERRY CARE

*Senate Conference Committee*

BERNIE ANDERSON

FRANCIS ALLEN

JOHN OCEGUERA

*Assembly Conference Committee*

Senator Washington moved that the Senate adopt the report of the first Conference Committee concerning Assembly Bill No. 51.

Remarks by Senator Amodei.

Motion carried by a constitutional majority.

#### SECOND READING AND AMENDMENT

Assembly Bill No. 411.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 1173.

Amend the bill as a whole by deleting sections 1 through 8 and adding new sections designated sections 1 and 2, following the enacting clause, to read as follows:

"Section 1. 1. The Nevada Association of School Boards shall study the feasibility and necessity of the use of safety restraints by pupils on school buses. The study must include, without limitation:

(a) A determination whether safety restraints are necessary to enhance the safety of pupils on school buses;

(b) A plan for the installation of appropriate safety restraints in school buses and the implementation of requirements for pupils to wear the safety restraints, including, without limitation, a time frame for carrying out the plan;

(c) The costs of implementing the plan described in paragraph (b);

(d) The manner by which the school districts in this State may enforce the use of safety restraints by pupils; and

(e) Recommendations for appropriate disciplinary action for pupils who refuse to wear the safety restraints or who use the safety restraints in an unsafe manner.

2. On or before February 1, 2007, the Nevada Association of School Boards shall submit a written report of the results of the study conducted pursuant to subsection 1, including, without limitation, any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 74th Session of the Nevada Legislature.

Sec. 2. This act becomes effective on July 1, 2005."

Amend the title of the bill to read as follows:

"AN ACT relating to the transportation of pupils; requiring the Nevada Association of School Boards to study the feasibility and necessity of safety restraints for use by pupils on school buses; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Requires Nevada Association of School Boards to study feasibility and necessity of safety restraints on school buses. (BDR 34-260)".

Senator Nolan moved the adoption of the amendment.

Remarks by Senators Nolan, Titus and Coffin.

Senators Beers, Cegavske and Hardy moved the previous question.

Motion carried.

The question being on the adoption of Amendment No. 1173 to Assembly Bill No. 411.

The motion having received a majority, Madam President declared it carried.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

#### UNFINISHED BUSINESS

##### RECEDE FROM SENATE AMENDMENTS

Senator Nolan moved that the Senate do not recede from its action on Assembly Bill No. 505, that a conference be requested, and that Madam President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Nolan.

Motion carried.

Bill ordered transmitted to the Assembly.

#### APPOINTMENT OF CONFERENCE COMMITTEES

Madam President appointed Senators Nolan, Carlton and Washington as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 505.

Senator Raggio moved that the Senate recess until 4 p.m.

Motion carried.

Senate in recess at 11:41 a.m.

## SENATE IN SESSION

At 5:26 p.m.

President Hunt presiding.

Quorum present.

## REPORTS OF COMMITTEES

*Madam President:*

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

## INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 521—AN ACT making appropriations to the Division of Parole and Probation of the Department of Public Safety and the State Board of Parole Commissioners for the installation of and expenses relating to closed-circuit security systems; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee on Finance.

Motion carried.

By the Committee on Finance:

Senate Bill No. 522—AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the fiscal years commencing on July 1, 2005, and ending on June 30, 2006, and beginning on July 1, 2006, and ending on June 30, 2007; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee on Finance.

Motion carried.

## SECOND READING AND AMENDMENT

Assembly Bill No. 385.

Bill read second time.

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

Amendment No. 1136.

Amend the bill as a whole by deleting sec. 3 and adding a new section designated sec. 3, following sec. 2, to read as follows:

"Sec. 3. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, each occupied public building whose construction will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the*

*equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

2. *During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act if:*

*(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the State Public Works Board, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost-effective investment to do so; and*

*(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.*

3. *Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

4. *As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by this State or a local government. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes."*

Amend the bill as a whole by deleting sec. 5 and adding a new section designated sec. 5, following sec. 4, to read as follows:

"Sec. 5. NRS 338.190 is hereby amended to read as follows:

338.190 1. Before it begins to construct or renovate any *occupied* public building which is larger than 20,000 square feet, each agency of the State or a political subdivision, district, authority, board or public corporation of the State shall obtain a detailed analysis of the cost of operating and maintaining the building for its expected useful life.

2. The analysis must ~~[identify the]~~ :

*(a) Estimate the cost to construct or renovate the occupied public building and the cost to operate and maintain the building; and*

*(b) Identify measures , including, without limitation, for ~~[-~~*

~~(a)]~~ *the:*

*(1) Conservation of water;*

*(2) Conservation of energy ~~[-and~~*

~~(b)}~~ and energy efficiency that will generate cost savings within 10 years that are equal to or greater than the cost of implementation; and

(3) Use of types of energy which are alternatives to fossil fuels, such as active and passive applications of solar energy, wind and geothermal energy, ➤ which can be included in the building in its construction or renovation.

3. The agency of government which proposes to ~~build~~ construct or renovate ~~at~~ the occupied public building must consider the results of the analysis required by this section in deciding upon the type of construction or renovation and the components and systems which will be included in the building. *The agency of government shall consider the use of types of energy which are alternatives to fossil fuels and any other energy conservation measures identified in the analysis into the design of the building if it is determined to be in the best interest of the State.*

4. ~~[This section applies to any public building or renovation of a public building, the designing of which begins on or after July 1, 1981.]~~ The agency of government may select, through the bidding process, a contractor to conduct the analysis required pursuant to this section. If a contractor is selected to conduct the analysis, any contract for the purchase, lease or rental of cost-saving measures must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, be made from the cost savings.

5. *As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by an agency of the State or a political subdivision, district, authority, board or public corporation of the State. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes."*

Amend the bill as a whole by deleting sections 8.1 through 8.12 and adding new sections designated sections 8.1 through 8.8, following sec. 8, to read as follows:

"Sec. 8.1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 8.15 to 8.8, inclusive, of this act.

Sec. 8.15. *As used in sections 8.15 to 8.8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 8.2, 8.25 and 8.3 of this act have the meanings ascribed to them in those sections.*

Sec. 8.2. *"Photovoltaic installer" means a person directly engaged with the electrical connection and wiring of a photovoltaic system project in a capacity other than as an inspector, management planner, consultant, project designer, contractor or supervisor for the photovoltaic system project.*

Sec. 8.25. *"Photovoltaic system" means a facility or energy system for the generation of electricity that uses photovoltaic cells and solar energy to generate electricity.*

Sec. 8.3. 1. *"Photovoltaic system project" means a project related to:*

*(a) The installation of a photovoltaic system; or*

*(b) The maintenance of a photovoltaic system.*

*2. The term does not include the installation or maintenance of a photovoltaic system before January 1, 2007.*

*Sec. 8.35. The Division may adopt such regulations as are necessary to carry out the provisions of sections 8.15 to 8.8, inclusive, of this act.*

*Sec. 8.4. The Division shall issue a license to each qualified applicant for licensure as a photovoltaic installer.*

*Sec. 8.45. A person applying for a license as a photovoltaic installer must:*

*1. Submit an application on a form prescribed and furnished by the Division;*

*2. Pay all required fees established by the Division by regulation;*

*3. Pass an examination approved or administered by the Division for licensure as a photovoltaic installer;*

*4. If the person is a contractor, provide proof to the Division that the person has been issued a license of the appropriate classification by the State Contractors' Board pursuant to chapter 624 of NRS; and*

*5. Meet any additional requirements established by the Division.*

*Sec. 8.5. 1. A license as a photovoltaic installer expires 1 year after the date on which the license is issued. To renew a license as a photovoltaic installer, a person must, on or before the date on which the license expires:*

*(a) Apply to the Division for renewal;*

*(b) Pay the annual fee for renewal established by the Division by regulation; and*

*(c) Submit evidence satisfactory to the Division that the person has completed the requirements for continuing education or training established by the Division, if any.*

*2. The Division may adopt regulations establishing requirements for continuing education or training that a person must complete in order for the person to renew a license as a photovoltaic installer.*

*Sec. 8.55. 1. In addition to any other requirements set forth in sections 8.15 to 8.8, inclusive, of this act, an applicant for the issuance or renewal of a license as a photovoltaic installer shall submit to the Division:*

*(a) The statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

*(b) The social security number of the applicant.*

*2. The Division shall include the statement required pursuant to subsection 1 in:*

*(a) The application or any other forms that must be submitted for the issuance or renewal of a license; or*

*(b) A separate form prescribed by the Division.*

*3. A license as a photovoltaic installer may not be issued or renewed by the Division if the applicant:*

*(a) Fails to submit the statement required pursuant to subsection 1; or*

*(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

*4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

*Sec. 8.6. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a photovoltaic installer, the Division shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued, unless the Division receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant, or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The Division shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*Sec. 8.65. 1. In addition to any other remedy or penalty, if the Division finds that a person has violated any provision of sections 8.15 to 8.8, inclusive, of this act, or the standards or regulations adopted pursuant thereto, the Division may:*

*(a) Upon the first violation, impose upon the person an administrative fine of not more than \$1,500.*

*(b) Upon the second violation or a subsequent violation:*

*(1) Impose upon the person an administrative fine of not more than \$2,500; and*

*(2) If the person is licensed pursuant to sections 8.15 to 8.8, inclusive, of this act, suspend or revoke his license and require the person to fulfill certain training or educational requirements to have his license reinstated.*

*2. Any penalty imposed pursuant to subsection 1 does not relieve the person from criminal prosecution for acting as a photovoltaic installer without a license.*

*3. If the license of a photovoltaic installer is suspended or revoked pursuant to subsection 1 and the owner of a building or structure who has*



*contracted with the photovoltaic installer for a photovoltaic system project contracts with another licensed photovoltaic installer to complete the project, the original photovoltaic installer may not bring an action against the owner of the building or structure for breach of contract or damages based on the contract with the other licensed photovoltaic installer.*

*Sec. 8.7. 1. If the Division intends to suspend or revoke a person's license, the Division shall first notify the person by certified mail. The notice must contain a statement of the Division's legal authority, jurisdiction and reasons for the proposed action.*

*2. A person is entitled to a hearing to contest the proposed suspension or revocation of his license. A request for such a hearing must be made pursuant to regulations adopted by the Division.*

*3. Upon receiving a request for a hearing to contest a proposed suspension or revocation, the Division shall hold a hearing within 10 days after the date of the receipt of the request.*

*Sec. 8.75. The Division may maintain in a court of competent jurisdiction a suit for an injunction against any person who acts as a photovoltaic installer in violation of any provision of sections 8.15 to 8.8, inclusive, of this act, or the standards or regulations adopted pursuant thereto. An injunction:*

*1. May be issued without proof of actual damage sustained by any person.*

*2. Does not relieve the person from criminal liability for acting as a photovoltaic installer without a license.*

*Sec. 8.8. 1. Except as otherwise provided in subsection 2, a person shall not:*

*(a) Act as a photovoltaic installer for a photovoltaic system project unless the person holds a license as a photovoltaic installer issued by the Division; or*

*(b) Employ or contract with another person to act as a photovoltaic installer for a photovoltaic system project unless the other person holds a license as a photovoltaic installer issued by the Division.*

*2. A person is not required to obtain a license from the Division to install or maintain a photovoltaic system project on property that the person owns and occupies as a residence.*

*3. A person who violates any provision of this section is guilty of a misdemeanor."*

*Amend the bill as a whole by deleting sec. 11 and adding a new section designated sec. 11, following sec. 10, to read as follows:*

*"Sec. 11. 1. The Director, in consultation with the State Public Works Board and any other interested agency, shall:*

*(a) In cooperation with representatives of the building and development industry, adopt guidelines establishing Green Building Standards for all occupied public buildings whose construction will be sponsored or financed by this State or a local government.*

*(b) Adopt a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, pursuant to subsections 4 and 5.*

*2. Guidelines adopted pursuant to paragraph (a) of subsection 1 must include, without limitation, suggested:*

- (a) Requirements for the use of resource-efficient materials for the construction and maintenance of the building;*
- (b) Standards for indoor environmental quality;*
- (c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;*
- (d) Standards for the efficient use of energy; and*
- (e) Requirements for the design and preparation of building lots.*

*3. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted must provide reasonable exceptions based on the size, location and use of the building.*

*4. Subject to the provisions of subsection 5, the Director shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:*

- (a) The gathering and development of scientific data;*
- (b) Comments from representatives of the building industry;*
- (c) Consensus from representatives of the building industry;*
- (d) A method by which the Director, the State Public Works Board and other interested agencies may cast ballots on the proposed standards;*
- (e) A pilot program for the purpose of refining the standards; and*
- (f) A process by which an aggrieved person may file an appeal of the standards adopted.*

*5. In adopting a Green Building Rating System pursuant to subsection 4, the Director is not required to adopt and is not limited to using the Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards."*

Amend the bill as a whole by deleting sections 15 through 20 and adding new sections designated sections 15 through 42 and the text of the repealed section, following sec. 14, to read as follows:

"Sec. 15. NRS 702.260 is hereby amended to read as follows:

702.260 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}~~ 5 percent of the money distributed to it pursuant to this section for its administrative expenses.

2. Except as otherwise provided in NRS 702.150, 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 NRS 702.280.

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 NRS 702.250.

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 NRS 702.280.

Sec. 16. For the purposes of NRS 704.7801 to 704.7828, inclusive, as amended by the provisions of this act, the Legislature hereby finds and declares that:

1. It is the policy of this State to encourage and accelerate the development of new renewable energy projects and to create successful markets for electricity generated by those projects using the abundant and diverse renewable energy resources available in Nevada;

2. In recent sessions, the Legislature has enacted legislation establishing a portfolio standard for renewable energy and energy from a qualified energy recovery process to promote the development and use of renewable energy resources by providers of electric service;

3. To carry out the policy of this State regarding renewable energy resources, the Public Utilities Commission of Nevada has adopted regulations establishing a temporary renewable energy development program that is designed to assist with the completion of new renewable energy projects;

4. By enacting the provisions of this act relating to the portfolio standard and new renewable energy projects, it is the intent of the Legislature to facilitate the temporary renewable energy development program and to support the efforts of the Public Utilities Commission of Nevada to carry out the policy of this State regarding renewable energy resources;

5. It is the policy of this State to promote the conservation of energy through the use of energy efficiency measures in residences, schools, public buildings and businesses, especially during periods of peak load for providers of electric service;

6. By enacting the provisions of this act relating to energy efficiency measures, it is the intent of the Legislature to incorporate energy efficiency measures into the portfolio standard and to create successful markets for energy efficiency measures so that those measures will be used in residences, schools, public buildings and businesses to reduce the demand for electricity, especially during periods of peak load;

7. As set forth in NRS 704.001, it is the policy of this State 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; and

8. By enacting the provisions of this act relating to the financial impact of long-term contracts entered into by a provider of electric service under the portfolio standard, it is the intent of the Legislature to balance the interests of customers and providers arising under the portfolio standard and to provide for the appropriate regulatory treatment of the costs incurred by a provider to comply with the portfolio standard.

Sec. 17. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 23, inclusive, of this act.

Sec. 18. 1. *"Energy efficiency measure" means any measure designed, intended or used to improve energy efficiency if:*

*(a) The measure is installed on or after January 1, 2005, at the service location of a retail customer of a provider of electric service in this State;*

*(b) The measure reduces the consumption of energy by the retail customer; and*

*(c) The costs of the acquisition or installation of the measure are directly reimbursed, in whole or in part, by the provider of electric service.*

2. *The term does not include:*

*(a) Any demand response measure or load limiting measure that shifts the consumption of energy by a retail customer from one period to another period.*

*(b) Any solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity or any fossil fuel.*

Sec. 19. *"Portfolio energy credit" means any credit which a provider has earned from a portfolio energy system or efficiency measure and which the provider is entitled to use to comply with its portfolio standard, as determined by the Commission.*

Sec. 20. *"Portfolio energy system or efficiency measure" means:*

1. *Any renewable energy system; or*

2. *Any energy efficiency measure.*

Sec. 21. *"Utility provider" means a provider of electric service that is a public utility.*

Sec. 22. 1. *Except as otherwise provided in this section or by specific statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure.*

2. *The Commission may adopt regulations that give a provider more than one portfolio energy credit for each kilowatt-hour of electricity saved by the provider during its peak load period from energy efficiency measures.*

Sec. 23. 1. *The Commission may adopt regulations to establish a temporary renewable energy development program that is designed to assist with the completion of new renewable energy projects.*

2. *The Commission may require a utility provider to participate in a temporary renewable energy development program.*

3. *If the Commission adopts regulations establishing a temporary renewable energy development program, the program may include, without limitation:*

*(a) The establishment of a private trust administered by an independent trustee; and*

*(b) The payment of money from the private trust to carry out the terms and conditions of renewable energy contracts approved by the Commission between a utility provider and one or more new renewable energy projects.*

4. *If a utility provider is participating in a temporary renewable energy development program, the utility provider may apply to the Commission for authority to close the program to new renewable energy projects if the utility provider has achieved an investment grade credit rating as determined by either Moody's Investors Service, Inc., or Standard and Poor's Rating Services and has maintained that credit rating for 24 consecutive months.*

5. *The Commission may grant an application to close a temporary renewable energy development program only after finding that the creditworthiness of the utility provider is sufficiently restored so that closure of the program to new renewable energy projects is in the public interest.*

6. *An order issued by the Commission closing a temporary renewable energy development program to new renewable energy projects is not effective as to any new renewable energy project which has previously been accepted into the program and which is receiving money from a private trust established under the program until the earlier of:*

*(a) The expiration or termination of the original renewable energy contract approved by the Commission between the utility provider and the new renewable energy project; or*

*(b) The original financing, including debt, equity, or both debt and equity, as applicable, entered into by the new renewable energy project upon completion of construction of the project has been fully satisfied pursuant to its original terms.*

7. *As used in this section, "new renewable energy project" means a project to construct a renewable energy system if:*

*(a) The project is associated with one or more renewable energy contracts approved by the Commission pursuant to NRS 704.7821; and*

*(b) Construction on the project commenced on or after July 1, 2001.*

Sec. 24. 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:

(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 NRS 704.7801 to 704.7828, inclusive ~~{-}~~ , and sections 18 to 23, inclusive, of this act.

Sec. 25. NRS 704.7801 is hereby amended to read as follows:

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, and sections 18 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 704.7805 to 704.7818, inclusive, and sections 18 to 21, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 26. NRS 704.7805 is hereby amended to read as follows:

704.7805 "Portfolio standard" means ~~{a portfolio standard for renewable energy and energy from a qualified energy recovery process}~~ the amount of electricity that a provider must generate, acquire or save from portfolio energy systems or efficiency measures, as established by the Commission pursuant to NRS 704.7821.

Sec. 27. NRS 704.7811 is hereby amended to read as follows:

704.7811 1. "Renewable energy" means:

(a) Biomass ~~{-}~~ , but does not include biomass which is in or at a landfill and which, alone or in conjunction with other substances, produces, causes, is a source of or otherwise contributes to landfill gases;

(b) Geothermal energy;

(c) Solar energy;

(d) Waterpower; and

(e) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

3. As used in this section, "waterpower" means power derived from standing, running or falling water which is used for any plant, facility, equipment or system to generate electricity if the generating capacity of the plant, facility, equipment or system is not more than 30 megawatts. Except as otherwise provided in this subsection, the term includes, without limitation, power derived from water that has been pumped from a lower to a higher elevation if the generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts. The term does not include power:

(a) Derived from water stored in a reservoir by a dam or similar device, unless:

- (1) The water is used exclusively for irrigation;
- (2) The dam or similar device was in existence on January 1, 2003; and
- (3) The generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts;

(b) That requires a new or increased appropriation or diversion of water for its creation; or

(c) That requires the use of any fossil fuel for its creation, unless:

(1) The primary purpose of the use of the fossil fuel is not the creation of the power; and

(2) The generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts.

Sec. 28. NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that:

(a) Uses renewable energy or energy from a qualified energy recovery process to generate electricity; and

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process via:

(1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy or energy from a qualified energy recovery process 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 energy system that reduces the consumption of electricity ~~[, natural gas or propane.]~~ or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive.

Sec. 29. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard . ~~[for renewable energy and energy from a qualified energy recovery process.]~~ The portfolio standard must require each provider to generate , ~~[or]~~ acquire or save electricity from ~~[renewable]~~ portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years ~~[2003 and 2004,]~~ 2005 and 2006, not less than ~~[5]~~ 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years ~~[2005 and 2006,]~~ 2007 and 2008, not less than ~~[7]~~ 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.



(c) For calendar years ~~[2007 and 2008,]~~ *2009 and 2010*, not less than ~~[9]~~ 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years ~~[2009 and 2010,]~~ *2011 and 2012*, not less than ~~[11]~~ 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years ~~[2011 and 2012,]~~ *2013 and 2014*, not less than ~~[13]~~ 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar year ~~[2013]~~ *2015* and for each calendar year thereafter, not less than ~~[15]~~ 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, ~~[or]~~ *acquire or save* from ~~[renewable]~~ *portfolio energy systems or efficiency measures* during each calendar year, not less than 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) *Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.*

(c) If the provider acquires or saves electricity from a ~~[renewable]~~ *portfolio energy system or efficiency measure* pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the ~~[renewable energy]~~ contract must be not less than 10 years, unless the other party agrees to a ~~[renewable energy]~~ contract with a shorter term; and

(2) The terms and conditions of the ~~[renewable energy]~~ contract must be just and reasonable, as determined by the Commission. If the provider is a ~~[public]~~ *utility provider* and the Commission approves the terms and conditions of the ~~[renewable energy]~~ contract between the *utility* provider and the other party, the ~~[renewable energy]~~ contract and its terms and conditions shall be deemed to be a prudent investment and the *utility* provider may recover all just and reasonable costs associated with the ~~[renewable energy]~~ contract.

3. If, for the benefit of one or more of its retail customers in this State, the provider has ~~[subsidized,]~~ *directly reimbursed*, in whole or in part, the

*costs of the* acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

4. The Commission shall adopt regulations that establish a system of ~~[renewable]~~ *portfolio* energy credits that may be used by a provider to comply with its portfolio standard.

5. Except as otherwise provided in subsection 6, each provider shall comply with its portfolio standard during each calendar year.

6. If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of ~~[renewable]~~ *portfolio* energy credits, the provider shall take actions to acquire *or save* electricity pursuant to one or more renewable energy *contracts or energy efficiency* contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity *or a sufficient amount of energy savings* made available to the provider pursuant to renewable energy contracts *and energy efficiency contracts* with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

7. The Commission shall adopt regulations *that establish:*

(a) *Standards* for the determination of just and reasonable terms and conditions for the renewable energy contracts *and energy efficiency contracts* that a provider ~~[of electric service]~~ must enter into to comply with its portfolio standard.

(b) *Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.*

8. As used in this section:

(a) *"Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.*

(b) *"Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.*

~~[(b)]~~ (c) "Terms and conditions" includes, without limitation, the price that a provider ~~[of electric service]~~ must pay to acquire electricity pursuant to a renewable energy contract ~~[-]~~ *or to attain energy savings pursuant to an energy efficiency contract.*

Sec. 30. NRS 704.7825 is hereby amended to read as follows:

704.7825 1. Each provider of electric service shall submit to the Commission an annual report that provides information relating to the actions taken by the provider to comply with its portfolio standard.

2. Each provider shall submit the annual report to the Commission after the end of each calendar year and within the time prescribed by the Commission. The report must be submitted in a format approved by the Commission.

3. The Commission may adopt regulations that require providers to submit to the Commission additional reports during each calendar year.

4. Each annual report and each additional report must include clear and concise information that sets forth:

(a) The amount of electricity which the provider generated, ~~[or]~~ acquired or saved from ~~[renewable]~~ portfolio energy systems or efficiency measures during the reporting period and, if applicable, the amount of ~~[renewable]~~ portfolio energy credits that the provider acquired, sold or traded during the reporting period to comply with its portfolio standard;

(b) The capacity of each renewable energy system owned, operated or controlled by the provider, the total amount of electricity generated by each such system during the reporting period and the percentage of that total amount which was generated directly from renewable energy;

(c) Whether, during the reporting period, the provider began construction on, acquired or placed into operation any renewable energy system and, if so, the date of any such event; ~~[and]~~

(d) *Whether, during the reporting period, the provider participated in the acquisition or installation of any energy efficiency measures and, if so, the date of any such event; and*

(e) Any other information that the Commission by regulation may deem relevant.

5. *Based on the reports submitted by providers pursuant to this section, the Commission shall compile information that sets forth whether any provider has used energy efficiency measures to comply with its portfolio standard and, if so, the type of energy efficiency measures used and the amount of energy savings attributable to each such energy efficiency measure. The Commission shall report such information to:*

(a) *The Legislature, not later than the first day of each regular session; and*

(b) *The Legislative Commission, if requested by the Chairman of the Commission.*

Sec. 31. NRS 704.7828 is hereby amended to read as follows:

704.7828 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 704.7801 to 704.7828, inclusive ~~[ ]~~ , *and sections 18 to 23, inclusive, of this act.* The regulations adopted by the Commission may include any enforcement mechanisms which are necessary and reasonable to ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.

2. If a provider does not comply with its portfolio standard for any calendar year and the Commission has not exempted the provider from the requirements of its portfolio standard pursuant to NRS 704.7821, the Commission may impose an administrative fine against the provider or take other administrative action against the provider, or do both.

3. The Commission may impose an administrative fine against a provider based upon:

(a) Each kilowatt-hour of electricity that the provider does not generate , ~~for~~ acquire *or save* from ~~[a renewable energy system or a solar renewable energy system]~~ *portfolio energy systems or efficiency measures* during a calendar year in violation of its portfolio standard; or

(b) Any other reasonable formula adopted by the Commission.

4. In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the provider complies with its portfolio standard, as determined by the Commission.

5. If the Commission imposes an administrative fine against a *utility* provider : ~~[that is a public utility]~~

(a) The administrative fine is not a cost of service of the *utility* provider;

(b) The *utility* provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and

(c) The Commission shall not allow the *utility* provider to recover any portion of the administrative fine from its retail customers.

6. All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

Sec. 32. NRS 704B.320 is hereby amended to read as follows:

704B.320 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 NRS 704B.310 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 NRS 704.7801 to 704.7828, inclusive, *and sections 18 to 23, inclusive, of this act* to comply with its portfolio standard . ~~[for renewable energy and energy from a qualified energy recovery process.]~~ The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

Sec. 33. Section 3 of Chapter 330, Statutes of Nevada 2001, as amended by Section 2 of Chapter 511, Statutes of Nevada 2003, at page 3496, is hereby amended to read as follows:

Sec. 3. 1. This section becomes effective on July 1, 2001.

2. Sections 1 and 2 of this act become effective on July 1, 2001, for the purpose of adopting regulations and on January 1, 2002, for all other purposes.

3. This act expires by limitation on ~~June 30,~~ *December 31, 2005.*

Sec. 34. Section 18 of the Solar Energy Systems Demonstration Program Act, being Chapter 331, Statutes of Nevada 2003, at page 1869, is hereby amended to read as follows:

Sec. 18. 1. On or before May 1 of each year, the Public Utilities Commission of Nevada shall:

(a) Review each application nominated by the Committee to ensure that the application meets the requirements of subsection 3 of section 14 of this act; and

(b) From those nominees, select participants for the Demonstration Program for the following program year.

2. The Public Utilities Commission of Nevada may approve, from among the applications nominated by the Committee, solar energy systems totaling:

(a) For the program year beginning July 1, 2004:

(1) 100 kilowatts of capacity for schools;

(2) 200 kilowatts of capacity for other public buildings; and

(3) 200 kilowatts of capacity for private residences and small businesses.

(b) For the program year beginning July 1, 2005:

(1) An additional ~~[450]~~ 570 kilowatts of capacity for schools;

(2) An additional ~~[450]~~ 570 kilowatts of capacity for other public buildings; and

(3) An additional ~~[600]~~ 760 kilowatts of capacity for private residences and small businesses.

(c) For the program year beginning July 1, 2006:

- (1) An additional ~~{900}~~ 570 kilowatts of capacity for schools;
- (2) An additional ~~{900}~~ 570 kilowatts of capacity for other public buildings; and
- (3) An additional ~~{1200}~~ 760 kilowatts of capacity for private residences and small businesses.
- (d) *For the program year beginning July 1, 2007:*
  - (1) *An additional 570 kilowatts of capacity for schools;*
  - (2) *An additional 570 kilowatts of capacity for other public buildings;**and*
  - (3) *An additional 760 kilowatts of capacity for private residences and small businesses.*
- (e) *For the program year beginning July 1, 2008:*
  - (1) *An additional 570 kilowatts of capacity for schools;*
  - (2) *An additional 570 kilowatts of capacity for other public buildings;**and*
  - (3) *An additional 760 kilowatts of capacity for private residences and small businesses.*
- (f) *For the program year beginning July 1, 2009:*
  - (1) *An additional 570 kilowatts of capacity for schools;*
  - (2) *An additional 570 kilowatts of capacity for other public buildings;**and*
  - (3) *An additional 760 kilowatts of capacity for private residences and small businesses.*

3. The Public Utilities Commission of Nevada shall notify each nominee of its selections no later than 10 days after the decision is made.

Sec. 35. Section 19 of the Solar Energy Systems Demonstration Program Act, being Chapter 331, Statutes of Nevada 2003, as amended by Chapter 478, Statutes of Nevada 2003, at page 3034, is hereby amended to read as follows:

Sec. 19. 1. After the participant installs the solar energy system included in the Demonstration Program, the Public Utilities Commission of Nevada shall issue to the participant ~~{renewable}~~ portfolio energy credits for use within the system of ~~{renewable}~~ portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to 2.4 times the actual or estimated kilowatt-hour production of the solar energy system.

2. The Commission shall designate the ~~{renewable}~~ portfolio energy credits issued to the participant pursuant to subsection 1 as ~~{renewable}~~ portfolio energy credits generated or acquired from solar renewable energy systems. The participant may transfer the ~~{renewable}~~ portfolio energy credits to a utility if the participant complies with the regulations adopted by the Commission to complete such a transfer.

3. The Commission shall adopt regulations to provide for the requirements and the procedures that a participant must follow to transfer ~~{renewable}~~ portfolio energy credits from the participant to a utility.

Sec. 36. Section 20 of the Solar Energy Systems Demonstration Program Act, being Chapter 331, Statutes of Nevada 2003, at page 1870, is hereby amended to read as follows:

Sec. 20. 1. If the solar energy system used by a participant in the Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

2. If the utility which provides service to the participant offers an optional pricing plan that allows the utility to charge a customer varying rates per kilowatt-hour of electricity depending on the time of day that the customer uses the electricity, the participant is also entitled to participate in net metering under that optional pricing plan.

3. A participant who participates in net metering must be billed on a monthly basis by the utility.

4. Notwithstanding the provisions of paragraph (c) of subsection 2 of NRS 704.775, the utility shall credit the participant for the excess energy generated by the participant which is fed back to the utility that exceeds the electricity supplied by the utility to the participant during any billing period. This credit must be applied toward the electricity consumed by the participant in the 11 billing periods immediately following the billing period in which the credit accrues. Any credit that accrues to the participant during a billing period that is not applied toward the electricity consumed by the participant during the 11 billing periods immediately following must expire without compensation to the participant. The electricity represented by the expired credit shall be deemed to be electricity that the utility generated or acquired from a *solar* renewable energy system to comply with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive ~~{ }~~, and sections 18 to 23, inclusive, of this act.

5. If the participant participates in net metering under an optional pricing plan pursuant to the provisions of subsection 2, any credit accrued by the participant pursuant to subsection 3 during a billing period must, until exhausted, be applied first toward the electricity consumed by the participant during peak period consumption, second toward the electricity consumed by the participant during mid-peak period consumption and finally toward the electricity consumed by the participant during off-peak period consumption.

Sec. 37. Section 24 of the Solar Energy Systems Demonstration Program Act, being Chapter 331, Statutes of Nevada 2003, at page 1871, is hereby amended to read as follows:

Sec. 24. The provisions of sections 4 to 21, inclusive, of this act expire by limitation on June 30, ~~{2007}~~ 2010.

Sec. 38. 1. Section 4 of Senate Bill No. 256 of this session is hereby repealed.

2. In repealing section 4 of Senate Bill No. 256 of this session, the Legislature hereby expresses its intent that section 4 of Senate Bill No. 256 of this session shall be deemed to have never been enacted into law.



Sec. 39. As soon as practicable, the Governor shall appoint to the Task Force for Renewable Energy and Energy Conservation the member required by section 14 of this act. The initial term of that member expires on June 30, 2007.

Sec. 40. 1. The Director of the Office of Energy shall review model standards for commercial appliances, including, without limitation, the appliance efficiency standards adopted by the California Energy Commission.

2. The Director shall prepare a report summarizing the review and submit the report by July 1, 2006, to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission and to the 74th Session of the Nevada Legislature. The report must be made available to the general public.

Sec. 41. The Public Utilities Commission of Nevada shall transfer the sum of \$125,000 in Fiscal Year 2005-2006 and the sum of \$125,000 in Fiscal Year 2006-2007 from its reserve account in the Public Utilities Commission Regulatory Fund, created pursuant to NRS 703.147, to the Trust Fund for Renewable Energy and Energy Conservation, created pursuant to NRS 701.370.

Sec. 42. 1. This section and sections 14 to 37, inclusive, 39, 40 and 41 of this act become effective upon passage and approval.

2. Section 38 of this act becomes effective on June 1, 2005.

3. Sections 1, 2, 4, 6, 7, 8 and 9 to 13, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2005, for all other purposes.

4. Section 5 of this act becomes effective on October 1, 2005, and applies to the construction or renovation of a public building, the designing of which begins on or after that date.

5. Sections 8.1 to 8.8, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2006, for all other purposes.

6. Section 3 of this act becomes effective on July 1, 2007, and applies to the construction of a public building, the designing of which begins on or after that date.

7. Sections 8.55 and 8.6 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,  
 ➔ are repealed by the Congress of the United States.

#### TEXT OF REPEALED SECTION

Section 4 of Senate Bill No. 256 of this session:

Sec. 4. NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that:

(a) Uses renewable energy or energy from a qualified energy recovery process to generate electricity; ~~and~~

~~(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process via:~~

~~(1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy or energy from a qualified energy recovery process 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.]~~

(b) *Either:*

*(1) Is directly connected to a provider of electric service through the use of a dedicated transmission or distribution line; or*

*(2) Schedules and delivers, either directly or through a contract path transaction, the electricity it generates from a renewable energy system or from a qualified energy recovery process to a provider of electric service; and*

*(c) Has a commercial operation date on or after July 1, 2005, has applied to, petitioned for or sought an advisory opinion from the Commission to be registered as a renewable energy system before July 1, 2005, or is currently providing electricity to a provider of electric service using renewable energy or energy from a qualified energy recovery process. As used in this paragraph, "commercial operation date" means the date the facility first produces electrical energy, for any purpose, at its current location or any former location.*

2. A solar energy system that reduces the consumption of electricity, natural gas or propane.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive."

Amend the title of the bill to read as follows:

"AN ACT relating to energy; making various changes to encourage energy efficiency in construction and renovation; providing for a partial abatement of certain taxes for certain energy efficient buildings and green buildings;

requiring the University and Community College System of Nevada to provide instruction in certain areas related to green buildings; providing for the licensure of certain persons engaged in photovoltaic system projects; requiring the Director of the Office of Energy to adopt certain regulations, plans and guidelines regarding building standards and energy efficiency; requiring the State to reduce its grid-based purchases for state-owned buildings; increasing the number of members of the Task Force for Renewable Energy and Energy Conservation; revising provisions relating to the universal energy charge and the Fund for Energy Assistance and Conservation; revising provisions governing the portfolio standard for renewable energy and energy from a qualified energy recovery process; allowing a provider of electric service to receive credits under the portfolio standard for certain energy efficiency measures; authorizing the Public Utilities Commission of Nevada to establish a temporary renewable energy development program for certain purposes; enacting provisions concerning the financial impact of certain long-term contracts required by the portfolio standard; revising the Solar Energy Systems Demonstration Program Act; transferring certain funds to the Trust Fund for Renewable Energy and Energy Conservation; providing penalties; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Makes various changes relating to energy, conservation, construction and renovation and creates incentives and standards for green buildings. (BDR 22-730)".

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Senator Townsend requested that his remarks be entered in the Journal.

Thank you, Madam President.

This amendment is a compilation of the Senate's changes to Assembly Bill No. 385 as well as the improvements to Senate Bill No. 188 that the Assembly processed as well as another bill that has to do with the administration of the Universal Energy Charge. This really is three bills in one with all of them based on discussions with the other House. They all have been improved, and as a package, this is as good a statement about renewable energy standards and conservation as well as other components that any state could make.

This amendment changes the green-building standard for public buildings from the silver standard to the base standard or its equivalent. It clarifies that the Leadership in Energy and Environmental Design Green Building Rating System better known as "LEED" is one of the standards that the Director of the State Energy Office may use as a model for adoption as a Nevada standard. It allows local governments as well as the State to select a contractor to conduct an analysis of the life-cycle costs of certain public buildings. It deletes reference to apprentice photovoltaic installers leaving only photovoltaic installers. It allows providers of electric service to receive credits toward meeting the portfolio standard. That was the essence of the bill known as Senate Bill No. 188 previously heard and passed by this body. It modifies the portfolio standard for increasing percentage of total electricity sold by a provider must be generated or acquired or saved from the portfolio energy system.

The Public Utilities Commission (PUC) can adopt regulations establishing a temporary renewable-energy development program to assist with the completion of new renewable-energy projects. They are commonly known as the "Tred Program." That was the tremendous work by

the late Energy Office Director Richard Burdett. We should all remember him for his contributions to this State.

It increases from 3 to 5 percent the amount of money allocated to the Welfare Division for the Energy Assistance Program that the Division may use for administering that program.

The amendment provides the funding for the Task Force for Renewable Energy and Energy Efficiency. That money will come from the PUC's mil-assessment reserve fund rather than from the State General Fund.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 411.

Bill read third time.

Roll call on Assembly Bill No. 411:

YEAS—21.

NAYS—None.

Assembly Bill No. 411 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 17.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 17:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 17 having received a constitutional majority, Madam President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

#### UNFINISHED BUSINESS REPORTS OF CONFERENCE COMMITTEES

*Madam President:*

The first Conference Committee concerning Assembly Bill No. 221, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 888 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 5, which is attached to and hereby made a part of this report.

Conference Amendment.

Amend the bill as a whole by deleting sections 1 through 11 and adding new sections designated sections 1 through 9, following the enacting clause, to read as follows:

"Section 1. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

*Except as otherwise provided in NRS 369.386 and 369.415, a supplier shall not engage in the business of importing, wholesaling or retailing alcoholic beverages in this State.*

Sec. 2. NRS 369.111 is hereby amended to read as follows:

369.111 As used in this chapter, "supplier" means, with respect to liquor which is brewed, distilled, fermented, manufactured, *rectified*, produced or bottled:

1. Outside the United States:

(a) The brewer, distiller, manufacturer, producer, *rectifier*, vintner or bottler of the liquor, or his designated agent; or

(b) The owner of the liquor when it is first transported into any area under the jurisdiction of the United States Government, if the brewer, distiller, manufacturer, *rectifier*, producer, vintner or bottler of the liquor, or a designated agent of such a person, has not designated an importer to import the liquor into this State; ~~for~~

2. Within the United States but outside this State, the brewer, distiller, manufacturer, *rectifier*, producer, vintner or bottler of the liquor, or his designated agent ~~to~~; or

3. *Within this State, the distiller, manufacturer, rectifier, producer or bottler of the liquor or his designated agent.*

Sec. 3. NRS 369.386 is hereby amended to read as follows:

369.386 1. Except as otherwise provided in NRS 369.464, a supplier of liquor may sell to an importer ~~into~~ or wholesaler in this State only if:

(a) Their commercial relationship is of definite duration or continuing indefinite duration; and

(b) The importer is granted the right to offer, sell and distribute within this State or any designated area thereof such of the supplier's brands of packaged malt beverages, distilled spirits and wines, or all of them, as may be specified.

2. The supplier shall file with the Department a written notice indicating the name and address of each designated importer. Each importer shall file with the Department a written acceptance of the designation.

3. A brewer, distiller, manufacturer, producer, vintner or bottler of liquor who designates an agent to sell his products to importers into this State shall file with the Department a written designation indicating the name and address of the agent, and the agent shall file with the Department a written acceptance of the designation.

Sec. 4. NRS 369.430 is hereby amended to read as follows:

369.430 1. By regulation, the Department shall prescribe the form of application for and the form of a certificate of compliance, which must be printed and distributed to exporters of liquor into this State to assist them in legally exporting liquor into this State.

2. An intending importer may not legally receive or accept any shipment of liquor except from a holder of a certificate of compliance.

3. *Before a person may engage in business as a supplier, he must obtain a certificate of compliance from the Department.*

4. The Department shall grant a certificate of compliance to any out-of-state vendor of liquors who undertakes in writing:

(a) To furnish the Department on or before the 10th day of each month a report under oath showing the quantity and type of liquor sold and shipped by the vendor to each licensed importer of liquor in Nevada during the preceding month;

(b) That he and all his agents and any other agencies controlled by him will comply faithfully with all laws of this State and all regulations of the Department respecting the exporting of liquor into this State;

(c) That he will make available for inspection and copying by the Department any books, documents and records, whether within or outside this State, which are pertinent to his activities or the activities of his agents or any other agencies controlled by him within this State and which relate to the sale and distribution of his liquors within this State; and

(d) That he will appoint a resident of this State as his agent for service of process or any notice which may be issued by the Department.

~~{4}~~ 5. If any holder of a certificate of compliance fails to keep any undertaking or condition made or imposed in connection therewith, the Department may suspend the certificate and conduct a hearing, giving the holder thereof a reasonable opportunity to appear and be heard on the question of vacating the suspension order or order finally revoking the certificate.

~~{5}~~ 6. An applicant for a certificate of compliance must pay a fee of \$50 to the Department for the certificate. On or before July 1 of each year, the certificate holder must renew the certificate by satisfying the conditions of the original certificate and paying a fee of \$50 to the Department.

Sec. 5. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person shall not:*

(a) *Sell or offer for sale, purchase, possess or use an alcohol vaporizing device; or*  
 (b) *Use the brand name of any alcoholic beverage in an advertisement or other promotion of an alcohol vaporizing device.*

2. *A person who violates any provision of subsection 1 is guilty of a misdemeanor.*

3. *As used in this section:*

(a) *"Alcohol vaporizing device" means a machine or other device which mixes liquor with pure oxygen or any other gas to produce a vaporized product which is consumed by inhalation.*

(b) *"Liquor" has the meaning ascribed to it in NRS 369.040.*

Sec. 6. NRS 202.015 is hereby amended to read as follows:

202.015 For the purposes of NRS 202.015 to 202.065, inclusive, *and section 5 of this act*, "alcoholic beverage" means:

1. Beer, ale, porter, stout and other similar fermented beverages, including sake and similar products, of any name or description containing one-half of 1 percent or more alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

2. Any beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar, of not less than one-half of 1 percent of alcohol by volume.

3. Any distilled spirits commonly referred to as ethyl alcohol, ethanol or spirits of wine in any form, including all dilutions and mixtures thereof from whatever process produced.

Sec. 7. NRS 597.200 is hereby amended to read as follows:

597.200 As used in NRS 597.210 to 597.250, inclusive, unless the context otherwise requires:

1. "Alcoholic beverage" means any malt beverage or spirituous, vinous or malt liquor which contains 1 percent or more ethyl alcohol by volume.

2. "Brew pub" means an establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230.

3. "Engage in" includes participation in a business as an owner or partner, or through a subsidiary, affiliate, ownership equity or in any other manner.

4. "Malt beverage" means beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

5. *"Supplier" has the meaning ascribed to it in NRS 597.140.*

Sec. 8. NRS 597.210 is hereby amended to read as follows:

597.210 1. Except as otherwise provided in NRS 597.240, a person engaged in *business as a supplier or engaged in* the business of manufacturing, blending or bottling alcoholic beverages *within or without this State* shall not engage in the business of importing, wholesaling or retailing alcoholic beverages. ~~[by investment, loan or extension of credit in excess of normal terms prevalent in the industry, unless he was so engaged on or before May 1, 1975, and then only to the extent so engaged.]~~

2. This section does not:

(a) Preclude any person engaged in the business of importing, wholesaling or retailing alcoholic beverages from owning less than 2 percent of the outstanding ownership equity in any organization which manufactures, blends or bottles alcoholic beverages.

(b) Prohibit a person from operating a brew pub pursuant to NRS 597.230.

(c) *Prohibit a person engaged in the business of rectifying or bottling alcoholic beverages from importing neutral or distilled spirits in bulk only for the express purpose of rectification pursuant to NRS 369.415.*

Sec. 9. This act becomes effective upon passage and approval."

Amend the title of the bill to read as follows:

"AN ACT relating to intoxicating liquors; revising various provisions governing the sale and disposition of intoxicating liquor; prohibiting the sale, purchase, possession or use of an alcohol vaporizing device; prohibiting the use of the brand name of any alcoholic beverage in an advertisement or other promotion of an alcohol vaporizing device; providing penalties; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Makes various changes relating to intoxicating liquors. (BDR 20-270)".

MARK E. AMODEI

JOHN OCEGUERA

FRANCIS ALLEN

MIKE MCGINNESS

SUSAN GERHARDT

*Senate Conference Committee*

*Assembly Conference Committee*

Senator Amodei moved that the Senate adopt the report of the first Conference Committee concerning Assembly Bill No. 221.

Remarks by Senators Amodei and Beers.

Conflict of interest declared by Senator Care.

Motion carried by a constitutional majority.

*Madam President:*

The first Conference Committee concerning Assembly Bill No. 501, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 706 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 6, which is attached to and hereby made a part of this report.

Conference Amendment.

Amend sec. 12, page 12, line 9, by deleting "*licensee*;" and inserting "*person*;".

Amend sec. 12, page 12, line 11, by deleting "*licensee*." and inserting "*person*."

Amend sec. 12, page 12, by deleting line 14 and inserting:

"~~3~~ 4. If the administrative fine *and any interest imposed pursuant to NRS 624.300* is not paid when due, the fine *and interest, if any*,".

Amend sec. 12, page 12, line 17, after "*finest*" by inserting "*and interest*".

MAGGIE CARLTON

BERNIE ANDERSON

JOSEPH J. HECK

MARCUS CONKLIN

SANDRA J. TIFFANY

HEIDI S. GANSERT

*Senate Conference Committee*

*Assembly Conference Committee*

Senator Carlton moved that the Senate adopt the report of the first Conference Committee concerning Assembly Bill No. 501.

Motion carried by a constitutional majority.

#### CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 107.

The following Assembly amendment was read:

Amendment No. 958.

Amend sec. 4, page 3, line 20, before "*Director*" by inserting: "*Department of Taxation and the*".

Amend the bill as a whole by renumbering sec. 7 as sec. 8 and adding a new section designated sec. 7, following sec. 6, to read as follows:

"Sec. 7. NRS 354.596 is hereby amended to read as follows:

354.596 1. The officer charged by law shall prepare, or the governing body shall cause to be prepared, on appropriate forms prescribed by the Department of Taxation for the use of local governments, a tentative budget for the ensuing fiscal year. The tentative budget for the following fiscal year must be submitted to the county auditor and filed for public record and inspection in the office of:

(a) The clerk or secretary of the governing body; and

(b) The county clerk.

2. On or before April 15, a copy of the tentative budget must be submitted:

(a) To the Department of Taxation; and

(b) In the case of school districts, to the Department of Education.

3. At the time of filing the tentative budget, the governing body shall give notice of the time and place of a public hearing on the tentative budget and shall cause a notice of the hearing to be published once in a newspaper of general circulation within the area of the local government not more than 14 nor less than 7 days before the date set for the hearing. The notice of public hearing must state:

(a) The time and place of the public hearing.

(b) That a tentative budget has been prepared in such detail and on appropriate forms as prescribed by the Department of Taxation.

(c) The places where copies of the tentative budget are on file and available for public inspection.

4. Budget hearings must be held:

(a) For county budgets, on the third Monday in May;

(b) For cities, on the third Tuesday in May;

(c) For school districts, on the third Wednesday in May; and

(d) For all other local governments, on the third Thursday in May ~~or~~ *or the Friday immediately succeeding the third Thursday in May,*

↪ except that the board of county commissioners may consolidate the hearing on all local government budgets administered by the board of county commissioners with the county budget hearing.

5. The Department of Taxation shall examine the submitted documents for compliance with law and with appropriate regulations and shall submit to the governing body at least 3 days before the public hearing a written certificate of compliance or a written notice of lack of compliance. The written notice must indicate the manner in which the submitted documents fail to comply with law or appropriate regulations.

6. Whenever the governing body receives from the Department of Taxation a notice of lack of compliance, the governing body shall forthwith proceed to amend the tentative budget to effect compliance with the law and with the appropriate regulation."

Amend the bill as a whole by deleting sec. 8.

Amend the title of the bill to read as follows:

"AN ACT relating to governmental administration; requiring certain state agencies to report information concerning capital improvements to the Legislature; requiring local governments to report information concerning capital improvements to the Legislature and the Department of Taxation; requiring the State Public Works Board to compile a report concerning projects of construction of state buildings that are financed by certain bonds or obligations; authorizing an additional date for the holding of budget



hearings by certain local governments; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Revises provisions relating to governmental administration. (BDR 27-31)".

Senator Raggio moved that the Senate concur in the Assembly amendment to Senate Bill No. 107.

Remarks by Senator Raggio.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 392.

The following Assembly amendment was read:

Amendment No. 1151.

Amend the bill as a whole by deleting sec. 31 and adding:

"Sec. 31. (Deleted by amendment.)".

Amend sec. 38, page 24, line 18, by deleting "501(c)" and inserting:

"501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS,".

Amend sec. 38, page 25, by deleting lines 26 through 35.

Amend sec. 45, page 30, by deleting line 1 and inserting:

"Sec. 45. NRS 360.770 and 360.785 are hereby".

Amend the bill as a whole by deleting sec. 49 and renumbering sections 50 and 51 as sections 49 and 50.

Amend the text of repealed sections by deleting the text of NRS 368A.210.

Amend the title of the bill by deleting the fifth and sixth lines.

Senator Raggio moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 392.

Remarks by Senator Raggio.

Motion carried.

Bill ordered transmitted to the Assembly.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator McGinness moved that the action whereby Senator Rhoads was appointed to the first Conference Committee concerning Senate Bill No. 356 be rescinded and that Senator Carlton be appointed to the committee.

Remarks by Senator McGinness.

Motion carried.

#### UNFINISHED BUSINESS

##### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 70, 118, 328, 396, 512; Senate Resolution No. 10; Assembly Bills Nos. 98, 109, 210, 249, 254, 365, 465.

## GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of President Hunt, the privilege of the floor of the Senate Chamber for this day was extended to Rhode Island Lieutenant Governor Charles Fogarty and Jeff Guimond.

Senator Raggio moved that the Senate adjourn until Sunday, June 5, 2005, at 9 a.m. and that it do so in memory of Audie Cross.

Motion carried.

Senate adjourned at 5:43 p.m.

Approved:

LORRAINE T. HUNT  
*President of the Senate*

Attest: CLAIRE J. CLIFT  
*Secretary of the Senate*