

The meeting was called to order at 8:10 a.m. Senator Close was in the Chair.

PRESENT: Senator Close  
Senator Hernstadt  
Senator Don Ashworth  
Senator Dodge  
Senator Ford  
Senator Raggio  
Senator Sloan

ABSENT: None

SB 294 Provides for establishing parentage and enforcing support of children.

Testifying on this bill were Ace Martell, Deputy Administrator for the Welfare Department, Walt Lloyd, Deputy Attorney General assigned to the Welfare Division in Child Support Enforcement, and Bill Furlong with Support Enforcement.

See minutes of March 14 and March 20 for previous testimony and discussion. Also exhibits mentioned in this meeting are the attachments referred to in the minutes of March 20.

Mr. Martell stated that since the last meeting he had talked with Dr. Terasaki of U.C.L.A. and he would be happy to come up and testify on the blood test accuracy, if the Committee needed some expert testimony in addition to the articles he had passed out.

Senator Close stated that if Mr. Martell could briefly outline what is in the articles and then the Committee could review them, he didn't feel they would need Dr. Terasaki to come up.

Mr. Lloyd stated that the article by the A.M.A. and the A.B.A. was a report of a joint committee formed by these two groups to address the state of the art of blood typing, and the analysis of blood characteristics. It points out a number of steps to be taken by the medical and legal professions to improve the utilization of this scientific inquiry and analysis. The HLA test is one of some 60 tests that can be performed, and represents a striking step forward at a relative minimal cost. The other article is a report from the Family Law Quarterly, demonstrating the results of 1,000 tests run by Dr. Terasaki. Dr. Terasaki explains the technique, the aspects they are looking for, the genetic combinations and how they work, and makes a case for wider use for this particular analysis. He also stated that Dr. Terasaki is considered to be one of the experts in the world on HLA testing.

Senator Raggio stated he understood how the percentage was raised as to exclusion of the punitive father, but how does that bring a high degree of probability as to identification.

Mr. Lloyd stated that there was a 92% exclusion based on data available in 1972. This article takes it forward from that point and addresses these 1,000 cases and increasing the ability to exclude up into the 95% and above category. Once you have excluded these individuals you then look at the access to the female, that particular genetic characteristic that he possesses and you being to factor in a probability. Also, the probability of there being another man walking around the State of Nevada having the same genetic characteristics. This would be just one tool in proving paternity, but this would be decided in the courts. He stated he would also like to bring up the fact that in talking with Dr. Terasaki, they felt that perhaps on Page 7 Section 30, there should be some language that would clarify that this was other than the normal type of blood testing.

Senator Dodge felt something could be written in here about a scientific and reliable test.

Senator Raggio stated he thought the reason it was written that way was to give the probability of the blood test as only one way of proving a case.

Mr. Lloyd stated he felt this subject was well covered in Section 14 and perhaps this could be inserted into Section 30. He stated also in Section 30 if the Committee was not comfortable with the language of leaving the use of experts up to the court and the prosecutor, he had some language to replace it. He would suggest that in this section on line 18 the insertion of "other especially qualified physicians." In the context we are talking about a general practitioner is not skilled in this type of analysis. The word "especially" came out of our reference to the use of psychiatrists in determination of persons who are suffering from insanity. Then in continuation we would follow "physicians" by "other experts" instead of the term "qualified persons."

Mr. Lloyd stated that the only change in Section 31 would be the change of from 2 years to 3 years. This would conform with the Statute of Limitations.

There is no change in Section 32.

Senator Dodge asked if in Section 33, Sub-section 2, if they are trying to collect on any claims subsequent to the time of the adoption. The way the language is it cuts off the obligation of the parent after the adoption.

Mr. Lloyd stated that was not their intent, they were trying to make the language more precise.

Senator Close stated he felt that the old language as well as the new should be in there. That would make it clearer.

There were no changes or discussion on Sections 34 or 35.

Mr. Martell stated he would just like to point out that in Section 36 that this is part of the illegitimacy chapter, NRS 126, of which about 75% is being repealed. This section is one that is being left in.

Senator Dodge asked in Section 37, who normally is the plaintiff?

Mr. Lloyd stated that normally the mother is as far as the statute is concerned, but the Committee may wish to consider adding guardian ad litem.

Senator Raggio stated that this would be covered under the Uniform Parentage Act.

Mr. Lloyd stated that really does not track. Under this act there is a proviso for who may bring the action.

Senator Raggio stated that Section 38 refers to the personal representative which is already in the act.

Mr. Martell stated that perhaps this section is redundant with Section 4.

Senator Close stated that one is establishing parentage and one is establishing support. However, once you have established parentage than you have the right of going after the first representative of the deceased parent.

Senator Raggio stated that they should remember that this bill puts all of this together into NRS 126.

Mr. Martell stated they would check with Frank Daykin on this point.

Mr. Lloyd stated that in Section 39, line 9, they would like "that payment" deleted and put in "that sufficient to reimburse."

Senator Raggio stated he felt it should be, "that payment be made to the Division for reimbursement."

After some discussion the Committee felt they should check with Frank Daykin for the language to make sure that it is only the obligation that is recovered.

There were no changes in Sections 40 or 41.

Mr. Lloyd stated that Section 42 tracks with the provision of 201, which is where you can prosecute for failure to support your family or your children. This would take the criminal aspect out of this chapter but would leave it in the 200 series.

Mr. Lloyd stated that Section 43 deals with NRS 127.095. This

section deals with parental rights and the termination of them.

Senator Close asked if it were in the law now that the mother would have to go through the court to give up her child.

Senator Dodge stated that it was and has been since 1965. You don't want to have someone giving up the child and then in a couple of years later have the father come in and say "that is my child, I want him back." That is a terrible trauma for both the child and the adoptive parents.

Mr. Furlong stated that is why we have put that language in here. Both parents would have to waive their right to that child.

There were no changes or discussion on Sections 44 thru 47.

Senator Close stated that Section 48 is the repealer section. What he would like is for Mr. Martell, Mr. Lloyd and Mr. Furlong, to do is to have them come back to the Committee with a clean copy and a brief outline next to it, to indicate what changes are to be made and why. He felt that with the testimony that had been given and the handouts, then they would be able to consider the bill.

Mr. Lloyd stated that there was one other point he would like to bring out and that is the section on immunity. This conforms with the Immunity Statutes almost word for word. This would be transactional rather than use. This would mean that a person who is required to give testimony that is incriminating, or produce evidence that was incriminating, as far as any crime manifested by that data, would be immune from prosecution.

The Committee had some question as to whether or not this should be transactional or use. Senator Close suggested that this be checked out with Mr. Daykin also.

Senator Ford pointed out that there was another change that should be made and that is on page 15, lines 4 and 5. There is a 1 to 6 jail term but a \$1,000 penalty. This should be changed to a \$5,000 penalty to track with SB 9, to make the penalties uniform.

No action was taken on this bill at this time.

SB 174 Amends requirements for notice of check refused for payment because of insufficient funds.

See minutes of February 15 and 16, and March 15 for testimony and discussion.

Senator Dodge stated he did not feel the bill was written so it reached what is the intent of the Committee.

Senator Ford asked if this address the question that Senator Glaser had as to there being no address on the check, and even if you knew where the person lived, you could not collect on the check. She felt that if you added the language "or if there is no address on the check, but the address is known", on line 12, after the word "instrument", this might clarify it.

Senator Close thought the language "written on the check" was would clarify it. You could either have it printed or it could be written by hand.

Senator Sloan stated that it does say "if you give personal service", so that would be regardless of what was written on the check.

Senator Dodge asked why there was "prima facie evidence" and "rebutable presumption" together.

Senator Close stated that Frank Daykin should be called up to clarify the bill.

Mr. Daykin testified that these two terms are equivalent, however, it would be better to pick one and use it all the way through the bill.

Senator Raggio stated that you already have an intent to defraud and if the check has an address on it, why do you have to send the notice if you already have the address and an intent to defraud.

Mr. Daykin stated that there is a carrying forward here of the provisions of existing law with a change dealing with how the notice is set. The first would arise if you had an account and the bank failed to pay it. The second goes to the maker and his not paying the full amount within 10 days after the maker receives written notice.

Senator Sloan asked what would happen if a notice is sent to my home, I have an address on my check, I am absent from my home, and even though I never received notice, this raises the question of a presumption to defraud. He questions if this could pass the rationale basis test which was established in the Leary case by the Supreme Court. Would this then be a presumed fact that if you don't receive the letter in 10 days that this shows criminal intent.

Mr. Daykin stated that was invisioned by the bill is a little different than Senator Sloan hypothetical circumstance, so it might require rearrangement of the bill.

Senator Sloan stated that usually the registered letter has to be signed by the addressee. If it isn't picked up in three days the letter will be returned.

Senator Close stated that he would like to have Mr. Daykin re-draft the bill listing A, B, C as prima facie evidence of attempt to defraud. Conform prima facie and rebuttal and conform it throughout the Statute.

Senator Raggio stated that as long as this was being re-drafted, he felt it should be made clear that this does not affect things like a promisory note.

Mr. Daykin stated that this then should be made into an instrument for present payment of money and he would use the correct wording.

No action was taken at this time.

SB 289 Provides for creation of easements for collection of solar energy.

See minutes of March 12 for previous testimony.

Peggy Tweet, League of Women Voters, read her testimony to the Committee, in support of this bill. (see attachment A)

John Tryon, a member of the Nevada Solar Energy Association, stated he was here specifically to answer questions as to what other states are doing in appropriation of solar rights. California has a shade control law, (see attachment B). New Mexico has a law that passed in 1977 (see attachment C). He stated he would also like to submit some changes that the Association has on the bill (see attachment D). He also passed out some angle plots as to how the easements and such would affect the neighboring property owner's right to build. (see attachment E).

Senator Close stated that he felt the bill still needed a great deal of work. He would like to have Mr. Tryon set down how much sun would be needed for these collectors to operate. How much energy could be processed when the sun was at it's lowest and highest ebb. He would also like to have some better sketches submitted as to exactly what the impact would be on the neighboring properties.

Gil Buck, Nevada Association of Relators, stated they do not feel that there is a need for this bill. He felt that the adjacent land owners could make their own agreements. However, if the Committee felt there was a need for this type of Legislation, he would suggest that lines 1 thru 11 be the entire bill. He also felt that on line 10 the words "burdened" and "benifited" should be deleted, being replaced by "county where the lands are situated." There would then be contractual easements, but the easement by appropriation would be eliminated. He stated they are not opposed to people using solar energy, but that this bill only addresses a few of the myriad of things that need to be addressed.

Noel A. Clark, Director of the Nevada Department of Energy, stated that they support this bill in its general concept. He stated that 95% of Nevada's petroleum products are imported. He feels that if people are going to use this source of energy they need to have an incentive and by giving them some type of protection you will give them that incentive. He too feels that the bill needs some work, but also feels this is a step in the right direction. He stated he would urge the Committee to consider some type of Legislation in this session that would authorize some type of solar easement.

No action was taken by the Committee at this time.

SB 196 Entitles jurors to same compensation for lodging as received by state officers and employees.


Senator Sloan moved that SB 196 be passed out of Committee with a "do pass" recommendation.

Senator Ford seconded.

Motion carried unanimously.

As the Committee had to go into General Session, the meeting was adjourned.

Respectfully submitted.

  
Virginia C. Letts, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman

The League of Women Voters of Nevada supports passage of SB 289. We live in a state that imports almost 98% of its energy. We feel it's necessary to reduce our dependence on other states by promoting Nevada's own primary resources. Solar energy is one of these resources. We feel this legislation is one needed step in promoting the use of solar systems.

In previous testimony there was concern over the burdened land owner's rights. This was in connection to easements by appropriation. The League is also sympathetic to these concerns, but feels this bill has given the burdened land owner adequate protection. This is given on p. 2, Sect. 4.

We do feel the open space required through easement by appropriation should be defined more specifically. On p. 2, lines 24-27, it's <sup>due to interpretation of subject</sup> possible the burdened land owner's airspace could be encroached upon more than necessary. We feel the open area needs to be defined in terms of bearings. Since the angle required varies more with latitude than collecting equipment, these bearings could be specified by the State Dept of Energy for given zones throughout the state.



burdened  
Besides the<sup>^</sup> landowner's rights, the League is concerned about an individual's rights to sun light. Sun light is a resource. It is more difficult to quantify than other natural resources, but it seems analogous to water. Just as a rancher is appropriated water when the water is put to beneficial use, such should be true of solar energy.

We also feel it is necessary to record an easement by appropriation. We don't feel this need be as cumbersome as with water. We recommend the State Dept of Energy draw up a form which could be used for recording easements by appropriation. This form would include the same items as mentioned on p. 1, lines (13-20)

The League hopes this committee will recommend a "Do Pass" on SB 289.

An act to add Chapter 12 (commencing with Section 25980) to Division 15 of the Public Resources Code, relating to solar energy.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2321, Imbrecht. Solar energy: shade control.

Under existing law there are no restrictions on the shadow which may be cast by a tree or shrub upon a solar collector surface. Under existing law every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, is guilty of a misdemeanor.

This bill would prohibit, after January 1, 1979, any person owning or in control of property from allowing a tree or shrub to be placed or, if placed, to grow on such property, subsequent to the installation of a solar collector on the property of another, so as to cast a shadow greater than 10% of the collector absorption area upon that solar collector surface, as defined, on the property of another at any one time between the hours of 10 a.m. and 2 p.m., standard time, but would exempt specific trees and shrubs which cast a shadow upon such a solar collector at the time of installation of the collector or during the remainder of that annual solar cycle. It would provide for location requirements of a solar collector for purposes of the provisions of the bill. The bill would declare any such tree or shrub to be a public nuisance.

The bill would exempt trees planted, grown, or harvested on timberland or on land devoted to the production of commercial agricultural crops from its provisions, and would except trees or shrubs which are planted as replacements for previously existing trees or shrubs, under specified conditions.

The bill would also provide that any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system

from the provisions of the bill. The bill would provide that the court may grant such an exemption based on a finding that the passive or natural system would provide a demonstrably greater net energy savings than the active system which would be impacted.

The bill would authorize a city, or for unincorporated areas, a county, to adopt an ordinance exempting their jurisdiction from the requirements of the bill. The bill would provide that the adoption of such an ordinance would not be subject to the provisions of the California Environmental Quality Act.

The bill would declare that there shall be no reimbursement for any state-mandated local program for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 12 (commencing with Section 25980) is added to Division 15 of the Public Resources Code, to read:

## CHAPTER 12. SOLAR SHADE CONTROL

25980. This chapter shall be known and may be cited as the Solar Shade Control Act. It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

25981. As used in this chapter, "solar collector" means a fixed device, structure, or part of a device or structure, which is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system which makes use of solar energy for any or all of the following purposes: (1) water heating, (2) space heating or cooling, and (3)

power generation.

25982. After January 1, 1979, no person owning, or in control of a property shall allow a tree or shrub to be placed, or, if placed, to grow on such property, subsequent to the installation of a solar collector on the property of another so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface on the property of another at any one time between the hours of 10 a.m. and 2 p.m., local standard time; provided, that this section shall not apply to specific trees and shrubs which at the time of installation of a solar collector or during the remainder of that annual solar cycle cast a shadow upon that solar collector. For the purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and no less than 10 feet above the ground. A collector may be less than 10 feet in height, only if in addition to the five feet setback, the collector is set back three times the amount lowered.

25983. Every person who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 upon property owned by such person and every person leasing the property of another who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 after reasonable notice in writing from a district attorney or city attorney or prosecuting attorney, to remove or alter the tree or shrub so that there is no longer a violation of Section 25982, has been served upon such person, is guilty of a public nuisance as defined in Sections 370 and 371 of the Penal Code and in Section 3480 of the Civil Code. For the purposes of this chapter, a violation is hereby deemed an infraction. The complainant shall establish to the satisfaction of the prosecutor that the violation has occurred prior to the prosecutor's duty to issue the abatement notice. For the purpose of this section, "reasonable notice" means 30 days from receipt of such notice. Upon expiration of the 30-day period, the complainant shall file an affidavit with the prosecutor alleging that the nuisance has not been abated if the

complainant wishes to proceed with the action. The existence of such violation for each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district attorney, or the city attorney of any city the charter of which imposes the duty upon the city attorney to prosecute state infractions, to prosecute all persons guilty of violating this section by continuous prosecution until the violation is corrected. Each and every violation of this section shall be punishable by a fine not to exceed five hundred dollars (\$500).

25984. Nothing in this chapter shall apply to trees planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops. Nothing in this chapter shall apply to the replacement of a tree or shrub which had been growing prior to the installation of a solar collector and which, subsequent to the installation of such solar collector, dies.

25985. Any city, or for unincorporated areas, an county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of such an ordinance shall not be subject to the provisions of the California Environmental Quality Act (commencing with Section 21000).

25986. Any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system from the provisions of this chapter. The court may grant such an exemption based on a finding that the passive or natural system would provide a demonstrably greater net energy saving than the active system which would be impacted.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may

- 1 (1) the heating or cooling of a structure or build-  
2 ing;  
3 (2) the heating or pumping of water;  
4 (3) industrial, commercial or agricultural  
5 processes; or  
6 (4) the generation of electricity.

7 A solar collector may be used for purposes in addition to the  
8 collection of solar energy. These uses include, but are not limited  
9 to, serving as a structural member or part of a roof of a building or  
10 structure and serving as a window or wall; and

11 B. "solar right" means a right to an unobstructed line-  
12 of-sight path from a solar collector to the sun, which permits ra-  
13 diation from the sun to impinge directly on the solar collector.

14 Section 4. DECLARATION OF SOLAR RIGHTS.--

15 A. The legislature declares that the right to use the  
16 natural resource of solar energy is a property right, the exercise of  
17 which is to be encouraged and regulated by the laws of this state.  
18 Such property right shall be known as a solar right.

19 B. The following concepts shall be applicable to the  
20 regulation of disputes over the use of solar energy where practicable:

21 (1) "beneficial use". Beneficial use shall be the  
22 basis, the measure and the limit of the solar right, except as other-  
23 wise provided by written contract. If the amount of solar energy  
24 which a solar collector user can beneficially use varies with the  
25 season of the year, then the extent of the solar right shall vary

1 likewise;

2 (2) "prior appropriation". In disputes involving  
3 solar rights, priority in time shall have the better right except  
4 that the state and its political subdivisions may legislate, or  
5 ordain that a solar collector user has a solar right even though a  
6 structure or building located on neighborhood property blocks the  
7 sunshine from the proposed solar collector site. Nothing in this  
8 paragraph shall be construed to diminish in any way the right of  
9 eminent domain of the state or any of its political subdivisions or  
10 any other entity that currently has such a right; and

11 (3) "transferability". Solar rights shall be freely  
12 transferable within the bounds of such regulation as the legislature  
13 may impose. The transfer of a solar right shall be recorded in  
14 accordance with Chapter 71, Article 2, NMSA 1953.

15 C. Unless singular overriding state concerns occur which  
16 significantly affect the health and welfare of the citizens of this  
17 state, permit systems for the use and application of solar energy  
18 shall reside with county and municipal zoning authorities.

19 Section 5. PRIOR RIGHTS UNAFFECTED.--Nothing in the Solar  
20 Rights Act shall be construed to alter, amend, deny, impair or modify  
21 any solar right, lease, easement or contract right which has vested  
22 prior to the effective date of the Solar Rights Act.

23 Section 6. EFFECTIVE DATE.--This act shall become effective  
24 on July 1, 1978.  
25

1310

The Legislature  
of the  
State of New Mexico

33RD Legislature, 1ST Session

LAWS 1977

CHAPTER 169

HOUSE NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR

HOUSE BILL 294, AS AMENDED

Introduced by



684

EXHIBIT C

CHAPTER 169

AN ACT

1  
2 RELATING TO SOLAR ENERGY; PROVIDING DECLARATIONS AND FINDINGS CON-  
3 CERNING SOLAR RIGHTS; PROVIDING A DECLARATION OF SOLAR RIGHTS.

4  
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 Section 1. SHORT TITLE.--This act may be cited as the "Solar  
7 Rights Act".

8 Section 2. DECLARATION AND FINDINGS.--The legislature declares  
9 that the state of New Mexico recognizes that economic benefits can  
10 be derived for the people of the state from the use of solar energy.  
11 Operations, research, experimentation and development in the field of  
12 solar energy use shall therefore be encouraged. While recognizing  
13 the value of research and development of solar energy use techniques  
14 and devices by governmental agencies, the legislature finds and de-  
15 clares that the actual construction and use of solar devices,  
16 whether at public or private expense, is properly a commercial  
17 activity which the law should encourage to be carried out, whenever  
18 practicable, by private enterprise.

19 Section 3. DEFINITIONS.--As used in the Solar Rights Act:

20 A. "solar collector" means any device or combination of  
21 devices or elements which rely upon sunshine as an energy source,  
22 and which are capable of collecting not less than twenty-five  
23 thousand Btu's on a clear winter solstice day. The term also in-  
24 cludes any substance or device which collects solar energy for use  
25 in:

HNRCS/HOUSE BILL 294  
Approved April 1, 1977

1 (1) the heating or cooling of a structure or build-  
2 ing;

3 (2) the heating or pumping of water;

4 (3) industrial, commercial or agricultural  
5 processes; or

6 (4) the generation of electricity.

7 A solar collector may be used for purposes in addition to the  
8 collection of solar energy. These uses include, but are not limited  
9 to, serving as a structural member or part of a roof of a building or  
10 structure and serving as a window or wall; and

11 B. "solar right" means a right to an unobstructed line-  
12 of-sight path from a solar collector to the sun, which permits ra-  
13 diation from the sun to impinge directly on the solar collector.

14 Section 4. DECLARATION OF SOLAR RIGHTS.--

15 A. The legislature declares that the right to use the  
16 natural resource of solar energy is a property right, the exercise of  
17 which is to be encouraged and regulated by the laws of this state.  
18 Such property right shall be known as a solar right.

19 B. The following concepts shall be applicable to the  
20 regulation of disputes over the use of solar energy where practicable:

21 (1) "beneficial use". Beneficial use shall be the  
22 basis, the measure and the limit of the solar right, except as other-  
23 wise provided by written contract. If the amount of solar energy  
24 which a solar collector user can beneficially use varies with the  
25 season of the year, then the extent of the solar right shall vary

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6 structure or building located on neighborhood property blocks the  
7 sunshine from the proposed solar collector site. Nothing in this  
8 paragraph shall be construed to diminish in any way the right of  
9 eminent domain of the state or any of its political subdivisions or  
10 any other entity that currently has such a right; and

11 (3) "transferability". Solar rights shall be freely  
12 transferable within the bounds of such regulation as the legislature  
13 may impose. The transfer of a solar right shall be recorded in  
14 accordance with Chapter 71, Article 2, NMSA 1953.

15 C. Unless singular overriding state concerns occur which  
16 significantly affect the health and welfare of the citizens of this  
17 state, permit systems for the use and application of solar energy  
18 shall reside with county and municipal zoning authorities.

19 Section 5. PRIOR RIGHTS UNAFFECTED.--Nothing in the Solar  
20 Rights Act shall be construed to alter, amend, deny, impair or modify  
21 any solar right, lease, easement or contract right which has vested  
22 prior to the effective date of the Solar Rights Act.

23 Section 6. EFFECTIVE DATE.--This act shall become effective  
24 on July 1, 1978.  
25

DRAFT  
Including changes recommended March 12, 1979

S. B. 289

SENATE BILL NO. 289—COMMITTEE ON JUDICIARY

MARCH 2, 1979

Referred to Committee on Judiciary

SUMMARY—Provides for creation of easements for collection of solar energy. (BDR 10-883)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to easements for the collection of solar energy; providing for creation of such an easement by grant or appropriation; providing for passing of such an easement upon transfer of the land; providing for termination; and providing other matters properly relating thereto.

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

- 1 SECTION 1. Chapter 111 of NRS is hereby amended by adding
- 2 thereto the provisions set forth as sections 2 to 6, inclusive, of this act.
- 3 SEC. 2. 1. *An easement for collection of solar energy may be created*
- 4 *by a grant from the owner of neighboring land to the owner of land on*
- 5 *which equipment for the collection of solar energy has been or is planned*
- 6 *to be installed.*
- 7 2. *The easement is an interest in real property.*
- 8 3. *The grant must be expressed in a written instrument, signed by*
- 9 *the grantor. When acknowledged, the instrument ~~may~~ be recorded by the*
- 10 *county recorder in the county where the burdened and benefited lands*
- 11 *are situated.*
- 12 4. *The instrument must include a description of:*
- 13 (a) *The burdened and benefited lands.*
- 14 (b) *The location, size and periods of operation of the equipment to be*
- 15 *used in collecting the solar energy.*
- 16 (c) *The open area to be preserved for passage of direct solar radiation*
- 17 *across the burdened land to the collecting equipment, by dimensions*
- 18 *or bearings from the equipment or by a statement that no obstructions*
- 19 *which cast a shadow on the ~~equipment~~ during its periods of operation*
- 20 *are allowed on the burdened land.*
- 21 SEC. 3. *Subject to the limitations set forth in section 4 of this act,*
- 22 *the owner of land used for a single-family residence may create an*
- 23 *easement by appropriation for the passage of direct solar radiation*
- 24 *across neighboring land if:*

MUST

collecting

- 1. He causes a notice of intent to appropriate in substantially the form set out in Sec. 5 to be sent Certified Mail, Return Receipt Requested, postage pre-paid addressed to the owners of all lands within a 300-foot radius of the proposed benefited lands at their addresses of record with the County Assessor or Tax Receiver; and thereafter files such notice with the County Clerk of the county in which the burdened and benefited lands lie.
- 2. No protests are received to such notice by the clerk within 30 days following the filing; whereupon the clerk must cause a copy of such notice to be recorded.

- 1 3. He installs equipment on his own land for the collection of solar
- 2 energy;
- 3 4. The collecting equipment is open and obvious from the neighbor-
- 4 ing land; ~~collecting~~ <sup>10</sup>
- 5 5. The equipment is set back at least 8 feet from the boundary
- 6 between his land and the neighboring land; and ~~collecting~~
- 7 6. The lowest edge of the equipment is located at least 10 feet
- 8 above the grade of his land, or if it is lower, it is set back an additional
- 9 distance of at least three times the amount that it is lower.

7. In the event that protests are received, the clerk must mail notice to the owner seeking an easement and all protestants that a hearing will be held before the County Commission no sooner than 15 days following the mailing of such notices.

At the hearing, the Commission may either grant the easement in whole or in part or deny it. Any order of the Commission granting the easement or any part of it must be recorded by the clerk.

10 SEC. 4. An easement created by appropriation for the collection of

- 11 solar energy:
- 12 1. Does not affect any building or other improvement which exists
- 13 on the burdened land at the time of the appropriation.
- 14 2. Does not preclude the owner of the burdened land from con-
- 15 structing any improvement on his land which is permitted under the
- 16 zoning ordinance applicable at the time of the appropriation and is
- 17 consistent with improvements in the neighborhood.
- 18 3. Does not affect any tree or other vegetation which is planted <sup>growing</sup>
- 19 on the burdened land at the time of the appropriation and would
- 20 normally grow into the airspace between the sun and the collecting
- 21 equipment at certain hours.
- 22 4. Does not extend to the period from 90 minutes before local
- 23 sunset until 90 minutes after local sunrise.
- 24 5. Does not extend to any larger open space or longer period of
- 25 collection than equipment having efficiency representative of designs
- 26 at the time of the appropriation would require in order to furnish 90
- 27 percent or less of the energy consumed on the benefited land.

6. Does not preclude use on the burdened land of antennas, utility wires, utility poles, or similar obstructions which in the aggregate are not wider when viewed from the collecting equipment than 3 inches if horizontally oriented, 18 inches if vertically oriented, and 6 inches if diagonally oriented.

7. Does not, in any event, affect real property more distant than 300 feet from the boundaries of the benefited land.



SEC. 5 Any notice of intent to appropriate a solar easement must be in the following form:

NOTICE OF INTENT TO APPROPRIATE  
SOLAR EASEMENT

To: \_\_\_\_\_  
(Name of owners)  
\_\_\_\_\_  
(address)

YOU ARE HEREBY NOTIFIED that the undersigned owner of property described as:

(Legal Description of  
proposed benefited land)

commonly known as \_\_\_\_\_  
(street address)

intends to appropriate an easement to sunlight described as follows:

(Describe as in the case of documentary easement)

You are further notified that such easement can affect the future use of your property. You are entitled to protest such easement in writing addressed to the County Clerk of \_\_\_\_\_ County on or before 30 days following the filing of a copy of this notice with the County Clerk. Such protest will cause a hearing to be held before the County Commission at which time such easement can be ordered in whole or in part or denied.

\_\_\_\_\_  
(owner of above described property)

SEC 6.1. Upon a change in zoning of the burdened land, the owner of the burdened land may bring an action in the district court of the county in which it lies to terminate any solar easement. In such action, the court shall enter an order vacating the solar easement, if it finds such changed zoning would enable an interference with the easement, and shall award damages to the benefited wner.

2. The measure of damages shall take into account:

- a) The cost of removing the solar systems.
- b) The cost of necessary replacement equipment.
- c) The cost of replacement fuel over the probable useful life of the solar system.

7

32 SEC. 5. 1. An easement for the collection of solar energy becomes  
33 vested in a grantee upon the recording of the grant and becomes vested  
34 in an appropriator upon his completion of the installation of his col-  
35 lecting equipment.

36 2. The easement is appurtenant to the benefited land. The benefit  
37 of the easement passes with the benefited land and the burden of the  
38 easement passes with the burdened land upon any transfer, voluntary  
39 or involuntary, of the respective lands.

40 SEC. 6. An easement for the collection of solar energy terminates:

41 1. Upon the expiration of a period of limitation specified in the  
42 grant creating the easement.

43 2. In the case of an appropriated easement, 1 year after use of the  
44 collecting equipment is discontinued.

45 3. Upon recording of a release of the easement by the owner of the  
46 benefited land.

4. Upon a court order of termination based on an  
abandonment or zone change.

# WORST CASE STUDY II

## STEEP NORTH-FACING SLOPE

Path of sunlight at noon on Dec 21;  
for northern Nevada.

← SOUTH

southern Nevada

Without accommodation

Without prudent placement

With accommodation

SOLAR HOUSE

COLLECTOR

three times amount lower

16ft

10ft

8ft

8ft

15ft

Setback

Setback

EXHIBIT E

JG Tryon  
March 10, 1979

WORST CASE STUDY IV  
 STEEP SOUTH-FACING SLOPE

Path of sunlight at noon on Dec 21;  
 for northern Nevada

← SOUTH

southern Nevada

Minor relocation needed

With reasonable accommodation

Minor accommodation needed

TWO-STORY HOUSE

COLLECTOR

SOLAR HOUSE

three times amount longer

BENEFITED

Slope 1:5

BURDENED

16 ft

10 ft high

8 ft setback

8 ft setback

EXHIBIT E

JG Tryon March 1963

42-201 50 SHEETS 3 SQUARE  
 42-302 100 SHEETS 3 SQUARE  
 42-303 200 SHEETS 3 SQUARE  
 NATIONAL ARCHITECTURAL

682

# WORST CASE STUDY III BOUNDARY BEARS NORTH WEST

Path of sunlight at 3pm on Dec 21;  
for northern Nevada

← SOUTHWEST

← southern Nevada

Without prudent location

Without reasonable accommodation

With reasonable accommodation

TWO-STORY HOUSE

COLLECTOR

SOLAR HOUSE

three times amount lower

16 ft

10 ft high

BURDENED

← 8 ft setback →  
← 8 ft setback →

BENEFITTED

S = even with reasonable accommodation this section is shaded in late afternoon. Further small accommodation by either

JG Tryon March 10, 1971

EXHIBIT E

1691

WORST CASE STUDY II  
BOUNDARY REARS WEST

Path of sunlight at noon on Dec 21;  
far northern Nevada.

← Southern  
Hemlock →

← SOUTH

Without reasonable  
accommodation

Without prudent  
location

TWO-STORY  
HOUSE

With  
reasonable  
accommodation

16 ft

10 ft  
high

COLLECTOR

SOLAR  
HOUSE

three times  
amount lower

BURDENED

← 8 ft  
setback

← 8 ft  
setback

BENEFITTED

JG Tryon March 10  
1979

EXHIBIT E 192

WORST CASE STUDY I  
BOUNDARY BEARS WEST

Path of sunlight at noon on Dec. 21;  
for northern Nevada

SOUTH

southern Nevada

Interference

ONE STORY HOUSE

SOLAR HOUSE

COLLECTOR

COLLECTOR

12ft

10ft

BURDENED

8ft Setback

8ft Setback

BENEFITTED

JG Tryon March 10  
1979

EXHIBIT E

693

SENATE BILL NO. 196—SENATOR BLAKEMORE

FEBRUARY 8, 1979

Referred to Committee on Judiciary

SUMMARY—Entitles jurors to same compensation for lodging as received by state officers and employees. (BDR 1-902)

FISCAL NOTE: Effect on Local Government: Yes. Effect on the State or on Industrial Insurance: Yes.



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

AN ACT relating to jurors; entitling jurors to the same allowances for lodging as are received by state officers and employees; and providing other matters properly relating thereto.

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

1 SECTION 1. NRS 6.150 is hereby amended to read as follows:  
2 6.150 1. Each person summoned to attend as a grand juror or a  
3 trial juror in the district court or justice's court, unless on or before the  
4 day he is summoned to attend he is excused by the court at his own  
5 request from serving, [shall receive] *is entitled to* \$9 [per day] for each  
6 day he [may be] *is* in attendance in response to the venire or summons,  
7 which [shall include] *includes* Sundays and holidays.  
8 2. Each grand juror and trial juror in the district court or justice's  
9 court actually sworn and serving [shall receive] *is entitled to* \$15 [per  
10 day each] as full compensation for each day of service.  
11 3. Each person summoned to attend as a grand juror or a trial juror  
12 in the district court or justice's court and each grand juror and trial juror  
13 in the district court or justice's court [shall] *is entitled to* receive 15  
14 cents a mile for each mile necessarily and actually traveled by the short-  
15 est and most practical route. Where the mileage does not exceed 1 mile,  
16 no allowance may be made therefor. If the home of a person summoned  
17 or serving as such a juror is 60 miles or more from the place of trial  
18 and the selection, inquiry or trial [last] *lasts* more than 1 day, he is  
19 entitled to receive an allowance [of \$15.50] for lodging [.,] *at the rate*  
20 *provided by law for state employees*, in addition to his daily compensa-  
21 tion for attendance or service, for each day on which he does not return  
22 to his home.  
23 4. In civil cases, the per diem of each juror engaged in the trial  
24 of the cause [shall] *must* be paid each day in advance to the clerk

Original bill is 2 pages long.  
Contact the Research Library for  
a copy of the complete bill.