

MINUTES OF THE  
LEGISLATIVE COMMISSION  
NEVADA LEGISLATIVE COUNSEL BUREAU (LCB)  
August 13, 2010

The third meeting in 2010 of the Legislative Commission, created pursuant to *Nevada Revised Statutes* (NRS) NRS 218E.150, was held on Friday, August 13, 2010. The meeting began at 9:10 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada. A simultaneous video conference was broadcast to Room 4100 of the Legislative Building, 401 S. Carson Street, Carson City, Nevada and to the Clinton Circle Modular Conference Room, Great Basin College, 1500 College Parkway, Elko, Nevada.

COMMISSION MEMBERS PRESENT:

Assemblyman John Oceguera, Chair (in Las Vegas)  
Assemblyman Marcus L. Conklin, Vice Chair (in Las Vegas)  
Senator Maggie Carlton (in Las Vegas)  
Senator Barbara K. Cegavske (in Las Vegas)  
Senator Steven A. Horsford (in Carson City)  
Senator Mike McGinness (in Carson City)  
    alternate for Senator Dennis Nolan  
Senator Maurice E. Washington (in Carson City)  
Senator Joyce L. Woodhouse (in Las Vegas)  
Assemblyman John C. Carpenter (in Elko)  
Assemblywoman Marilyn Kirkpatrick (in Las Vegas)  
Assemblyman James A. Settlemeyer (in Carson City)  
Assemblywoman Debbie Smith (in Carson City)

LEGISLATIVE COUNSEL BUREAU STAFF:

Lorne J. Malkiewich, Director (in Las Vegas)  
Mark Krmpotic, Senate Fiscal Analyst (in Carson City)  
Paul V. Townsend, Legislative Auditor (in Carson City)  
Donald O. Williams, Research Director (in Carson City)  
Connie Davis, Legislative Commission Secretary (in Carson City)  
Tarron Collins, Committee Assistant (in Carson City)

Chair Oceguera called the meeting to order. Exhibit A is the agenda. Exhibit B is the guest list. Certain items may have been taken out of order but were placed in agenda order in the minutes for purposes of continuity.

- \*I. APPROVAL OF MINUTES OF THE MAY 7, 2010, MEETING –  
Assemblyman John Ocegüera, Chair

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF THE  
MAY 7, 2010, MEETING MINUTES.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Cegavske and  
Senator Washington were not present for the vote.)

- II. LEGISLATIVE AUDITOR:

- \*A. Request for Approval of Basic Audit Program,  
(*Nevada Revised Statutes* (NRS) 218E.205 and 218G.120) –  
Paul V. Townsend, Legislative Auditor

Paul Townsend, Legislative Auditor, Audit Division, Legislative Counsel Bureau, referred to the material (Exhibit C) under Item II.A of the meeting packet, which included a letter dated August 3, 2010, that described the audits currently in progress and the audits planned for the next two years. Additionally, Schedule 1 reflected the audits in progress for which Mr. Townsend requested the Commission's approval to continue because he said it was possible that the Audit Division could not present all of the audits to the Legislative Commission's Audit Subcommittee by the start of the 2011 Legislative Session. Mr. Townsend added two audits, Office of Veterans Services and the Office of the Labor Commissioner, on which work started after the August 3 documents were prepared.

Mr. Townsend also requested the Commission's approval of the Basic Audit Program as reflected on Schedule 2. Mr. Townsend explained that the audits were selected using a risk assessment process, which considered such factors as length of time since the previous audit, the amount of revenues and expenditures flowing through the agency, the complexity of the agency, a history of prior problems, and legislative and public interest.

Mr. Townsend reported that the audits were designed to provide information, to improve public accountability, and to facilitate decision making by the Legislature and other responsible parties. Additionally, Mr. Townsend reported that the audits also included objectives such as determining whether an agency operated efficiently and economically, achieved desired program results, complied with laws and regulations, and whether adequate information technology security controls were developed.

Senator Horsford asked Mr. Townsend to discuss the length of time required to complete the proposed audits listed on Schedule 2.

Mr. Townsend advised that the auditors would work toward completing the majority of the audits prior to the 2013 Legislative Session. Additionally, Mr. Townsend advised that consideration was given to the possibility that during the 2011 Legislature, the Audit Division could be directed to proceed with other jobs that might change priorities. Mr. Townsend reiterated, however, that the Audit Division's goal would be to get through the majority of the proposed audits prior to the 2013 Legislative Session.

ASSEMBLYWOMAN SMITH MOVED APPROVAL TO CONTINUE THE AUDITS ALREADY IN PROGRESS WITH THE ADDITION OF THE NEVADA OFFICE OF VETERANS SERVICES AND THE OFFICE OF THE NEVADA LABOR COMMISSIONER AND TO APPROVE THE PROPOSED AUDITS.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Cegavske and Senator Washington were not present for the vote.)

III. PROGRESS REPORTS AND APPOINTMENTS:

- \*A. Litigation Currently in Progress – Brenda J. Erdoes, Legislative Counsel

Brenda Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau, reported on the following three cases currently in litigation:

Gypsum Resources, LLC v. Catherine Masto, et al

Ms. Erdoes provided an update on the Gypsum Resources, LLC v. Catherine Masto, et al (Red Rock) case filed in both state and federal courts. At the May 7, 2010, Legislative Commission hearing, Ms. Erdoes advised that the Attorney General appealed the case to the United States Court of Appeals for the Ninth Circuit. Ms. Erdoes reported that the state filed initial briefs in July, and the plaintiff would file answering briefs at the end of September at which time the Court of Appeals would determine whether oral arguments were necessary or whether to decide the case without oral arguments. Ms. Erdoes further advised that upon completion of the appeal, the state case would perhaps continue.

Clean Water Coalition Cases

Ms. Erdoes reported that the Nevada Supreme Court recently denied the state's application for a writ of mandamus to hear the Clean Water Coalition cases.

Additionally, Ms. Erdoes advised that the cases were back in the district court in the discovery phase and that it would be some months before she could report on any progress.

American Cancer Society v. the Las Vegas Convention and Visitors Authority

Ms. Erdoes reported that on March 10, 2010, the First Judicial District Court in Carson City granted the Legislature's motion to intervene in the case of the American Cancer Society v. the Las Vegas and Convention Authority. Ms. Erdoes advised that the Legislature and the Convention Center were defending the constitutionality of Assembly Bill (A.B.) 309 of the 75th Legislative Session (2009) and that the district court scheduled September 7, 2010 for the hearing on the cross motions for summary judgment.

There were no questions from the members of the Commission.

- \*B. Approval of Appointment of Assembly Fiscal Analyst (NRS 218F.100)  
– Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, referred to the document (Exhibit D) in Volume I of the meeting packet, concerning the appointment of the Assembly Fiscal Analyst. Mr. Malkiewich advised that with the retirement of Tracy Raxter, a vacancy existed for the position of Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, and he was pleased to recommend the appointment of Rick Combs, Principal Deputy Fiscal Analyst, to the position. Mr. Combs had worked for the Legislative Counsel Bureau since 1994 and the Fiscal Analysis Division since 1997.

ASSEMBLYWOMAN SMITH MOVED APPROVAL TO APPOINT  
RICK COMBS TO THE POSITION OF ASSEMBLY FISCAL  
ANALYST.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Washington was not present  
for the vote.)

On behalf of the members of the Commission, Chair Ocegüera extended congratulations to Mr. Combs on his appointment and expressed appreciation for his service.

- \*C. Report of the Legislative Commission's Committee to Study the Requirements for Reapportionment and Redistricting –  
Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, provided the following information regarding the August 3, 2011, memorandum (Exhibit E) from Assemblyman Tick Segerblom, Chair, Legislative Commission's Committee to Study the Requirements for Reapportionment and Redistricting. Mr. Malkiewich reported that the Committee, at its July 21, 2010, meeting, voted to recommend that the Legislative Commission approve the purchase of software and hardware and the hiring of staff for redistricting.

Mr. Malkiewich advised that with approval of the recommendation, the purchase of software and hardware would establish four workstations for the Legislature one for each caucus, and two for the public. The public workstations would be set up in the Legislative Building in Carson City and in the Las Vegas office to ensure as much public participation in the process as possible.

Additionally, Mr. Malkiewich advised that the Committee recommended hiring four support specialists who would work out of the Legislative Counsel Bureau's Information Technology Services (ITS) Unit. A designated staff person would be assigned to assist each caucus and would also support ITS with other redistricting and general work during the legislative session. Mr. Malkiewich pointed out that the request for approval of redistricting staff would appear in a subsequent agenda item. Recalling the 2001 Legislative Session, Mr. Malkiewich mentioned that two of the four positions hired for redistricting work during that session became permanent employees of the ITS Unit and were currently still employed.

In response to questions Senator Cegavske asked concerning the hiring of redistricting staff, Mr. Malkiewich advised that the LCB would hire session-only staff that would ensure that each caucus and the members of the public had an opportunity to participate in redistricting. With the Commission's approval, Mr. Malkiewich explained that the redistricting staff would work from December 2010 to June 2011.

ASSEMBLYMAN CONKLIN MOVED TO ACCEPT THE REPORT FROM ASSEMBLYMAN SEGERBLOM, CHAIR OF THE LEGISLATIVE COMMITTEE TO STUDY REQUIREMENTS FOR REAPPORTIONMENT AND REDISTRICTING.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

In response to Senator Cegavske's question regarding the software vendors, Mr. Malkiewich reported that of the two major vendors, the Committee recommended Citygate GIS. Mr. Malkiewich explained that the Committee based its recommendation on staff familiarity because the same software vendor was used in 2001 and because the software had more functionality than the other option.

Senator Cegavske asked whether the Committee to Study the Requirements for Reapportionment and Redistricting had established guidelines for priorities during the redistricting process.

Mr. Malkiewich advised that the Legislative Commission previously granted the Committee the ability to meet past the deadline recognizing that the Committee would accomplish much of its work closer to the 2011 Legislative Session when more of the data was available. Mr. Malkiewich indicated that the recommendation for redistricting rules would appear on the agenda of a future meeting for adoption by the 2011 Legislature.

THE MOTION CARRIED. (Senator Washington was not present for the vote.)

- \*D. Changes to Membership of the Legislative Commission's Committee to Study the Requirements for Reapportionment and Redistricting –  
Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, reported that the structure of the Committee to Study the Requirements for Reapportionment and Redistricting included leadership from all four caucuses. After Assemblywoman Gansert announced she would not seek reelection, the Assembly Republican caucus elected Assemblyman Goicoechea as Minority Floor Leader and asked that he replace Assemblywoman Gansert on the Committee to Study the Requirements for Reapportionment and Redistricting.

ASSEMBLYMAN CARPENTER MOVED TO APPROVE ASSEMBLYMAN GOICOECHEA AS THE REPLACEMENT FOR ASSEMBLYWOMAN GANSERT ON THE COMMITTEE TO STUDY THE REQUIREMENTS FOR REAPPORTIONMENT AND REDISTRICTING.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Washington was not present for the vote.)

- \*E. Changes to Membership of the Legislative Commission's Committee to Consult with the Director (NRS 218E.225) –  
Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, reported that as in the previous item, the membership of the Legislative Commission's Committee to Consult with the Director was structured to include leadership from all four caucuses. The Committee's work includes the 120-day calendar and other issues pertaining to preparation for subsequent sessions of the Legislature. To ensure leadership from the four caucuses was represented on the Committee to Consult with the Director, Mr. Malkiewich advised that the issue was whether the Commission wished to replace Assemblywoman Gansert with Assemblyman Goicoechea.

ASSEMBLYMAN CARPENTER MOVED TO APPROVE  
ASSEMBLYMAN GOICOECHEA AS THE REPLACEMENT FOR  
ASSEMBLYWOMAN GANSERT ON THE COMMITTEE TO  
CONSULT WITH THE DIRECTOR.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Washington was not present  
for the vote.)

- \*F. Nominations to the Commission on Nuclear Projects (NRS 459.0091)  
Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, addressed the nominations for appointment to the Commission on Nuclear Projects. Mr. Malkiewich advised that the Commission on Nuclear Projects was structured to include two members selected by the Governor from a list of three nominations submitted by the Legislative Commission.

Additionally, Mr. Malkiewich advised that for the last several years, Senator Richard Bryan and Paul Workman were appointed to the Commission on Nuclear Projects to serve on behalf of the Legislative Commission. Mr. Malkiewich reported that Bruce Breslow, the Executive Director of the Agency for Nuclear Projects, had indicated that he believed it would be unnecessary to reappoint members as the work on nuclear projects had tapered off. It appeared, however, the work was not finished, and Mr. Breslow asked whether the Commission could consider nominations.

Although there had not been enough time to solicit other potential nominees, Mr. Malkiewich noted that the last time the Governor appointed Senator Bryan and Paul Workman, the Commission had submitted only their names to the Governor.

Mr. Malkiewich suggested the following options for the Legislative Commission's consideration:

- Submit only the names of Senator Bryan and Mr. Workman for appointment. If there was no objection, the Governor could reappoint them.
- If the Legislative Commission wished to consider other nominees for appointment, defer nominations until the next meeting. Senator Bryan and Mr. Workman would continue to serve until appointment of their successors.
- Submit three names without seeking additional suggestions, if the Legislative Commission wished to nominate other candidates.

SENATOR CEGAVSKE MOVED APPROVAL OF THE NOMINATION OF SENATOR RICHARD BRYAN AND PAUL WORKMAN TO THE GOVERNOR FOR APPOINTMENT TO THE COMMISSION ON NUCLEAR PROJECTS.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Washington was not present for the vote.)

- G. Reports on 3rd Quarter Fiscal Year 2010 Taxes and Fees Pursuant to Assembly Bill No. 193 of the 75th Session:
  1. Department of Taxation
  2. State Gaming Control Board
  3. Department of Motor Vehicles
  4. Department of Employment, Training and Rehabilitation
  5. Department of Business and Industry
  6. Office of the State Controller
  7. Office of the Secretary of State
  8. Commission on Economic Development

Lorne Malkiewich, Director, Legislative Counsel Bureau, indicated that during past Legislative Commission meetings, the reports on taxes and fees appeared on the agenda as an informational item. At the May 7, 2010 meeting, Assemblywoman Kirkpatrick and Assemblyman Conklin requested that the agency representatives who submitted the reports appear before the Commission to respond to questions.

In response to Chair Ocegüera's request, Kim Wallin, State Controller, began and reported that in the 3rd quarter statement for fiscal year 2010, the total of all taxes and fees collected from the cities and counties by the Controller's Office totaled \$137,991,560.62. Ms. Wallin reported that amount represented 99.34 percent of fees and taxes received.

In response to Assemblywoman Kirkpatrick who requested additional information on where the fees came from, Ms. Wallin advised that the State Controller received the fees from the cities and counties and indicated that she would provide a detailed list of those fees to Assemblywoman Kirkpatrick subsequent to the meeting.

Assemblyman Conklin asked whether members of the public had access to the data on the Controller's website.

Ms. Wallin responded that the Controller's website was in the process of being updated and that although access to the data was not currently available, it would be upon completion of the website update.

Additionally, in response to Assemblyman Conklin's question concerning whether the information could be searched for analytical purposes, Ms. Wallin indicated that the website would provide historical information.

Hearing no additional questions from the members of the Commission, Chair Ocegüera requested that a representative of the Secretary of State's Office present the next report.

Nicole Lamboley, Chief Deputy Secretary of State, Office of the Secretary of State, identified herself for the record. Ms. Lamboley reported that the Office of the Secretary of State collected fees and taxes related to corporate filing fees for articles of incorporation, uniform commercial code fees, business license fees, notary fees, fees paid by candidates for elected office, and fees for securities licensure. Additionally, the Securities Division investigators assessed a fee for a review of securities firms to determine compliance with Securities and Exchange Commission (SEC) procedures, and those fees were collected at the completion of their audits.

Ms. Lamboley reported that the Office of the Secretary of State was not an accounts receivable entity and did not provide documents or services without first receiving payment. She added, however, that failure-to-collect situations generally related to insufficient funds and while staff pursued the collection of those fees, the effort took time, and collection of fees did not always occur in sufficient time for inclusion in the quarterly State of Taxes and Fees' report.

Hearing no questions from the members of the Commission, Chair Ocegüera asked that the remainder of the presentations proceed in the order listed on the agenda beginning with the Department of Taxation.

Dino DiCianno, Director, Department of Taxation, referenced the *Statement of Taxes and Fees* reports (Exhibit F) that was required pursuant to Assembly Bill (A.B.) 193 of the 75th Legislative Session (2009). The report was included in the members' packets. He pointed out that an error on the Insurance Premium Tax Report reflected the figures were for the 2nd quarter rather than the 3rd quarter. Mr. DiCianno clarified that all figures reflected in the report were for 3rd quarter taxes that the Department of Taxation collected, including bank excise tax, business license fee, liquor and tobacco taxes, insurance premium tax, entertainment tax, sales tax, modified business tax, and governmental services taxes. Additionally, Mr. DiCianno reported that the Department of Taxation acted as the state's 18th assessor for the collection of centrally assessed properties tax, which included mining and utility properties, and he said that the Department remitted all taxes due each of the counties.

Mr. DiCianno distributed a one-page document (Exhibit G) that illustrated taxes due the state, taxes collected, and taxes not collected for the past three quarters in relation to the total amount of outstanding accounts receivables. He pointed out that the Department collected an average of 98 percent of all taxes due, a collection activity he defined as excellent although he said there was "no question" that the Department would like to collect 100 percent of all taxes owed. Given the current economic situation, however, Mr. DiCianno indicated it was unlikely the remaining 2 percent could be collected even though Department representatives made every attempt to track entities that did not pay.

Mr. DiCianno reported \$193,918,547.63 in outstanding liabilities to the state and local governments. Of that amount, approximately half was tax and the remainder penalty and interest (P&I). Mr. DiCianno pointed out that the outstanding liability was an accumulative amount of which about 80 percent was 10 to 20 years old and collection unlikely because he said corporate offices and businesses were gone and the assets that related to the businesses that owed taxes were gone. Mr. DiCianno advised that the Department would collect a portion of the outstanding liabilities through the 2010 Tax Amnesty Program, and once the amnesty ended on September 30, 2010, the accounts receivable would be reconciled as to whether the Department could collect the outstanding liabilities. Once having made that determination, Mr. DiCianno expected to ask the Board of Examiners to write the uncollectible debt off the state's books. He explained that the reason for writing off the debt was to avoid the perception that accounts receivable was an asset. Additionally, he said that the Department would turn over debt deemed potentially collectible to the Controller for collection.

In response to questions Chair Ocegüera asked concerning why writing the debt off the state's books was not a common practice, Mr. DiCianno indicated that the Nevada Tax Commission currently had the ability to write off debts and that Department of Taxation representatives worked with the Commission on an annual basis to do so. Mr. DiCianno explained that language in *Nevada Revised Statutes* (NRS) provided the Commission with authority to write off the debt and although the Department could stop pursuing the debt, it continued to remain a debt in accounts receivable on the state's books because the Board of Examiners was the only body that could completely remove it as an asset. Mr. DiCianno said that although he could not speak for his predecessors' practices, he wanted to move forward and to remove the uncollectible debt as quickly as possible.

In response to Chair Ocegüera, who asked whether approval was required from the Legislature to implement removal of the debt, Mr. DiCianno advised that language in the NRS provided the Board of Examiners the authority to write the uncollectible debt off the state's books.

Assemblyman Conklin discussed the problem of uncollectible debt that continued to appear as accounts receivable assets, which skewed the state budget. Assemblyman Conklin indicated that there was perhaps a need for a statutory change that would allow the Controller or the Board of Examiners to write debt off on a regular basis.

In response to Assemblywoman Smith who asked for clarification concerning the process involved in writing off debt, Mr. DiCianno advised that NRS provided the Nevada Tax Commission with the authority to write off debt deemed by the Department of Taxation to be uncollectible. Mr. DiCianno advised that writing off debt allowed the Department of Taxation's tax examiners and revenue officers to focus on the collection of current debt rather than pursuing uncollectible debt. Additionally, he explained that once the 80 percent figure was determined completely uncollectible, Department representatives would remit that amount to the Board of Examiners for removal from the books, and it would no longer appear as an asset to the state. Mr. DiCianno said the Department would transfer the remainder of the debt to the Controller's Office for collection through private agencies and remitted to the Department of Taxation for distribution. Mr. DiCianno advised that as previously indicated by Assemblyman Conklin, he wanted to avoid the false impression that a huge amount of uncollectible accounts receivable existed during the budget building process.

Mr. DiCianno reported that the Department of Taxation had approximately 50 revenue officers involved in debt collection activities, and the officers serviced 10,000 to 15,000 accounts per month. Mr. DiCianno pointed out that because it was not physically possible to capture each account, additional resources might

allow the Department's revenue officers to do a better job of collecting the current outstanding balance of the accounts receivable that occurred every month. Mr. DiCianno advised, however, that he asked the Department's officers to focus on collection of the high-dollar amounts. Mr. DiCianno discussed the phone calls, letters, and approximately 15,000 notices sent each month to delinquent taxpayers. He said, however, a need existed for a contact in person by a revenue officer or instruction through a tax examiner to collect debt.

Assemblywoman Smith asked whether businesses with outstanding debt were flagged upon reactivating, and Mr. DiCianno reported that language in NRS provided authority to the Secretary of State to delay reissuing a business license and to the Department of Taxation to reissuing a seller's permit to a business with outstanding liabilities until they paid the debt.

Assemblywoman Smith asked whether debt that was written off would continue to be considered a liability if a business reactivated.

Mr. DiCianno advised that after removing an outstanding liability determined to be an uncollectible debt, the debt would no longer be considered an asset to the state and could not be pursued. He explained that currently, however, NRS provided that without the Board of Examiners writing it off, the debt remained due to the state.

Assemblywoman Smith expressed concern in writing off debt that was only a year or two old and asked for assurance that such businesses, in the event they reactivated, could not begin operations without paying the tax liability.

Mr. DiCianno responded that the Department would not transmit debt only a year or two old to the Board of Examiners. He explained that debt was determined uncollectible and transmitted to the Board of Examiners only if a business closed and no longer had a physical presence, assets, or a bank account the Department could garnishee. Mr. DiCianno advised that if a business was operating and physically present, the Department of Taxation would not define their debt as uncollectible.

In response to Assemblywoman Kirkpatrick's questions concerning the length of time given delinquent businesses to pay their tax debt, Mr. DiCianno advised that the Department of Taxation honored the due process rights of taxpayers. He discussed the Department's ability to collect money and garnishee wages and bank accounts, but that given the current economic situation, he wanted to avoid shutting down a business and adding more people to the unemployment lines. Mr. DiCianno advised that the Department offered payment plans to delinquent taxpayers and through the current Amnesty Program the ability for persons and

companies doing business in Nevada who had an existing tax liability a one-time waiver of penalty and interest (P&I) on their debt.

Assemblywoman Kirkpatrick brought up Assembly Bill (A.B.) 87 of the 75th Legislative Session (2009), which required state agencies to assign their debts to the State Controller for collection within 60 days after the debt became past due, and asked whether the process had helped the collection process.

Mr. DiCianno responded that with respect to A.B. 87, the Department required sufficient time to work with taxpayers, which given the number of accounts and the current staff, could not occur in 60 days to 90 days. He said that after discussions with the Controller and her staff, there was a mutual understanding of the timing issue and that he hoped that within less than a year, the Department would have the ability to transmit debt collection to the Controller's Office. In the meantime, Mr. DiCianno said Department representatives were working with taxpayers, and, given the current economy, he did not want to use a "heavy hand" to make the situation even worse.

Assemblywoman Kirkpatrick expressed her appreciation for the Department of Taxation's report and pointed out that although the state was currently facing a struggling economy, the economy thrived prior to the downturn. Taking note that some of the debt was 10 to 12 years old, Assemblywoman Kirkpatrick indicated that a firm process had to be in place so that business operators knew the rules concerning the due date for payment of taxes prior to opening.

Recalling testimony concerning the Board of Examiners writing off uncollectible debt, Senator Horsford asked how to ensure going forward that a clear process was in place for future directors of the Department of Taxation as well as a clear process for how the Board considered writing off debt.

Mr. DiCianno indicated that it would be helpful to meet with Andrew Clinger, Director of the Department of Administration, and the Legislative Counsel Bureau's Legal Division staff to review the statutes related to debt. Collectively, he said they could work on revising the statutes to remove any ambiguities prior to the 2011 Legislative Session.

Senator Horsford expressed approval of the suggestion and indicated that removing any misconceptions regarding the law would provide the taxpayers and those who would ultimately follow the Director of the Department of Taxation a clear understanding of the process.

In response to Assemblyman Carpenter's questions concerning the Amnesty Program, Mr. DiCianno advised that the program, for persons and companies doing business in Nevada that might have an existing tax liability, began

on July 1, 2010 and would end on September 30, 2010. Mr. DiCianno reported that the collection goal was \$10 million and to date the Department had collected over \$6 million, a portion of which would be distributed to local governments. Of the \$6 million collected, he estimated that approximately \$2 million would go to the General Fund. Mr. DiCianno noted that in the past when taxpayers took advantage of the amnesty, they usually waited until near the end of the period because of the time value of money.

In response to Senator Horsford's questions regarding the amnesty timeline, Mr. DiCianno explained that the timeline was established in statute after discussions with members of the Legislature and legislative staff.

Hearing no additional questions from the members of the Commission, Chair Ocegüera moved to the report from the Gaming Control Board.

Frank Streshley, Chief, Tax and License, Gaming Control Board, advised that during the 3rd quarter of fiscal year 2010, the Gaming Control Board collected all but \$8,877 of the "\$178.6 million in taxes and fees owed by casino and slot operators." Mr. Streshley advised that "historically" the Gaming Control Board collected about 99.9 percent of all amounts owed because casino licensees who did not pay what they owed were in jeopardy of losing their gaming licenses. Specifically, Mr. Streshley advised that under the provisions of *Nevada Revised Statutes* (NRS) 463.270 and 463.370, a licensee who failed to pay taxes and fees within the specified time would surrender their gaming license.

Additionally, Mr. Streshley reported that in the 3rd quarter, the Gaming Control Board collected \$139,880,579.17 in Percentage Fees, a three-month prepaid fee for future liability.

Mr. Streshley also advised that on August 19, 2010, the Gaming Control Board would request approval from the Gaming Commission to write off approximately \$1.7 million of the outstanding balance of \$1.9 million of the total amount of all taxes and fees that remained legally due. Mr. Streshley explained that the majority of the \$1.9 million was from one failed operation more than five years ago.

Hearing no additional questions from the members of the Commission, Chair Ocegüera moved to the report from the Department of Motor Vehicles.

Edgar Roberts, Director, Department of Motor Vehicles (DMV), identified himself for the record and introduced Deborah Cook, Chief, Administrative Services Division, DMV.

Mr. Roberts reported that in the 3rd quarter of fiscal year 2010, \$10,499,359.43 in taxes and fees remained legally owed to the DMV. Of that amount, the DMV

turned over \$5,540,783.47 to the Controller's Office for collection with approximately \$4.9 million remaining for collection by the DMV. Mr. Roberts discussed the identification of uncollected debts in the DMV computer system in order to prevent suppliers from conducting business with the Department until they paid their debt. Mr. Roberts further advised, however, that the DMV had approximately \$2.7 million in uncollected debt in the system that averaged from 15 to 20 years old.

In response to questioning from Assemblywoman Kirkpatrick, Mr. Roberts advised that the DMV was actively pursuing a measure to write off the \$2.7 million in old debt that remained in the computer system.

Assemblywoman Kirkpatrick noted that of the \$10,499,395.43 in taxes and fees that remained legally due, \$3.5 million was due from the fuel supplier for the February 2010 fuel tax payment. Assemblywoman Kirkpatrick asked how such a large debt could have been missed and asked for information on the payment plan.

Mr. Roberts advised that the DMV did not miss collecting the debt but chose, rather than revoking the supplier's license, to provide them a payment plan in order to collect all past-due debt. Mr. Roberts also reported that the payment plan for the fuel supplier totaled \$378,000 per month until December 2010 when the supplier would be current.

In response to questions from Assemblywoman Kirkpatrick regarding penalties and interest, Mr. Roberts advised that penalties and interest totaled approximately \$400,000.

Senator Horsford asked whether a duplication of effort existed with both the DMV and the Office of the Controller as well as other state agencies conducting debt collection. Additionally, Senator Horsford asked for information on the number of staff the DMV dedicated to debt collection.

Mr. Roberts advised that the DMV currently employed 8 revenue officers to collect outstanding debt, which he indicated was less than 1 percent of the DMV's gross revenue.

Senator Horsford asked Chair Ocegüera for approval to have the Legislative Counsel Bureau's Fiscal Analysis Division staff prepare a report, across all state agencies, concerning the total number of state revenue officers assigned to debt collection. Senator Horsford indicated that the information was needed based on upcoming budget discussions and consideration given to the consolidation of all debt collection into one area.

Chair Oceguera agreed and indicated he would ask the Fiscal Analysis Division staff to prepare the report.

Hearing no additional questions from the members of the Commission, Chair Oceguera moved to the report from the Department of Employment, Training and Rehabilitation.

Renee Olsen, Chief Financial Officer, Department of Employment, Training and Rehabilitation (DETR), advised that for the 3rd quarter of fiscal year 2010, all taxes and fees legally due to be paid totaled \$47,248,100.07, of which DETR collected \$42,339,498.13. The funds were comprised of Unemployment Insurance contribution payments from employers, contributions from employers for the Career Enhancement Program, and penalties and interest collected from employers.

Assemblywoman Kirkpatrick recalled the 2nd quarter report included negative figures and the appearance that collections totaled more than should have been received. Although negative numbers did not appear in the 3rd quarter report, Assemblywoman Kirkpatrick indicated that in order to understand the process, comments that clarified the reason the numbers were off would be helpful.

Ms. Olson advised that prior to the Commission meeting, a decision was made to include explanatory notations in reports going forward. Additionally, Ms. Olson attributed negative numbers to the fact that reporting during that particular period could have included collections for prior debts not reported in subsection 2(a) of the report, which represented only those debts that became due in that quarter.

Again, Assemblywoman Kirkpatrick indicated that comments would have been helpful. Additionally, she asked for information regarding the number of previous quarters DETR went back to collect debt.

Donna Clark, Chief of Contributions, DETR, advised that the Department engaged in long-term collections and would go back as far as the debt on the books.

Assemblywoman Kirkpatrick noted that *Nevada Revised Statutes* (NRS) provided that persons who received unemployment benefit overpayments were not required to repay it and asked where that information was located in the report.

Ms. Clark advised that the three reports before the Commission related only to tax collections and did not include benefit overpayments. Ms. Clark indicated, however, that DETR would send the overpayment information to Assemblywoman Kirkpatrick subsequent to the meeting.

Ms. Olson added that should it be determined to report benefit overpayments in a separate tax and fee report, DETR would certainly comply.

Assemblywoman Kirkpatrick advised that she looked forward to seeing the information in the 4th quarter report.

Assemblywoman Smith recalled Senator Horsford's earlier inquiries regarding the need for a clear and consistent process across state agencies for writing off debt and asked DETR representatives to provide information on their process.

Ms. Clark advised that DETR would provide details regarding their process subsequent to the meeting but in the meantime advised that they used an internal checklist to ensure the use of all available collection tools including "skip tracing methods, summary judgments, liens, notices to withhold, and payment agreements." Ms. Clark further advised that when no longer able to locate an employer, DETR used a write-off process that included the use of a checklist and several approval levels before writing off the debt.

Hearing no additional questions from the members of the Commission, Chair Ocegüera moved to the report from the Department of Business and Industry.

Bill Maier, Administrative Services Officer, Director's Office, Department of Business and Industry (B&I) reported that the Department included a group of regulatory agencies, and the fees collected by those agencies related to licensing applications and license renewals. Mr. Maier said that while the Department did not have a centralized accounting/reporting system and did not typically deal with accounts-receivable situations, the actual receivables reported related to fines or fees typically assessed against licensees.

Mr. Maier advised that all taxes and fees legally due to be paid to B&I totaled \$30,389,782.21 of which \$26,070,396.93 was collected leaving a balance of \$4,324,013.70 that was submitted to the Controller for collection. Mr. Maier further advised that the Department did not address abatements, exemptions, or write offs and that representatives of the Mortgage Lending Division, the Industrial Relations Division, Insurance Division, and the Real Estate Division were in the audience and available to respond to questions.

Senator Carlton questioned why members of the business community that had not paid their fines or assessments were permitted to continue operating their businesses.

Mr. Maier advised that representatives of B&I agencies tracked individuals related to delinquent businesses and that he was unaware of any businesses that continued to operate after the assessment of fines and fees. Mr. Maier explained, however, that several B&I agencies had an appeal process and indicated that businesses could continue to operate through the appeal and litigation process. He

said that the agencies submitted debts from direct fines or fees not immediately collected to the Controller's Office for collection because typically there was no one from whom to collect.

Senator Carlton indicated that the reports were confusing especially the Insurance Division's report regarding taxes and fees the Division failed to collect. She advised that some constituents were under the impression that the state was not collecting the taxes and fees paid on their insurance premiums and asked the Chair and Assemblywoman Kirkpatrick, who sponsored the legislation, for permission to request additional detail concerning the Division's inability to collect the debt.

Mr. Maier confirmed that most of the Insurance Division's fines and fees related to examinations and were due from companies typically in the Division's internal hearing process.

Hearing no further questions from the members, Chair Ocegüera moved to the report from the Commission on Economic Development.

Michael Skaggs, Executive Director, Commission on Economic Development, identified himself for the record and introduced Lindsay Anderson, Director of Business Development and Research, Commission on Economic Development.

Ms. Anderson reported that the Commission on Economic Development, under the provisions of *Nevada Revised Statutes* (NRS) 360.750, processed the abatement of certain taxes imposed on new or expanded business. Ms. Lindsay advised the members of the Legislative Commission that although there were no companies approved for new tax abatements during the 3rd quarter of fiscal year 2010, one company previously approved in June 2006 returned to the Commission to renegotiate the terms of their contract.

Senator Horsford commended the sponsors of A.B. 193, legislation that he defined as providing information with a level of transparency not easily available prior to enactment of the bill. Senator Horsford, however, questioned the report's lack of information concerning previous approvals and the overall obligation of abatements and/or incentives.

Ms. Anderson explained that subsequent to the Commission's approval of an abatement, exemption, or waiver, and execution of a contract, the Department of Taxation issued the exemption certificates and processed the abatements.

Senator Horsford indicated that for transparency reasons, it would be beneficial to receive a supplemental report that included the overall abatement or incentive obligations.

Assemblywoman Kirkpatrick recalled that the Commission on Economic Development was one of the first agencies to work with her on the legislation. Additionally, she recalled working with the Legislative Counsel Bureau's Fiscal Analysis Division staff in 2008 to research tax abatements and advised that a report on tax abatements and exemptions, prepared by the staff of the Fiscal Analysis Division, was currently available on the Legislative website. Assemblywoman Kirkpatrick indicated she believed the information on overall abatement or incentive obligations would be difficult to track but suggested that perhaps the Department of Taxation could provide the information.

Senator Horsford recalled the existence, at state and local levels, of approximately \$130 million to \$140 million in overall economic incentives and abatements that carried a commitment of ten to twenty years. Senator Horsford discussed the importance of knowing the expiration dates of the overall obligation and pointed out that tax abatements were an exchange for revenue due either at the state or local levels. Senator Horsford said that although the quarterly report was a "great start," he wanted to see a "bigger picture" that included reporting, tracking, and accounting for the overall tax exemption obligation.

Chairman Ocegüera commented that the report was informative and should continue to be reported to the Legislative Commission because Assemblywoman Kirkpatrick did not serve as a member of the Interim Finance Committee.

- \*H. Interim Studies in Accordance with Rules and Policies of the Legislative Counsel Bureau, Rule No. 6, "Progress reports of studies; completion of studies and distribution of reports; approval required to carry over studies," – Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, advised that Rule No. 6 of the *Rules and Policies of the Legislative Counsel Bureau* required that reports of legislative studies in progress be submitted to the Legislative Commission. Mr. Malkiewich advised that condensed versions of the reports were included in the members' packets and staff had distributed, to the members, pages that were missing from the Legislative Committee on Education's report. Additionally, Mr. Malkiewich mentioned that acceptance of the reports by the Legislative Commission acknowledged only that the various committees had completed their work and did not indicate that the Commission necessarily supported the content of the reports but rather were passing the reports on to the next session of the Legislature for consideration.

ASSEMBLYWOMAN SMITH MOVED TO ACCEPT THE REPORTS ON THE INTERIM STUDIES.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- \*I. Presentation on Nevada's Legislators Back to School Program – Kay Graves, Research Analyst, Constituent Services Unit, Legislative Counsel Bureau

Kay Graves, Research Analyst, Research Division's Constituent Services Unit, Legislative Counsel Bureau, identified herself for the record. Having completed her first year as Coordinator for Nevada's Legislators Back to School Program, Ms. Graves reported that the Program began in 1999 as a day-long event that allowed legislators to speak to students about representative democracy. The Program was so successful that the one-day event was expanded over time to give legislators the opportunity to be invited into the classroom by teachers and students at any time during the school year.

Ms. Graves reported that the Back to School Program officially began every year during the third week of September, which this year was the week of September 13, 2010. She advised that the non-partisan, civic education Back to School Program was designed to teach young people about the makeup of a representative democracy and about what it was like to be a state legislator.

Additionally, Ms. Graves reported that the National Conference of State Legislatures (NCSL) sponsored the Back to School Program and provided a number of supplemental program materials, at no cost, to the Nevada Legislature. The materials included age-appropriate pamphlets and videos that were available to legislators, teachers, and students. During the meeting, staff distributed a document entitled "America's Legislators Back to School Program Legislator Participation 2009 – 2010" (Exhibit H), an NCSL ranking of participation by state legislatures. The NCSL ranked Nevada among the top ten participating legislatures in the past school year and showed that Nevada had moved from 9th place in the previous year to 5th place in the current year. Ms Graves reported that 32 Nevada legislators participated in the Back to School Program and visited and spoke with almost 20,000 students in large assemblies and in smaller individual classes.

Ms. Graves also advised that the Nevada Legislature's Back to School website, accessible on the Nevada Legislature's home page <http://www.leg.state.nv.us/>, included information concerning the program and how to participate as well as a photo gallery of some of Nevada's legislators visiting with students in the classrooms.

Ms. Graves indicated that sample packets of the Back to School materials (Exhibit I) were available and could be provided by giving her a call or requesting the material from the Carson City staff.

Concluding her presentation, Ms. Graves expressed her thanks to all of the legislators who participated in the Back to School Program. Additionally, she said she looked forward to continuing to provide assistance during the next year and hoped for increased participation in the future.

On behalf of the Commission, Chair Ocegüera thanked Ms. Graves for her work and for encouraging legislators to participate and to meet with students across the state, which had placed Nevada in the list of the Top Ten Legislatures for participation.

Senator Cegavske also expressed her thanks to Ms. Graves for her "excellent work" and for keeping legislators aware that they could participate in the Program all year long. Senator Cegavske also noted that the list of the Top Ten Senate participants ranked Nevada at 57 percent in participation. Senator Cegavske indicated that it was noteworthy to mention that Senator Valerie Wiener's diligence for participation in the Program placed her at the top of the list of Nevada Senate participants.

#### IV. LEGISLATIVE COMMISSION POLICY:

- \*A. Review of Administrative Regulations Submitted Pursuant to NRS 233B.067 and NRS 233B.0675 –  
Brenda J. Erdoes, Legislative Counsel  
See list of attached regulations to be considered or access list at <http://www.leg.state.nv.us/register/Indexes/RegsReviewed.htm>

Brenda Erdoes, Legislative Counsel, Legislative Counsel Bureau, announced that Regulation 109-09 had been withdrawn.

Chair Ocegüera announced that in keeping with customary procedure, he would read the list of regulations (Exhibit J), and the members of the Commission could request further discussion on any of the regulations submitted.

The following regulations were held for further discussion:

- R154-09A held by Assemblyman Settlemeyer and Senator Carlton
- R201-09A held by Assemblyman Carpenter
- R005-10A held by Assemblyman Settlemeyer and Assemblyman Carpenter
- R034-10A held by Assemblyman Carpenter
- R064-10A held by Assemblyman Conklin
- R094-10 A held by Assemblyman Carpenter

Chair Oceguela reiterated that R109-09RA had been withdrawn and that he would accept a motion to approve the regulations not held for further discussion.

ASSEMBLYMAN CONKLIN MOVED APPROVAL TO ACCEPT THE REMAINING REGULATIONS IDENTIFIED HEREIN AS R035-09A; R085-09A; R135-09A; R151-09A; R200-09A; R202-09A; R212-09A; R009-10A; R039-10A; R213-09RA; R162-09RA AND R002-10RA.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Regulation R154-09A - State Board of Osteopathic Medicine

Assemblyman Settlemeyer noted that legislation approved in 2009 required the State Board of Osteopathic Medicine to adopt regulations necessary to carry out its statutory duties. He expressed concern, however, regarding the increase from \$80 to \$150 per day in compensation for Board members. Assemblyman Settlemeyer commented on the state's struggling economy and asked whether other Boards had also compensated their members at a higher rate.

Dianna Hegeduis, Executive Director, State Board of Osteopathic Medicine, recalled that the Legislature had previously approved legislation to allow the Boards to compensate their members up to \$150. Ms. Hegeduis indicated that the majority of boards that generated funds through licensing fees had already increased compensation to \$150 a day for their board members.

Senator Carlton indicated that during the last 8 years, work had taken place to align the Osteopathic Board with the Allopathic Board. Senator Carlton expressed concern that if the Commission approved R154-09A, the Allopathic Board could present a different set of regulations, and she wanted to ensure the alignment of regulations for both boards. Additionally, Senator Carlton requested additional time to investigate language in the regulation that referred to a special-event license.

Senator Cegavske also requested clarification for language in the regulation concerning establishing the amounts the Board would charge and collect for certain fees, including special or authorized facility license fees and the special event license fee. Senator Cegavske expressed her support for delaying approval of the regulation until a subsequent meeting.

Chair Oceguela asked Ms. Hegeduis whether deferring approval of the regulation to a subsequent meeting would cause hardship on the Board of Osteopathic Medicine.

Ms. Hegeduis advised that approval of the regulation would satisfy previously approved legislation concerning various licenses. Additionally, she explained that the regulation, if approved, revised language to include the Board's disciplinary authority for physician assistants. Ms. Hegeduis advised that delaying approval of the regulation to a subsequent meeting would not cause the Board any problems.

Ms. Hegeduis also defined special licenses as temporary licenses for locum tenens who worked on a temporary basis for a doctor perhaps on vacation or on leave because of a medical problem.

Additionally, Ms. Hegeduis explained that: special licenses were issued to residents, authorized facility licenses were issued to the Department of Corrections and the Department of Health, and special event licenses were issued to qualified individuals for a limited time to train osteopathic physicians and physician assistants in new techniques. Ms. Hegeduis indicated that if requested to do so, she would email additional details on the various licenses.

SENATOR CARLTON MOVED APPROVAL TO HOLD REGULATION R154-09A UNTIL THE NEXT MEETING OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO REVIEW REGULATIONS OR THE LEGISLATIVE COMMISSION IN ORDER TO WORK WITH THE STATE BOARD OF OSTEOPATHIC MEDICINE AND THE ALLOPATHIC BOARD TO ALIGN THE REGULATIONS FROM EACH BOARD.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Regulation R201-09A – Nevada State Board of Dental Examiners of Nevada

Assemblyman Carpenter questioned language in the regulation concerning the issuance of an order by the Board of Dental Examiners to a licensee to immediately cease and desist performing all dental treatments if not in compliance with the guidelines of *Nevada Administrative Code* (NAC) 631.178. Additionally, Assemblyman Carpenter noted that no later than 72 hours after receipt of notice of deficiencies, Board of Dental Examiner agents would conduct an inspection to determine whether the licensee had taken the proper corrective action. Assemblyman Carpenter expressed concern about how the regulation might affect rural areas where mail delivery could be slow and asked if it was possible that an inspector would arrive on the scene before the dentist received a notice of deficiency.

Kathleen Kelly, Executive Director, Nevada State Board of Dental Examiners, advised that the regulation was written to give a dentist enough time to correct

deficiencies noted in an inspection for a new office or a random audit for an existing office. Ms. Kelly explained that if the deficiency warranted closure, the Board would provide an immediate order for suspension and closure of the office. She said, however, that the office could remain open with an easy correction, such as replacing a sterilization machine. Additionally, Ms. Kelly said that 72 hours after the Executive Director of the Board issued a notice of deficiency, the Board's agents would inspect the office again to avoid holding up the operation of a dental practice.

Assemblyman Carpenter pointed out that some of the rural communities had only one dentist and while he agreed with the necessity to comply with NAC guidelines, he remained uncertain that 72 hours was enough time for a rural dentist to correct noted deficiencies. Assemblyman Carpenter suggested that perhaps a phone call rather than notification of deficiencies by mail would prove more efficient.

Ms. Kelly assured the Commission members that the intent of the regulation was to allow the Board's agents to conduct investigations and inspections for licensees who had become lax in complying with inspection control procedures. Ms. Kelly pointed out that while language existed in the regulation for appropriate closures if necessary, the intent of the regulation was that the Board educate, remediate deficiencies, and work with licensees to keep dental offices open and operating safely for the public.

SENATOR CEGAVSKE MOVED APPROVAL OF  
REGULATION R201-09A.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### Regulation R005-10 – Board of Wildlife Commissioners

Assemblyman Settelmeyer indicated some initial concern regarding the definition of a "wildlife highway crossing." He said, however, he had spoken with representatives of the Nevada Department of Wildlife (NDOW) who indicated that "wildlife highway crossings" located on private property were established only upon approval of property owners.

Assemblyman Carpenter expressed concern that hunting within one-half mile of an overpass or underpass designated as a "wildlife highway crossing" was too close to provide the animals any opportunity to escape. Assemblyman Carpenter discussed the two underpasses and one overpass just north of Wells currently under construction, that were "designed to facilitate the safe passage of wildlife across a highway." Assemblyman Carpenter indicated that he also had spoken with NDOW representatives who were chiefly concerned that a distance greater

than a half mile would create problems for private landowners not being able to hunt on their own land.

Paul Dankowski, Game Warden Lieutenant, (NDOW), confirmed that the language in the regulation pertaining to hunting within one-half mile of a wildlife crossing was in response to decreasing the number of conflicts for private property owners. Mr. Dankowski indicated that hunting within a half mile of a wildlife crossing was a good starting point and that NDOW officials would monitor the crossings throughout the upcoming hunting season.

Chair Ocegüera asked Assemblyman Carpenter whether the response from the NDOW representative had adequately addressed his concerns.

Assemblyman Carpenter indicated he would also monitor fall hunting within a half mile of highway underpasses and overpasses.

Assemblywoman Smith expressed concern about delaying approval since there would be no regulation in place for the fall hunting season. Assemblywoman Smith suggested approving the measure and if it was determined through monitoring by NDOW and Assemblyman Carpenter that the half-mile designation required revision, the Commission could revisit the regulation at a subsequent meeting.

In response to Chair Ocegüera's questions regarding current regulations, Mr. Dankowski advised that *Nevada Revised Statutes* prohibited the discharge of a firearm upon a federal, state, or county roadway.

Chair Ocegüera acknowledged Assemblyman Carpenter's concerns and agreed that the regulation could be revisited, if necessary, after NDOW had monitored and evaluated the situation during the fall hunting season.

ASSEMBLYWOMAN SMITH MOVED APPROVAL OF  
REGULATION R005-10A.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Carpenter voted nay.)

#### Regulation R034-10A – Department of Motor Vehicles

Assemblyman Carpenter expressed concern regarding language in the regulation concerning notification to persons with a commercial driver's license at least 90 days before expiration of their hazardous materials endorsement that they must apply for a security threat assessment at least 60 days before expiration of their endorsement. After speaking to Department of Motor Vehicles' (DMV) representatives, Assemblyman Carpenter indicated he was told that if persons

holding a commercial driver's license applied for a security threat assessment within 90 days of expiration of their hazardous materials endorsement of expiration, the DMV would renew their commercial driver's license. Assemblyman Carpenter asked for confirmation that his understanding was correct.

Jude Hurin, DMV Services Manager, Management, Services, and Programs Division, Department of Motor Vehicles, clarified that the intent of the regulation was to provide notification to commercial drivers 90 days before expiration of their hazardous materials endorsement rather than the 60 days required by the federal government. Mr. Hurin advised that the regulation provided that individuals had the option to renew their hazardous materials endorsement within or by the 90th day, downgrade to a non-commercial driver's license, or to remove the hazardous materials endorsement. Mr. Hurin advised because of the Department's work with the Nevada Motor Transport Association prior to holding any public hearing and workshop for the regulation, there was no opposition to the proposal. Mr. Hurin reiterated confirmation that persons with commercial driver's licenses could apply for renewal of the hazardous materials endorsement within or by the 90th day of expiration.

ASSEMBLYMAN CARPENTER MOVED APPROVAL OF  
REGULATION R034-10A.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Horsford was not present for  
the vote.)

Regulation R064-10A – Public Utilities Commission of Nevada

Assemblyman Conklin asked for information concerning the "impetus" of Regulation R064-10A noting that it appeared the regulation expanded the definition of renewable energy contracts. Additionally, he asked for information concerning Section 7 that appeared to provide for a new type of accounting for short-term renewable energy contracts.

David Noble, Assistant General Counsel, Public Utilities Commission (PUC) advised that the impetus for the regulation was because Nevada Power and Sierra Pacific Power had been entering into short-term renewable energy contracts that needed a quick-approval process. Mr. Noble explained that existing regulations required a review of all renewable energy contracts in the lengthy Integrated Resource Plan (IRP) process, and the companies had to file petitions to waive the regulations in order to have the contracts reviewed at a future date. Mr. Noble further explained that Section 7 of the regulation allowed the utility companies to enter into contracts for short-term portfolio energy credits and short-term renewable energy

contracts quickly and because the contracts were short term, the reduced rate benefit for renewable energy contracts could be passed on to ratepayers.

Mr. Conklin questioned how oversight for short-term contracts occurred if the IRP process was bypassed.

Mr. Noble advised that the review process for deferred energy filings occurred on an annual basis in which the PUC reviewed utility companies' individual contracts and made a prudence determination with regard to the contracts.

Senator Carlton referred to Section 9 and questioned the change in language from renewable to portfolio energy credits.

Mr. Noble advised that the change in language occurred because of a statutory change several sessions ago, which changed the term renewable energy credits to portfolio energy credits.

Assemblyman Conklin asked if the regulation was time sensitive because he wanted additional time for review.

Mr. Noble advised that the regulation was not time sensitive. He reiterated that the PUC had been receiving petitions from the utility companies that waived the current regulation to allow the quick-review process, and the regulation simply codified that process.

ASSEMBLYMAN CONKLIN MOVED TO DEFER REGULATION R034-10A TO THE NEXT MEETING OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO REVIEW REGULATIONS OR TO THE NEXT LEGISLATIVE COMMISSION MEETING.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Horsford was not present for the vote.)

#### Regulation R094-10A – Nevada Energy Commissioner

Assemblyman Carpenter asked for information concerning whether county government officials had the authority to stop tax abatements associated with renewable energy projects in their counties. He said that while counties received notification of applications for renewable energy projects, it appeared county officials had no authority to stop tax abatements for the projects.

Hatice Gecol, Ph.D., Nevada Energy Commissioner, Renewable Energy and Energy Efficiency Authority, identified herself for the record and introduced legal counsel,

Louis Ling. Dr. Gecol distributed a document entitled, *Renewable Energy Tax Abatements for Utility Scale Facilities and Transmission Lines Pursuant to AB 522 (2009) or NRS 701A.300 – 390 (Exhibit K)*.

In response to Assemblyman Carpenter's question, Dr. Gecol advised that *Nevada Revised Statutes* (NRS) required the Commissioner to receive notice from the counties concerning whether they approved or denied a property tax abatement for a geothermal project. Dr. Gecol reported that if a county failed to advise the Commissioner, within 30 days after notice, the Commissioner assumed that the county denied the property tax abatement portion of the project.

Dr. Gecol discussed a recent ruling in which Pershing County administrators approved both sales and use tax abatements as well as property tax abatements for a geothermal project that Ormat Nevada, Inc. was in the process of building. Dr. Gecol referred to Exhibit K, which reflected the 16 general requirements for tax abatement approval that a project had to meet to receive tax abatements. Dr. Gecol advised that the process determined that the Pershing County geothermal project, located on Bureau of Land Management (BLM) land, exceeded the 16 general requirements and would create revenue for both the state and the county.

Dr. Gecol advised that during public workshops only Churchill County expressed opposition to the regulation before the Commission while presenters from other counties expressed support of the tax abatements.

In summary, Dr. Gecol reiterated that the Nevada Energy Commissioner approved tax abatements through a process that existed under statute and in the regulation before the Commission. Dr. Gecol advised that the process involved county governments and that "a local jurisdiction" could request a presentation from an applicant for tax abatements to gain a better understanding of a project. Additionally, local jurisdiction officials had three weeks after receipt of an application for tax abatement to respond to the Commissioner concerning their support or opposition to the project.

Assemblyman Carpenter indicated that controversy surrounded the tax abatements but that he expected proposed legislation during the 2011 Legislative Session to clear up some of the debate on the issue.

Chair Ocegüera asked Dr. Gecol to contact him after the meeting concerning an issue related to the Minority Contractors' Association and future renewable energy projects.

Senator McGinness indicated being aware of Churchill County's opposition to the regulation and asked if there had been an instance in which the Commissioner approved an application for tax abatements over a county's objection.

Dr. Gecol advised that the Commissioner had approved two applications, one for the Ormat facility in Pershing County and the other for the Solar Photovoltaic Power Facility and Transmission Facility to be built in Clark County.

Dr. Gecol pointed out that Pershing County officials had overwhelmingly approved the sales tax and property tax abatements for the Ormat project, which would provide the county estimated revenue of \$4,141,706 over 20 years. Additionally, she said the project would provide the state an estimated \$1.6 million in royalties for direct use and electrical generation and \$103,900 for the federal land lease rental over 20 years and estimated sales tax of \$738,810 over 3 years.

Given the tax abatement, Dr. Gecol indicated that Ormat, Inc. would be able to conduct further exploration and employ additional Nevada workers moving forward during the next 20 years. Currently, 57 of the 60 construction workers on the project were Nevadans.

In response to Senator McGinness who asked whether the Commissioner could approve tax abatements over county opposition, Dr. Gecol advised that the Commissioner could not approve an application for tax abatement without approval from the board of county commissioners in which the facility was located.

As a member of the Assembly Committee on Commerce and Labor, Assemblywoman Kirkpatrick discussed her involvement with Assembly Bill (A.B.) 522 of the 75th Legislative Session (2009) and recalled addressing the concerns of northern Nevada counties and the inclusion of clawback provisions because of the need for renewable energy projects in Nevada that would be beneficial in the long term.

Assemblywoman Kirkpatrick pointed out that legislative intent was clear in the requirement to hire Nevada workers for proposed projects to ensure a benefit to the communities. Additionally, Assemblywoman Kirkpatrick indicated that the application and public hearing processes were clear and as Dr. Gecol had pointed out, a project had to meet 16 general requirements to qualify for tax abatement approval.

Assemblywoman Kirkpatrick indicated that she had attempted to ensure that the legislation protected all counties, that Nevada residents could be put back to work, and that a piece of infrastructure was established that would provide Nevada real benefits in the future.

Assemblywoman Kirkpatrick expressed her support for the regulation before the Commission and indicated that she would continue to work on legislation related to renewable energy during the 2011 Legislative Session to ensure that Nevada

continued to benefit from renewable energy projects. Assemblywoman Kirkpatrick also assured her rural colleagues that she would continue to monitor the renewable energy projects in Pershing County and North Las Vegas as they developed, projects she said that would show the benefit for Nevada in the long term.

Assemblyman Carpenter noted that page 4 of the handout reflected the estimated property tax abatement for the Pershing County project over 20 years was \$9,203,790, and the estimated property tax to the state was \$3,388,668 and to local government \$4,141,706, respectively. Assemblyman Carpenter asked whether the state received a greater share of property tax for renewable energy projects than they did for property tax.

Assemblywoman Kirkpatrick explained that the state received a larger portion because of the risk involved. Additionally, Assemblywoman Kirkpatrick advised that A.B. 522 provided for the state to collect 2.6 percent of the sales tax, which was reverted to the education fund. Additionally, Assemblywoman Kirkpatrick advised that property taxes had to be equal to 55 percent of the taxes on real and personal property and payable to the counties. Assemblywoman Kirkpatrick pointed out that it had been determined that the construction of many renewable energy projects would take place on federal land and that the facility infrastructure would provide a revenue benefit to local governments that they were not currently receiving.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL  
OF REGULATION R094-10.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- \*B. Approval of Session Hires for the 2011 Legislative Session –  
Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, referenced a memo within the packet concerning a request for approval of session hires for the 2011 Legislative Session.

Mr. Malkiewich advised that during the Legislative Commission meeting in May, the Commission approved early session hires for those hired between July and October. He said that the request currently before the Commission was for the remainder of the session hires including, as previously discussed, four Reapportionment Support Specialists for the Information Technology Services Unit as well as additional janitors, police officers, and professional and clerical staff for the Legal and Research Divisions.

Senator Carlton asked how the request for session hires compared with previous sessions.

Mr. Malkiewich advised that although the number of session hires was similar to previous sessions with the exception of reapportionment staff, the need for which he said occurred only every five sessions, existing staff would handle session duties in some areas of the building.

ASSEMBLYWOMAN SMITH MOVED APPROVAL OF THE  
REQUEST FOR SESSION HIRES.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- \*C. Resolution Recognizing 99th Anniversary of the Founding of the Republic of China – Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, advised that a draft of the resolution recognizing the 99th anniversary of the founding of the Republic of China was contained within Volume II of the members' packets.

Mr. Malkiewich discussed the close sister-state relationship that Nevada enjoyed with Taiwan and suggested that the following year when the Republic celebrated their 100th anniversary, a special commemoration would be in order.

SENATOR CEGAVSKE MOVED APPROVAL OF THE  
RESOLUTION RECOGNIZING THE 99TH ANNIVERSARY OF THE  
FOUNDING OF THE REPUBLIC OF CHINA.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- \*D. Resolution Designating September 25, 2010, as  
Eunice Kennedy Shriver Day – Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, reported that a representative of the Special Olympics had advised of the designation of September 25, 2010, as Eunice Kennedy Shriver Day.

Mr. Malkiewich noted that Eunice Kennedy Shriver died on August 11, 2009, and that a draft resolution commending her work with Special Olympics and designating

September 25, 2010, as Eunice Kennedy Shriver Day was contained within Volume II of the members' packets.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF THE RESOLUTION DESIGNATING SEPTEMBER 25, 2010, AS EUNICE KENNEDY SHRIVER DAY.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- \*E. Approval of Exception to Requirement for Furlough Leave During Legislative Session for Employees of the Senate and the Assembly (S.B. 433, 2009 Legislative Session) – Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau (LCB), advised that during the May 7, 2010, meeting, the Commission approved a furlough exemption for permanent employees of the LCB, the Secretary of the Senate and immediate staff, and the Chief Clerk of the Assembly and immediate staff for the months of February, March, April and May of the 2011 Legislative Session.

Mr. Malkiewich reported that a question arose during the May meeting concerning furlough exemptions for the daily staff hired by the Senate and Assembly for the session months. Mr. Malkiewich indicated that subsequent to the May meeting, he had confirmed that the law concerning furlough exemptions also applied to temporary session staff, and he, therefore, recommended approval of a furlough exemption for the temporary session staff for the months of February through May 2011. He advised that a furlough day for temporary employees would occur in January when they began their training. Mr. Malkiewich indicated that if the Commission approved the request, he would report a similar set of findings to the Interim Finance Committee.

Senator Carlton indicated it was her impression that although furlough days for full-time employees would be waived during February, March, April, and May, the employees would pick up the furlough days later in the year or at another time.

Mr. Malkiewich advised that LCB employees would not pick up the four waived furlough days at another time. He explained that the law required precisely one full furlough day be taken every month, and that day could not be moved forward or back. Mr. Malkiewich reported that during the May meeting, the Commission approved moving \$300,000 saved in the first year of the biennium to the second year of the biennium to pay for the cost of the waived furlough days and to provide that employees would be available to work every regular day of the 120 days of session.

Senator Carlton expressed concern that temporary employees, hired for the session, would be compensated on a 7 day-a-week basis except during January when they were in training. She noted, however, that it appeared furloughs would be exempted for all employees despite whether they were permanent or temporary.

Mr. Malkiewich advised that the consensus was to ensure that all employees were available to work for the entire 120 days of session. Additionally, he advised that daily salaries were under review and that the furlough requirement could affect the discretionary availability to upgrade employees by one grade. Mr. Malkiewich reiterated that the intent was that all employees of the LCB, whether daily or hourly, would all be available to work every day during the 120 days of session.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF THE EXCEPTION TO THE REQUIREMENT FOR FURLOUGH LEAVE DURING THE LEGISLATIVE SESSION FOR EMPLOYEES OF THE SENATE AND THE ASSEMBLY.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- \*F. Request for a Bill Draft Concerning Legislature and Legislative Counsel Bureau – Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, advised that "for the past several sessions, rather than requesting a number of bill drafts concerning minor, individual issues" related to the Legislature and the Legislative Counsel Bureau, the Legislative Commission had requested a single generic bill draft request (BDR) in which all of those matters could be placed.

Mr. Malkiewich advised that the practice had worked well and had allowed the Legislature to accept changes it approved and reject those it did not approve and provided the ability to include any matters that arose between the time of drafting and the time the measure was approved.

Mr. Malkiewich requested Commission approval of the BDR and advised that, almost without exception, every session an issue arose that could be placed in the generic BDR.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF THE REQUEST FOR A BILL DRAFT CONCERNING THE LEGISLATURE AND THE LEGISLATIVE COUNSEL BUREAU.

ASSEMBLYWOMAN KIRKPATRICK SECOND THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- \*G. Approval of Regulation Concerning Lobbying for the 2011 Legislative Session – Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, referred to material contained within Volume II of the meeting packets concerning the request for approval of the proposed lobbyist regulation for the 2011 Legislative Session.

Mr. Malkiewich advised that one of the many budget issues approved in February 2010 by the 26th Special Session of the Legislature was to increase paid lobbyist registration fees in order to gain an additional \$100,000 for transfer to the State General Fund. Mr. Malkiewich reported that the fee for paid lobbyists increased from \$120 during the regular session to \$300; the \$20 fee for unpaid lobbyists remained the same; and unpaid lobbyists representing veterans paid no fee. Additionally, the regulation included information on the dates for pre-session orientation for lobbyists and forms and guidelines updated to refer to the new sections of *Nevada Revised Statutes*.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF THE REGULATION CONCERNING LOBBYING FOR THE 2011 LEGISLATIVE SESSION.

ASSEMBLYWOMAN SMITH SECOND THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- \*H. Request for Additional Meeting During Session of the Legislative Committee on Child Welfare and Juvenile Justice – Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, reported that at its July 19, 2010, work session, the Legislative Committee on Child Welfare and Juvenile Justice "considered a recommendation concerning legal representation of the child welfare agencies in the state related to issues between the Clark County District Attorney's Office and the county's Department of Family Services." The Committee, rather than taking action on the recommendation, moved to receive a progress report from Clark County during the first week of the 2011 Legislative Session.

Mr. Malkiewich advised that legislation approved during the 2009 Legislative Session limited the duration of legislative interim committees and studies and

required interim committees to conclude their work by August 31 in years that were even-numbered unless otherwise ordered by the Legislative Commission. Mr. Malkiewich, therefore, requested approval for the Legislative Committee on Child Welfare and Juvenile Justice to hold one additional meeting early in the legislative session to receive the report from Clark County.

Chair Ocegvera expressed his support for the request because of the importance of the issue and because there was no cost involved.

As a member of the Legislative Committee on Child Welfare and Juvenile Justice, Senator Cegavske said the issue between the Clark County District Attorney's Office and the county's Department of Family Services was important and that she would appreciate the Commission's support. Additionally, Senator Cegavske expressed her thanks to the Chair for his acceptance of the request.

ASSEMBLYWOMAN SMITH MOVED APPROVAL OF THE REQUEST FOR THE LEGISLATIVE COMMITTEE ON CHILD WELFARE AND JUVENILE JUSTICE TO HOLD ONE ADDITIONAL MEETING EARLY IN SESSION.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- \*I. Authorization for Director to Designate a Deputy Director (NRS 218F.100) – Lorne J. Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau (LCB), referred to *Nevada Revised Statutes* (NRS) 218F.100, which provided the Director the authorization, with the consent of the Legislative Commission, to designate an employee who would serve as Deputy Director without additional compensation.

Mr. Malkiewich advised the Commission members that in a year the Director would have served 30 years. Although uncertain of how long he would continue to serve after the 30-year anniversary date, Mr. Malkiewich said that designating a Deputy Director who would begin to document the process and learn the duties of the office would be beneficial. Mr. Malkiewich indicated that the designee might want to apply for the Director's position upon his retirement or might want to continue to serve as Deputy Director to a new Director. Mr. Malkiewich indicated that he had asked internal employees of the Legislative Counsel Bureau to apply, and the announcement had attracted 9 applicants.

Assemblywoman Smith commented that with term limits and the loss of staff through retirement, succession planning to help staff prepare was a "very good idea."

Senator Horsford also expressed his support for the proposal and noted that the designation for succession planning was responsible and ensured continuity going forward.

ASSEMBLYWOMAN SMITH MOVED TO APPROVE THE REQUEST TO AUTHORIZE THE DIRECTOR TO DESIGNATE A DEPUTY DIRECTOR.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### V. INFORMATIONAL ITEMS

The Chair noted that members of the Commission had not requested anyone to come forward on the following informational items.

- A. Legislative Committee Reports
- B. Letter with Attachments from Barry W. Lovgren Concerning the Revision of NAC 458 – Certification of Detoxification Technicians, Facilities and Programs
- C. Miscellaneous Reports from State Agencies and Others:
  - 1. Report from the Department of Business and Industry, Division of Insurance Concerning National Council on Compensation Insurance – Revisions to Forms Manual; Updates to National Classification Codes; Revisions to Loss Sensitive Rating Plan
  - 2. Report from the Department of Business and Industry, Housing Division, and the Department of Health and Human Services, Division of Welfare and Supportive Services – Nevada Fund for Energy Assistance and Conservation State Plan – FY 2011
  - 3. Nevada State Board of Medical Examiners – Annual Report 2009
  - 4. Nevada State Board of Pharmacy – Immunization Report

5. City of North Las Vegas Redevelopment Agency Report on Redevelopment Plans Adopted by the North Las Vegas City Council Pursuant to NRS 279.438

D. Summary of Quarterly Reports on Disciplinary Action from the Licensing Boards and State Agencies

VI. PUBLIC COMMENT

(Because of time considerations, the period for public comment by each speaker may be limited, and speakers are urged to avoid repetition of comments made by previous speakers.)

There was no response to Chairman Ocegüera's request for public comment.

Chair Ocegüera adjourned the meeting at 12:11:18 p.m.

Respectfully submitted,

Connie Davis, Secretary  
Legislative Commission

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Assemblyman John Ocegüera, Chair  
Nevada Legislative Commission

EXHIBITS Nevada Legislative Commission		
Exhibit	Witness/Agency	Description
A		Agenda
B		Guest List
C	Paul Townsend, Legislative Auditor Legislative Counsel Bureau	Request for Approval of Basic Audit Program
D	Lorne Malkiewich, Director, Legislative Counsel Bureau	Request for Approval of Appointment of Assembly Fiscal Analyst
E	Assemblyman Tick Segerblom	Report to Legislative Commission on Reapportionment and Redistricting
F	Dino DiCianno, Executive Director, Department of Taxation	<i>Statement of Taxes and Fees</i> reports
G	Dino DiCianno, Executive Director, Department of Taxation	Tax Collection Data
H	Kay Graves, Research Analyst, Constituent Services Unit, Research Division, Legislative Counsel Bureau	<i>America's Legislators Back to School Program Legislator Participation 2009 – 2010 (Exhibit H)</i>
I	Kay Graves, Research Analyst, Constituent Services Unit, Research Division, Legislative Counsel Bureau	Back to School materials
J	Brenda Erdoes, Legislative Counsel Legislative Counsel Bureau	Regulations submitted pursuant to NRS 233B.067
K	Hatice Gecol, Ph.D., Nevada Energy Commissioner – Renewable Energy and Energy Efficiency Authority	<i>Renewable Energy Tax Abatements for Utility Scale Facilities and Transmission Lines Pursuant to AB 522 (2009) or NRS 701A.300 – 390</i>