

MINUTES OF THE
LEGISLATIVE COMMISSION
NEVADA LEGISLATIVE COUNSEL BUREAU (LCB)
September 14, 2012

The sixth meeting in calendar year 2012 of the Legislative Commission, created pursuant to *Nevada Revised Statutes* (NRS) 218E.150, was held on Friday, September 14, 2012. The meeting began at 9:05 a.m. in Room 4401 of the Grant Sawyer Office Building, 555 E. Washington Avenue, Las Vegas, Nevada. A simultaneous videoconference was broadcast to Room 4100 of the Legislative Building, 401 S. Carson Street, Carson City, Nevada.

COMMISSION MEMBERS PRESENT:

Senator Mo Denis, Vice Chair
Senator Don Gustavson
Senator Steven A. Horsford
Senator Michael Roberson
Senator David Parks for Senator Michael Schneider
Senator James A. Settelmeyer
Assemblyman Marcus Conklin
Assemblyman Ira Hansen
Assemblywoman Marilyn Kirkpatrick
Assemblyman Richard McArthur
Assemblyman David Bobzien for Assemblywoman Debbie Smith
Assemblyman Lynn D. Stewart

COMMISSION MEMBERS EXCUSED:

Senator Michael Schneider
Assemblywoman Debbie Smith

OTHER LEGISLATORS IN ATTENDANCE:

Assemblywoman Irene Bustamante Adams

LEGISLATIVE COUNSEL BUREAU STAFF:

Rick Combs, Director
Brenda J. Erdoes, Legislative Counsel
Risa B. Lang, Chief Deputy Legislative Counsel
Cindy Jones, Assembly Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Paul V. Townsend, Legislative Auditor
Donald O. Williams, Research Director
Connie Davis, Secretary

Janet Coons, Committee Assistant

Vice Chair Denis called the meeting to order at 9:05 a.m. and announced that he had been requested to chair the meeting since Chair Horsford, although present, had some difficulty speaking because of laryngitis. The secretary called the roll, and a quorum was present. [Exhibit A](#) is the agenda. [Exhibit B](#) is the guest list. All exhibits are hyperlinked and copies are on file in the Director's office of the Legislative Counsel Bureau. Certain items may have been taken out of order but were placed in agenda order in the minutes for purposes of continuity.

I. 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 in either Las Vegas or Carson City to Vice Chair Denis' request for public comment

II. APPROVAL OF THE AUGUST 20, 2012 MEETING MINUTES,
Senator Mo Denis, Vice Chair

SENATOR HORSFORD MOVED APPROVAL OF THE
AUGUST 20, 2012 MEETING MINUTES.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

III. APPROVAL OF THE JUNE 29, 2012 MEETING MINUTES –
Senator Mo Denis, Vice Chair

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF THE
JUNE 29, 2012 MEETING MINUTES.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY

IV. LEGISLATIVE AUDITOR:

- A. Follow-up Report on Audit for Substance Abuse Prevention and Treatment Agency (SAPTA), Department of Health and Human Services
Paul V. Townsend, Legislative Auditor, Legislative Counsel Bureau

Paul Townsend, Legislative Auditor, Audit Division, Legislative Counsel Bureau, referenced a letter dated August 31, 2012, ([Exhibit D](#)) to the members of the Legislative Commission. The letter was in response to concerns raised by members of the Legislative Commission at its May 30, 2012, meeting regarding the April 2012 Audit Report on SAPTA.

Mr. Townsend reported that in April 2012, the Audit Division issued an audit report on SAPTA. The audit report contained 16 recommendations to help ensure that grant recipients complied with audit requirements that provided assurance funds were spent for intended purposes. Additionally, the report contained recommendations to improve fiscal monitoring by SAPTA personnel that would provide additional assurance concerning subrecipients' use of grant funds.

Additionally, Mr. Townsend advised that, in accordance with statute, SAPTA filed its 60-day plan for corrective action ([Exhibit E](#)) in July 2012. The auditors reviewed the plan and agreed with the direction taken by the agency. The plan included system changes such as workflow restructuring and reassignment of staff as well as the enhancement of written policies and procedures in many areas.

Mr. Townsend reported that during a summary presentation of the SAPTA audit he made at the May 30, 2012, Legislative Commission meeting, some members of the Commission expressed concern that a grant recipient provided forged audit reports to SAPTA over a four-year period and requested that SAPTA personnel attend a future meeting to respond to questions. Mr. Townsend also advised that pursuant to the audit recommendations, an independent auditor completed external audits for the four years covered by the forged reports.

Additionally, Mr. Townsend reported that he provided four questions to SAPTA to obtain additional information regarding the forged audit reports, and their response dated September 10, 2012 ([Exhibit F](#)) was distributed to the members of the Legislative Commission. Mr. Townsend advised that SAPTA representatives were present and available to respond to questions.

Assemblywoman Kirkpatrick asked questions concerning the continuation of funding to the subrecipient after SAPTA learned of the forged audit reports, the repayment process, and the constituents for whom the funding was intended.

Deborah McBride, Health Bureau Chief, SAPTA, Mental Health and Developmental Services, Department of Health and Human Services, responded that SAPTA, after learning of the

forged audits, requested and promptly received repayment of funds from the Churchill Community Coalition.

In response to questions Assemblywoman Kirkpatrick asked concerning sanctions or penalties levied against the Churchill Community Coalition, Ms. McBride advised that the Churchill Community Coalition and its board of directors had been proactive in addressing the identified problems, which they determined stemmed from an isolated occurrence by one staff member. After receipt of external audits performed on the subrecipient by Kafoury Armstrong & Company, which identified “questionable and unverifiable expenditures of grant funds,” SAPTA withheld additional funding until receipt of repayment from the Churchill Community Coalition.

Assemblywoman Kirkpatrick questioned the loss in services to constituents because of the mismanagement of dollars and the length of time between first learning of the forged audit reports and repayment of funds.

Ms. McBride explained that the audit identified “unsupported expenses” including some travel dollars, which did not include services. Services, she said, continued to be provided to constituents.

Assemblyman Stewart asked whether any action was taken against the person responsible for the forged audit report.

Ms. McBride said it was her understanding that a representative of the Board of the Churchill Community Coalition reported the forgery to the Churchill County Sheriff’s Department and to the Churchill County District Attorney.

Sue Chambers, Chair of the Churchill Community Coalition Board, advised that representatives of the Board were currently in negotiations with the district attorney concerning the filing of felony charges and going forward with a plea bargain. In response to an earlier question concerning the time line, Ms. Chambers advised that it had taken from May to the present time to conduct an extensive search for information needed to provide to the district attorney.

Senator Parks asked Ms. McBride whether SAPTA had adopted restrictive procedures that would prevent subrecipients from not complying with grant requirements in the future.

Ms. McBride responded that SAPTA took immediate steps to enhance procedures that would ensure the receipt of required documentation in a timely manner. Additionally, SAPTA, she said, was working with its advisory board to revamp procedures and policies and follow-up on any problems noted on audits and by fiscal monitors. Ms. McBride also advised that SAPTA had been diligent in moving forward to prevent a reoccurrence of the problem and had asked to receive original audits signed in blue ink from the auditors and copies of the minutes from the Churchill Community Coalition Board that would reflect its review and approval of audits.

There were no further questions from the members concerning the follow-up report on the SAPTA audit, Vice Chair Denis moved to Item IV. B.

- B. The Federation of State Medical Boards of the United States, Inc. Performance Audit of the Nevada State Board of Medical Examiners (Entire Report on File in Audit Division of the Legislative Counsel Bureau) Paul Townsend, Legislative Auditor, Legislative Counsel Bureau

Paul Townsend, Legislative Auditor, Audit Division, Legislative Counsel Bureau, reported that the Federation of State Medical Boards of the United States, Inc. conducted a Performance Audit of the Nevada State Board of Medical Examiners as required by *Nevada Revised Statutes* (NRS) 630.127. Although only the report section and executive summary ([Exhibit G](#)) were included in the packet material, the entire document was available on the Legislature's website.

Mr. Townsend provided the following overview:

Nevada Revised Statutes required that the Nevada State Board of Medical Examiners be audited every eight years or whenever ordered by the Legislative Commission. Specific areas of the audit, shown on page 4, focused on the Board's methodology and efficiency in responding to complaints and conducting investigations as well as taking preventative steps or progressive actions to remedy or deter any unprofessional conduct by a licensee before that conduct could result in a violation or warranted disciplinary action. The final area covered managerial and administrative efficiency in using the fees that the Board collected.

The Executive Summary on page 13 indicated in the first paragraph that the audit team was satisfied that the Board acted with statutorily required diligence and efficiency and promptly acknowledged receipt of complaints and corresponded regularly with complainants. The team also concluded that the Board was diligent in conducting investigations of licensees who had malpractice claims filed against them and that the Board might even be conducting more investigations than required by statute.

In the third paragraph of the summary, the audit recommended that the Board consider ways to improve the consistency of its medical review process, including the possibility of supplementing one nearly full-time reviewer with one alternate medical reviewer to be utilized only when the staff reviewer's recusal was necessary. Early in the report, it was noted that the Board currently used three part-time medical reviewers, which might diminish consistency and evaluation of cases and related recommendations. However, the audit team recognized that the state's geographical division between the north and south might require the Board to utilize the services of more than one medical reviewer.

Additionally, the audit was complimentary of the enactment of Senate Bill (S.B.) No. 168 of the 76th Session (2011) that reduced Nevada medical facilities' reporting period from thirty to five days for privilege status changes resulting when the competence of a licensee was at issue, or in cases where substance abuse existed.

The summary also noted that the Board's current consumer outreach in continuing medical education programming, as well as amendments to NRS since the last audit in 2003, demonstrated the Board's continued and deliberate efforts to prevent, remedy, and deter unprofessional conduct in the state of Nevada.

There was also a recommendation that the Board reemphasize and revise its existing public relations policy. The existing policy provided that the official spokesperson for the Board was the Board's president, who could delegate the responsibility to the Executive Director. It appeared, however, that the current practice was for the Executive Director to act as spokesperson; thus, the policy should be revised to reflect the current practice.

The audit team reviewed the Board's recent financial audit, which did not include any findings and indicated that the Board managed to find savings without diminishing its productivity. The team also indicated that it was sometimes necessary to invest in infrastructure to maximize efficiency and suggested the Board develop a plan for a new information technology system.

Mr. Townsend advised the Commission members that representatives of the Nevada State Board of Medical Examiners were available to respond to questions or to comment on the audit.

There were no questions from members of the Commission, and Vice Chair Denis moved to Item IV. C.

C. National State Auditors Association Report on Nevada Legislative Counsel
Bureau Audit Division's System of Quality Control –
Paul V. Townsend, Legislative Auditor, Legislative Counsel Bureau

Paul Townsend, Legislative Auditor, Audit Division, Legislative Counsel Bureau, provided the following summary of an external quality control review ([Exhibit H](#)) of the Audit Division required every three years:

The Audit Division conducted audits in accordance with government auditing standards, issued by the Comptroller General of the United States, which provided a framework for the provision of high-quality audit work with competence, integrity, objectivity, and independence. Those government auditing standards also provided that an external quality control review, or peer review, be conducted every three years.

"Very experienced" auditors from Georgia, New York, Illinois, and Alaska conducted the most recent review in August 2012, and the review team concluded that the Audit Division's system of quality control provided reasonable assurance of conforming to government auditing standards.

Mr. Townsend advised that the report was "very positive" and that he was proud of the Audit Division's work in meeting the rigorous government auditing standards. The standards also

required that the review be provided to the Division's oversight body, and he expressed appreciation of the Legislative Commission's acceptance of the report.

There were no questions or comments from members of the Commission, and Vice Chair Denis moved to Item V.

V. PROGRESS REPORTS AND APPOINTMENTS:

A. Litigation Currently in Progress –

Brenda J. Erdoes, Legislative Counsel, Legislative Counsel Bureau

Brenda J. Erdoes, Legislative Counsel, Legislative Counsel Bureau, provided an update on the following nine court cases currently in progress:

○ RED ROCK CANYON CASE

Gypsum Resources, LLC v. Mastro, Nevada Supreme Court

The Red Rock Canyon Case, first heard in federal court, was currently before the Nevada Supreme Court. The Supreme Court scheduled oral arguments for October 2, 2012. The Legislature, an amicus in the case, would not participate in the oral arguments. A decision was expected quickly after the Court heard the arguments on October 2, 2012.

○ CARRIGAN v. COMMISSION ON ETHICS CASE

Michael A. Carrigan, Fourth Ward City Council Member of the City of Sparks v. Commission on Ethics

The Carrigan v. Commission on Ethics case challenged the constitutionality of one of the ethics statutes enacted by the Nevada Legislature. The U.S. Supreme Court heard the case and remanded it to the Nevada Supreme Court. The Nevada Supreme Court heard oral arguments on March 5, 2012, and the parties involved in the case were currently awaiting a decision.

○ ARENA INITIATIVE & SENATE BILL (S.B.) NO. 495 (2011 Arena Initiative Committee v. State ex rel. Legislature,

On August 1, 2012, the Nevada Supreme Court invalidated the Arena Initiative petition [filed by a group who wanted a sports arena built on the Las Vegas Strip] and removed it from the ballot. Because S.B. 495 included a provision that a competing measure must not appear on the ballot if the Arena Initiative was invalidated, the ruling voided the cases that had been filed on S.B. 495, and the Supreme Court dismissed the appeal.

○ PEOPLE'S LEGISLATURE v. MILLER Case No. 1 (Federal Case)

People's Legislature v. Miller, United States District Court, District of Nevada

The Federal District Court granted the Legislature's motion to intervene to defend against the plaintiffs' motions on federal constitutional claims under the First and Fourteenth Amendments challenging various aspects of the initiative process in *Nevada Revised Statutes* (NRS). [The claims challenged the constitutionality of various aspects of the initiative process, including the statutory single-subject rule for initiatives, and the requirement to collect signatures from petition districts.]

- PEOPLE'S LEGISLATURE v. MILLER Case No. 2 (State Case)
People's Legislature v. Miller, Clark County District Court and Nevada Supreme Court

The plaintiffs were appealing from Clark County District Court, which rejected the plaintiffs' constitutional single-subject claim. The Legislature would file its opening brief on November 29, 2012.

- CONSOLIDATED TAX DISTRIBUTION (CTX) FORMULA
City of Fernley v. State Department of Taxation, United States District Court, District of Nevada

The City of Fernley filed a complaint in federal district court challenging the constitutionality of the CTX formula, which was voluntarily dismissed.

- CTX CASE

City of Fernley v. State Department of Taxation, Carson City District Court

The City of Fernley case challenging the constitutionality of the CTX formula was currently in the Carson City District Court, and on August 30, 2012, the Carson City District Court granted the Legislature's motion to intervene. The Attorney General filed a motion to dismiss the complaint on behalf of the state defendants, and the Legislature filed a separate joinder in the motion. The case was currently pending before the Carson City District Court.

- FORECLOSURE DEFICIENCY JUDGMENT CASE

The Nevada Supreme Court on May 29, 2012, directed the Legislative Counsel to file an amicus brief in the foreclosure deficiency judgment case. The Court scheduled oral arguments for October 1, 2012.

- DENTAL BOARD CASE

The Legislative Counsel filed an amicus brief at the request of the Dental Board, which was appealing an order by the Clark County District Court challenging a regulation approved by the Legislative Commission. The challenge was on the basis of authority for the regulation.

- CLARK COUNTY V. STATE

On June 12, 2012, Clark County filed a complaint against the state in Clark County District Court. Clark County alleged that certain statutory and regulatory provisions involving the transfer of public funds violated the Constitution. On August 13, 2012, the Legislature filed a motion to intervene as a defendant. The case was currently pending before the Clark County District Court.

- B. 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" – Rick Combs, Director, Legislative Counsel Bureau

Rick Combs, 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 were to be submitted to the Legislative Commission. Condensed versions of the reports were included in the meeting packet. Additionally, staff had distributed revised pages from the Legislative Committee on Education's report. Copies of the reports for the Legislative Committee on Radioactive Waste and the Legislative Committee on Public Lands that were not included in the packet material were also distributed to the members.

Mr. Combs advised that acceptance of the reports by the Commission acknowledged only that the various committees had completed their tasks and did not indicate that the

Commission members necessarily agreed with the content of the reports. Rather, he said a motion to accept would provide the ability to forward the reports to the 2013 Legislature for consideration.

There were no questions from the members of the Commission.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL TO ACCEPT THE REPORTS SUBMITTED TO THE LEGISLATIVE COMMISSION AND PASS THE REPORTS ON TO THE 2013 LEGISLATURE.

SENATOR PARKS SECONDED THE MOTION.

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

- C. Approval of Appointment of Chief of the Administrative Division,
Legislative Counsel Bureau – (NRS 218F.100) –
Rick Combs, Director, Legislative Counsel Bureau

Rick Combs, Director, Legislative Counsel Bureau, expressed his pleasure in recommending the appointment of Roger Wilkerson as Chief of the Administrative Division of the Legislative Counsel Bureau. Mr. Combs reported that the position was being vacated by the retirement of Tammy Grace who had served as the Chief of the Administrative Division in her role as the Deputy Director for the past several years and as Operations Manager prior to that time.

Mr. Combs advised that Mr. Wilkerson served as a Deputy Legislative Auditor for the Legislative Audit Division during the past five years and prior to that worked for a year at the Division of Health Care Financing and Policy as a management analyst and an acting supervisor. Before that, Mr. Wilkerson's work experience was as a department manager and department supervisor at Quebecor World Nevada, a large commercial printer located in Fernley.

Additionally, Mr. Wilkerson was a recent graduate of the Legislative Counsel Bureau's Leadership Academy.

Mr. Combs asked for the Commission's favorable consideration to appoint Mr. Wilkerson as Chief of the Administrative Division.

SENATOR PARKS MOVED APPROVAL TO APPOINT ROGER WILKERSON CHIEF OF THE ADMINISTRATIVE DIVISION OF THE LEGISLATIVE COUNSEL BUREAU.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Conklin and Senator Settlemeyer were not present for the vote.)

Assemblyman Stewart commended Tammy Grace's work as Operations Manager, Deputy Director, and Acting Director of the Legislative Counsel Bureau.

Vice Chair Denis also expressed his appreciation of Ms. Grace's service and welcomed Mr. Wilkerson as the new Chief of the Administrative Division.

D. Recommendations of the Sunset Subcommittee of the Legislative Commission (NRS 232B.250) – Assemblywoman Irene Bustamante Adams, Chair, Sunset Subcommittee of the Legislative Commission

Assemblywoman Irene Bustamante Adams, Clark County Assembly District No. 42, Chair of the Sunset Subcommittee of the Legislative Commission, advised that the Sunset Subcommittee was created under Senate Bill (S.B.) 251 of the 76th Session (2011). The Subcommittee's responsibility, she said, was to conduct reviews of all boards and commissions in Nevada not provided for in the *Nevada Constitution* or established by an Executive Order of the Governor.

Assemblywoman Bustamante Adams reported that the Subcommittee, with the assistance of Legislative Counsel Bureau (LCB) staff, identified 170 entities to review over the next ten years. The Subcommittee was charged with determining whether those entities should be terminated, modified, or consolidated with another board or commission, or whether they were to be continued.

Assemblywoman Bustamante Adams reported that the Subcommittee identified 37 entities for review, completed work on 29 with the remaining 8 to be reviewed during future interim committee meetings.

Additionally, the Subcommittee recommended:

- termination of 2 boards
- termination of 1 board with the functions of the board transferred to a state agency
- continuation of 7 boards with further recommendations
- continuation of 19 boards and commissions without changes

Assemblywoman Bustamante Adams provided the following information regarding the Subcommittee's recommendations:

- The Subcommittee voted to terminate the Committee on Co-Occurring Disorders based on testimony from representatives of the Committee who advised that the Committee had met its mandate. The Committee on Co-Occurring Disorders was established in 2007 to address the problems of a lack of integration, fragmentation, and duplication in the treatment of patients with mental illness and substance abuse.

The Committee spent 18 months evaluating the interaction of the criminal justice system with state agencies that provided services to individuals with mental health and substance abuse problems. In 2007, the Committee made several recommendations to the Governor and to the Legislature, which included statutory changes and continued funding for programs that benefited those individuals.

- The Subcommittee reviewed and recommended termination of the Nevada Commission on Sports. The Commission was created to promote the development of Olympic training centers, physical fitness and sports, and to assist with the Nevada Special Olympics and the Nevada Senior Games. Subcommittee staff provided information that the Commission on Sports had not responded to their request for information and advised that the Commission had been inactive for several years.
- The Subcommittee reviewed the Nevada State Funeral Board. The Board regulated funeral homes and burial services, and investigated complaints. Based on concerns regarding the administration of the Board, including office operations and staff expenses, the Subcommittee recommended termination of the Board. The Subcommittee further recommended changing the Board to an Advisory Board and transferring its duties to the Department of Health and Human Services.
- The Subcommittee reviewed the Credit Union Advisory Council, which provided a mechanism to communicate with a regulator who “frequently” was not from the credit union community and might not have had an extensive understanding of a credit union’s unique financial structure. After its review, the Subcommittee recommended statutory changes concerning the relationship of the Advisory Council with the Department of Business and Industry’s Division of Financial Institutions. Currently, the Commissioner of the Division of Financial Institutions was subject to administrative supervision by the Advisory Council. Representatives of the Division expressed concern that a regulated industry, such as credit unions, should not supervise its regulators.

Assemblywoman Bustamante Adams reported that the Subcommittee recommended several entities for continuation and made further recommendations, which included drafting letters to various entities to address concerns related to appointing persons to boards, revising current office operations, and reviewing the scope of certain committees. Copies of those letters were included in Appendix C of the draft bulletin ([Exhibit I](#)).

Assemblywoman Bustamante Adams advised that Senate Bill 251 required the Subcommittee to make recommendations to the Legislative Commission for direct legislative action. Because the Subcommittee was not allocated any bill draft requests (BDRs), the Assemblywoman, on behalf of the Sunset Subcommittee, asked the members of the Legislative Commission to favorably consider submitting a bill draft request with the Subcommittee’s recommendations for the 2013 Legislative Session.

Vice Chair Denis asked whether the Subcommittee's process included hearing testimony from members of the community regulated by the boards and commissions the Subcommittee reviewed.

Assemblywoman Bustamante Adams advised that the Subcommittee listened to comprehensive discussions from representatives of the Boards and Commissions, as well as those regulated by the entities.

There were no questions from members of the Commission, and Vice Chair Denis indicated a motion to accept the report and to request a BDR would be in order.

Rick Combs, Director, Legislative Counsel Bureau, pointed out that the purview of the Subcommittee was broad and that many of the recommendations addressed a number of concepts. Mr. Combs suggested that rather than the motion being specific to one BDR, it be broad enough to allow the Legal Division to determine the number of BDRs necessary to comply with the single-subject rule.

Vice Chair Denis advised that he would entertain a motion to accept the report and allow the Legal Division to determine the number of BDRs needed.

ASSEMBLYMAN CONKLIN MOVED APPROVAL TO ACCEPT
THE SUNSET SUBCOMMITTEE'S REPORT AND TO APPROVE
THE REQUEST FOR AN APPROPRIATE NUMBER OF BILL
DRAFT REQUESTS TO ADDRESS THE SUBCOMMITTEE'S
RECOMMENDATIONS.
SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

VI. LEGISLATIVE COMMISSION POLICY:

- A. Review of Administrative Regulations – Brenda J. Erdoes, Legislative Counsel, Legislative Counsel Bureau – The list of regulations may be accessed electronically at: <http://www.leg.state.nv.us/register/Indexes/RegsReviewed.htm>

Rick Combs, Director, Legislative Counsel Bureau, referenced the list of State Agency Regulations ([Exhibit C](#)) and advised the members to let the Vice Chair know which regulations they determined warranted additional discussion.

Assemblywoman Kirkpatrick held R113-11, R142-11, R018-12, R034-12, and R068-12
Vice Chair Denis held R127-11

Assemblyman Stewart held R037-12

Senator Settlemeyer held R040-12, R062-12, and R070-12

Assemblyman Hansen held R025-12, R048-12, and R049-12

ASSEMBLYMAN STEWART MOVED APPROVAL OF THE REMAINING REGULATIONS: R108-10, R109-10, R110-10, R136-11, R137-11, R138-11, R139-11, R140-11, R141-11, R147-11, R013-12, R014-12, R015-12, R016-12, R017-12, R019-12, R022-12, R024-12, R026-12, R027-12, R028-12, R030-12, R031-12, R032-12, R036-12, R038-12, R044-12, R061-12, R063-12, AND R066-12.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Regulation 113-11

A REGULATION relating to nursing; revising provisions governing advanced practitioners of nursing; removing the expiration of the approval of a course of continuing education.

Assemblywoman Kirkpatrick asked a representative of the State Board of Nursing to explain the reason for revision of the term “medical specialty” to “clinical specialty.”

Debra Scott, M.S.N., R.N., F.R.E, Executive Director, Nevada State Board of Nursing, advised that advanced practice nurses were not physicians, and revising the term, “medical specialty” to “clinical specialty” more clearly defined their role.

Assemblywoman Kirkpatrick asked whether other states were using the term, “clinical specialty” and whether Nevada was required to change the definition from “medical” to “clinical.”

Ms. Scott advised of “political controversy” concerning advanced practitioners of nursing and “whether or not” they practiced medicine. The change in the regulation, she advised, made simply for clarification, ensured that members of the public treated by advanced nurse practitioners understood their role. Nevada, she said, was not required to make the change in the definition.

Assemblywoman Kirkpatrick asked whether other states were using the word clinical.

Ms. Scott advised that a lot of work had been done in the last five years to define the role of the advanced practice nurse, and the Nevada State Board of Nursing had attempted to remain within the parameters of the accepted wording used across the United States.

In response to Senator Horsford who asked whether a definition existed for the word “clinical” in the regulation, Ms. Scott advised that the regulation included “a very clear definition of the scope of practice of an advanced practitioner of nursing” but did not include a definition of “clinical.”

Senator Horsford asked whether a national standard for the definition of “clinical” existed in the industry.

Ms. Scott responded that a national standard existed that clearly defined the scope of practice for an advanced practitioner of nursing, but she was unaware of a nationwide definition of “clinical.”

In response to Assemblywoman Kirkpatrick who asked whether a change would be required to *Nevada Revised Statutes* during the 2013 Legislative Session, Ms. Scott advised that no changes to the statute would be required to match the changes in the regulation.

Assemblywoman Kirkpatrick asked how the word “clinical” would be referred to in statute for future discussions and whether the change would be consistent with other states. Assemblywoman Kirkpatrick recalled, prior to the 2011 Legislative Session, she had expressed concerns about a regulation that defined the scope of practice of advanced practitioner nurses. The regulation, she said, resulted in additional work during the 2011 Legislative Session.

Ms. Scott advised that the Board was reviewing the standards across the United States, and, during the 2011 Legislative Session, national certification was added to a requirement for advanced practitioners of nursing because Nevada was one of only four states that did not have that requirement. Ms. Scott further advised that the Board wanted to ensure that Nevada residents knew that advanced practitioner nurses were certified and competent to do their work. She reported that 28 different nursing organizations in the United States worked to find common ground for the consensus model for regulation of advanced practitioner nurses and that the Board was working “very diligently” to meet the requirements of the consensus paper. The change in the regulation, she said, was in line with the consensus paper and clarified the role of the advanced practitioner nurse.

There were no further questions from the members of the Commission, and Vice Chair Denis asked for a motion to approve R113-11.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF
R113-11.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Regulation 127-11

A REGULATION relating to educational personnel; revising provisions governing the qualifications for initial licensure to require course work in parental involvement and family engagement; revising certain fees for licensure.

Monie Byers, Parental Involvement Consultant, Commission on Professional Standards, Nevada Department of Education, identified herself for the record.

In response to Vice Chair Denis, who asked about the requirement for course work in parental involvement, Ms. Byers advised that the regulation added a requirement that a student in a teacher preparation program complete three semester hours of credit in a course of study regarding parental involvement and family engagement.

Vice Chair Denis asked about the availability of parental involvement and family engagement classes.

Ms. Byers responded that the universities and colleges had about a year to put the program in place. The University of Nevada, Reno, she said, currently included parental involvement and family engagement studies in other course work.

Vice Chair Denis asked for information concerning the increase in fees from \$110 to \$161 for an initial license and from \$80 to \$131 for a provisional nonrenewable license and for an initial license, if made by the holder of a provisional nonrenewable license.

Ms. Byers advised that a task force created by the Commission on Professional Standards in Education had already adopted and implemented the increased fee schedule.

In response to Assemblyman Stewart's questions concerning the instruction currently included in other course work and an additional three-credit class requirement, Ms. Byers advised that the currently available class was not a dedicated topic. She advised that the task force, created by the Commission on Professional Standards in Education, believed that a three-credit hour class rather than one lecture in another course would better prepare future teachers to engage parents in their children's education and advance student achievement.

Assemblyman Stewart indicated he believed three credit hours on family engagement was excessive.

Ms. Byers explained that course work on family engagement was not out of the ordinary and that she had received a master's degree from Grand Canyon University that had a three-credit hour course in family engagement.

Vice Chair Denis discussed the importance of parental involvement and family engagement in the schools and for student teachers to take the course work.

Assemblyman Bobzien pointed out that an education program graduate that had taken the three-credit hour class would be covered and that a continuing education program should be readily available for others.

Assemblyman Stewart asked whether there was any flexibility to take a one-credit course rather than a three-credit course considering the current requirements for student teachers.

Ms. Byers suggested discussing the course requirement concerns with members of the Commission on Professional Standards. She advised that the Commission wanted to place significance on the importance of training future teachers to engage parents in their children's education.

In response to an earlier comment, Ms. Byers advised that under the provisions of Assembly Bill (A.B.) No. 224 of the 76th Session (2011), family engagement training would be available for currently licensed teachers through the Regional Professional Development Program (RPDP).

Assemblyman Bobzien, a former higher education administrator, advised that a three-credit hour course was a normal assignment of credit hours to a class. He pointed out that a one-credit-hour class was usually an "add on" for a laboratory or a special internship experience. Assemblyman Bobzien expressed his full support for the regulation without revision and said that the intent of A.B. 224 was not to make compliance with the course work or continuing education difficult or burdensome.

Vice Chair Denis agreed and said that education course work should not be regarded as a token measure. In the past, he said, parental involvement in the classroom had been neglected, and the additional course work or continuing education through professional development training was a positive method for student and licensed teachers to gain the training needed to engage parents.

In response to Assemblyman Hansen's question concerning the new law, Ms. Byers advised that A.B. 224 Sec. 13 (11) required the Commission to work in cooperation with the Office of Parental Involvement and Family Engagement in developing the regulations before the Commission.

Additionally, in response to questions from Assemblymen Hansen and Stewart concerning the new course work requirement, Ms. Byers advised that the course work did not replace already existing course work. Additionally, as previously pointed out, she advised that licensed teachers could comply with the requirement through professional development training.

There were no other questions from members of the Commission, and Vice Chair Denis indicated he would accept a motion for approval.

ASSEMBLYMAN BOBZIEN MOVED APPROVAL OF
REGULATION 127-11.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Hansen, and
Senators Gustavson and Settlemeyer voted no.)

Regulation 142-11

A REGULATION relating to landscape architects; making various changes relating to landscape architects.

Assemblywoman Kirkpatrick discussed the regulation changes concerning the national examination, the Nevada specific examination, and the fees for the examinations. She noted that under Agenda Item VII.C, the Summary of Quarterly Reports on Disciplinary Action for Licensing Boards, the Board of Landscape Architecture had 27 disciplinary actions, added only seven licenses, and renewed no licenses during the last quarter. Assemblywoman Kirkpatrick indicated she would rather see a regulation that attempted to correct the 27 disciplinary actions.

Helen Wright, Executive Director, Nevada State Board of Landscape Architecture and Ellis Antunez, Landscape Architect, identified themselves for the record.

Mr. Antunez responded to the comment concerning the examinations and explained that Nevada had always had its own specific examination. The regulation, he said, was being revised to reflect that the Council of Landscape Architecture Registration Boards, the national registration board for all states, three Canadian provinces, and one U.S. territory, administered the national examination.

Ms. Wright responded to the comments concerning disciplinary action and advised that the Nevada State Board of Landscape Architecture had the authority to regulate nonlicensed landscape architects. She explained that the Board was going after those who identified themselves as landscape architects, mostly in southern Nevada, and regulating them to protect the health and safety of the public.

Assemblywoman Kirkpatrick expressed concern about the number of regulations, the length of time it took before the Commission heard the regulations and a lack of testimony from the public. Assemblywoman Kirkpatrick indicated that although she had concerns about the number of regulations before the Commission, she would move to approve the R142-11.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF
REGULATION 142-11.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Assemblyman Hansen expressed agreement with Assemblywoman Kirkpatrick's sentiments and asked if she would consider withdrawing her motion for approval and allow him to make an alternate motion.

Assemblywoman Kirkpatrick asked state agency representatives to think about the cost involved in the regulation process, taking into account public hearings and calling a meeting of the Legislative Commission. She, however, declined to withdraw her motion.

THE MOTION CARRIED. (Assemblyman Bobzien was not present for the vote, Assemblymen Hansen, McArthur, Stewart, and Senator Roberson voted no.)

Regulation 018-12

A REGULATION relating to the Senior Citizens' Property Tax Assistance Program; repealing regulations relating to the Program.

Assemblywoman Kirkpatrick noted that legislation during the 2011 Legislative Session repealed the Senior Citizens' Property Tax Assistance Program because of the current financial situation. She expressed concern, however, over the repeal of the already established regulation since it was anticipated that the assistance program would be reestablished at some point in the future.

Sally Ramm, Elder Rights Attorney, Aging and Disability Services Division, Department of Health and Human Services, advised that the regulation was being repealed because there was no longer a statute authorizing the regulations.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF
REGULATION 018-12.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Bobzien was not present for the vote.)

Regulation 025-12

A REGULATION relating to incentives for renewable energy programs.

Assemblyman Hansen questioned the length of time ratepayers had to subsidize renewable energy programs. Additionally, Assemblyman Hansen commented that because the cost of energy was more expensive in Nevada, a problem had developed in attracting new businesses that used substantial amounts of energy to the state.

Garrett Weir, Assistant General Counsel, Public Utilities Commission (PUC), advised that the authority to continue with the program was derived from *Nevada Revised Statutes* (NRS) 701B.260.4 (a), which provided that for the period beginning July 1, 2010, and ending June 30, 2013, each utility would spend no more than \$78,260,000 toward the program.

In response to Assemblyman Hansen who asked whether the PUC anticipated that the ratepayer subsidies would end in June 2013, Mr. Weir advised that the PUC would follow the direction of the policymakers.

Assemblywoman Kirkpatrick pointed out that the charts on pages 2 and 3 of the regulation ([Exhibit J](#)) reflected the reduction of incentive payments.

Vice Chair Denis advised that he would accept a motion for approval.

SENATOR PARKS MOVED FOR THE APPROVAL OF
REGULATION 025-12.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED (Assemblyman Bobzien was not present
for the vote.)

R034-12

A REGULATION relating to insurance; revising provisions relating to nonadmitted insurance.

Assemblywoman Kirkpatrick asked for information regarding the definition change on page 2 of the regulation that “a broker may not place insurance with any foreign or alien insurer for risks located in Nevada unless the insurer had filed a power of attorney appointing the Commissioner as attorney in fact for service of process in Nevada.” Assemblywoman Kirkpatrick noted that the definition change appeared to offer less consumer protection than was previously required.

Gennady Stolyarov II, Actuary, Property and Casualty Section, Nevada Division of Insurance, Department of Business and Industry, advised that the definition changes in the regulation resulted from the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), which contained the Nonadmitted and Reinsurance Reform Act of 2010 (NRRRA). Mr. Stolyarov advised that one part of Dodd-Frank implied that there were fewer requirements than in the past. The revisions, he pointed out, were also reflected in Senate Bill (S.B.) No. 289, 76th Session (2011).

Mr. Stolyarov advised that the NRRRA provided that no state other than the home state of an insured for a nonadmitted insurance transaction could require a broker to be licensed for the purpose of the transaction. He explained, for example, that if there was a multi-state risk and Nevada was the home state, and the insured was a large gaming corporation, Nevada could require that broker to be licensed for the transaction. If the home state was California, and the insured was MGM, the broker could only be required to be licensed by California, not by Nevada. Mr. Stolyarov further explained that the purpose of the federal law was to eliminate duplicative and burdensome requirements for brokers on multi-state transactions to have licenses in multiple states and not a matter on which the Commissioner of Insurance had any discretion.

Additionally, Mr. Stolyarov advised that the NRRRA struck out the placement of risks. He said, for example, that the NRRRA set up uniform nationwide eligibility criteria for foreign insurers [insurers in the United States domiciled in Nevada], to require those insurers to be eligible in

the state of domicile and to meet minimum capital and surplus requirements. However, no state could impose any other requirements on such insurers.

Mr. Stolyarov advised that the Division of Insurance was attempting to repeal any requirements that were inconsistent with the federal law, and similarly for alien insurers, the National Association of Insurance Commissioners maintained a list called the Quarterly Listing of Alien Insurers. The federal law required that if a company was on that list, no state in the country could deny it eligibility. The revisions, he said, were already in effect because of the federal law requirements, and the Division of Insurance was trying to clear up the inconsistencies that currently existed in *Nevada Administrative Code* (NAC) 685A.

There were no further questions, and Vice Chair Denis indicated he would accept a motion for approval from Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF
REGULATION 034-12.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED (Assemblymen Bobzien and Conklin and
Senator Horsford were not present for the vote.)

Regulation 037-12

A REGULATION relating to education; revising provisions governing the administration of examinations for the achievement and proficiency of pupils.

Assemblyman Stewart asked for clarification concerning increasing the minimum units of credit for required courses from 14 to 15 and reducing the units of credit for elective courses from 8 1/2 to 7 1/2.

Richard Vineyard, Assistant Director, Office of Assessment, Nevada Department of Education, advised that there were no changes to current graduation requirements included in the regulation. He explained that the section in the regulation that the Department of Education was asking to repeal authorized pupils who were enrolled in high school during or before the 1998-1999 school year to graduate if the student earned at least 14 units of credit for required courses and at least 8 1/2 credits for elective courses. Mr. Vineyard advised that in 2006 the State Board of Education approved requirements for graduation that included 15 units of credit for core classes and 7 1/2 for elective courses.

ASSEMBLYMAN STEWART MOVED APPROVAL OF
REGULATION 037-12.

SENATOR PARKS SECONDED THE MOTION.

Assemblyman McArthur asked for clarification regarding the extenuating circumstances referred to in Sec. 6. 2. [page 8], which stated that “The superintendent of a local school district may waive the requirement set forth in subsection 1 if he or she determines that extenuating circumstances exist.”

Mr. Vineyard said that although he did not know whether a definition of “extenuating circumstances” existed in regulation, he knew, for example, that if a student moved to the state because of a military transfer, the superintendent might waive some graduation requirements.

In response to a question from Assemblyman McArthur, Mr. Vineyard agreed that it appeared that the superintendent of a local school district could make a subjective decision to waive the requirement if extenuating circumstances existed. Mr. Vineyard advised, however, upon his return to the Department of Education, he would review the regulations after the hearing to determine whether a regulation existed that defined extenuating circumstances.

There were no additional questions, and Vice Chair Denis called for a vote on the motion.

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

Regulation 040-12

A REGULATION relating to the Lake Tahoe Basin; revising provisions governing certain projects in the Lake Tahoe Basin.

Senator Settlemeyer, former Chair of the State Conservation Commission, asked for information concerning the elimination of the role of the Nevada-Tahoe Conservation District and the Technical Advisory Committee, created by cooperative agreement, and the new requirements for the State Land Registrar.

Jim Lawrence, Administrator, Division of State Lands, Department of Conservation and Natural Resources, advised that the updated regulation reflected current practices and would provide the Nevada-Tahoe Conservation District a more robust role in the Tahoe Basin. He explained that when the regulation was adopted about 15 years ago, the Nevada-Tahoe Conservation District had a one-person staff. Currently, the Conservation District had a staff of engineers and hydrologists who wanted to move into implementation. He said that the line became blurred when the staff wanted to make recommendations to State Lands for projects they were bringing forward. The regulation removed that obstacle and allowed the Conservation District to implement its projects and to apply directly for grants.

Senator Settlemeyer expressed his thanks for the clarification and noted that it appeared the Nevada-Tahoe Conservation District was agreeable to the changes. Based on the information he had received, Senator Settlemeyer indicated he was prepared to move for approval.

Assemblyman Bobzien asked whether the statement in Section 5 that the State Land Registrar consider additional criteria in making a determination on whether a proposed project would treat stormwater runoff that affected surface water bodies or Lake Tahoe had previously been included in the regulation.

Mr. Lawrence advised that the statement in Section 5 updated the current regulation and had not previously been included.

SENATOR SETTELMAYER MOVED APPROVAL OF R040-12.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

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

The members of the Commission considered the following three regulations simultaneously:

Regulation 048-12

A REGULATION relating to aquatic species; providing requirements for decontamination of certain vessels and conveyances.

Regulation 049-12

A REGULATION establishing the amount of the aquatic invasive species fee required for certain vessels and specifying provisions regarding aquatic invasive species decals.

Regulation 062-12

A REGULATION prohibiting a person from trapping a fur-bearing mammal, other than with a box or cage trap, within a certain distance of a residence located within a congested area of certain counties.

Assemblyman Hansen pointed out that the Administrative Procedures Act required that regulations submitted to the Legislative Commission for consideration include an informational statement. Although Regulations 048-12, 049-12, and 062-12 included informational statements, Assemblyman Hansen noted that many of the questions were answered with N/A [nonapplicable]. He said, for example, one of the informational questions in R049-12 [establishing the amount of the aquatic invasive species fee required for certain vessels] asked for the total annual amount of revenue the agency expected to collect and how the money would be used. The question was answered with N/A.

Although the Director of the Nevada Department of Wildlife (NDOW) signed the informational statements for the three regulations, Assemblyman Hansen said the statements did not provide enough information for the Commission's consideration. Assemblyman Hansen asked to defer Regulations 048-12, 049-12, and 062-12 until the Department of Wildlife provided the information required by the Administrative Procedures Act.

Assemblyman Bobzien agreed with the need for additional information and asked whether a representative of the Department was available to provide an approximate amount of revenue the Department hoped to collect from the fees.

Rob Bounamici, Chief Game Warden, Division of Law Enforcement, NDOW, identified himself for the record. Mr. Bounamici advised that R048-12 pertained to the requirements for the decontamination of certain vessels with no cost to the public. Regulation 049-12 pertained to establishing the amount of the aquatic invasive species (AIS) fee to purchase and affix an AIS decal to certain watercraft vessels at \$5, \$10, and \$20. Although NDOW could calculate the number of motorized boats because registration was required, Mr. Bounamici explained that NDOW could not calculate the number of unmotorized boats that did not require registration.

Assemblyman Bobzien recalled a similar line of questioning during hearings in the Assembly Committee on Natural Resources, Agriculture, and Mining on the act that related to aquatic species [Assembly Bill (A.B.) No. 167 76th Session (2011)]. Assemblyman Bobzien indicated he believed that either the Commission or the next Legislature should have an update on the AIS decal program and the collection of revenue generated by the sale of the decals.

Assemblyman Hansen pointed out that the issue was NDOW's failure to comply with the Administrative Procedures Act and not the amount of revenue NDOW expected to collect from the sale of the decals.

Vice Chair Denis asked Legislative Counsel whether the testimony Mr. Bounamici provided filled the requirement.

Brenda Erdoes, Legislative Counsel, Legislative Counsel Bureau, advised that *Nevada Revised Statutes* required the agency to submit a complete informational statement with the regulation prior to being considered by the Legislative Commission.

In view of Ms. Erdoes' advice, Vice Chair Denis said he would defer R048-12, R049-12, and R062-12.

In response to Assemblyman Bobzien who asked whether it should be assumed all three regulations were subject to the same situation, Assemblyman Hansen advised that the term "nonapplicable" appeared in the informational statements for all three regulations.

Assemblywoman Kirkpatrick expressed agreement with Assemblyman Hansen and said that although the Commission might not meet again until December, the Subcommittee to Review Regulations could meet to review the three regulations.

In response to a question Vice Chair Denis asked about the Legislative Commission's Subcommittee to Review Regulations, Ms. Erdoes advised that a meeting of the Subcommittee could be called before the end of the year.

Assemblyman Hansen pointed out that the boating season at Lake Tahoe was nearly over and although the importance of the aquatic issue was not in doubt, the Commission should ensure that state agencies complied with the requirements of the Administrative Procedures Act.

Senator Settelmeyer asked Mr. Bounamici whether R062-12 would affect an individual's ability to use a trap on his or her own private property.

Mr. Bounamici confirmed that R062-12 would not affect an individual's ability to use a trap on his or her own private property.

Additionally, Mr. Bounamici advised that delaying approval of R048-12 and R049-12 would affect NDOW's ability to mail the AIS decals with boat registrations in December. Mailing the decals with the boat registrations, he said, would create a more user-friendly one-stop shopping experience for boaters.

In response to NDOW's use of the term, "nonapplicable," Mr. Bounamici explained that the questions were not applicable in a particular situation not that NDOW was not subject to the rules.

Vice Chair Denis announced that he would defer R048-12, R049-12, and R062-12 to a subsequent meeting.

Having concluded discussion on R048-12, R049-12, and R062-12, Vice Chair Denis moved to R068-12 for the Commission's consideration.

Regulation 068-12

A REGULATION relating to taxation; providing that certain personal property which is installed or attached nonpermanently to real property is not assessed as real property for the purposes of taxation; revising certain guidelines for determining whether an item is a fixture for the purposes of taxation; authorizing a county assessor to use any nationally recognized valuation technique to determine the acquisition cost of certain personal property under certain circumstances.

Assemblywoman Kirkpatrick recalled that during the 2011 Session, a certain group wanted to change the definition of "trade fixtures" nonpermanently attached to real property to avoid paying personal property tax. Although it appeared the regulation would not create an economic impact to the state, Assemblywoman Kirkpatrick asked for additional information concerning tax abatements approved for renewable energy projects since some of those dollars had been included in the life of the project. Assemblywoman Kirkpatrick asked for assurance that changing the definition would not create a windfall for interested parties.

Terry Rubald, Chief Division of Assessment Standards, Department of Taxation, advised that R068-12 was an outgrowth of an earlier regulation adopted two years ago. Regulation 068-12, she said, amended the definition of "fixture" in *Nevada Administrative Code* (NAC)

361.1127. The clarification or exception to the fixture rule for trade fixtures, she said, was added at the request of the Nevada Taxpayers' Association.

In response to the question concerning renewable energy abatements, Ms. Rubald advised that the Department of Taxation had prepared fiscal notes on properties, many of which the Department considered "real property," for the Office of Energy as they deliberated on whether those abatements should be granted. Ms. Rubald further advised that the fiscal notes the Department prepared might require revision depending on the component being discussed.

In response to additional concerns Assemblywoman Kirkpatrick raised regarding the fiscal notes, Ms. Rubald said the Department based the fiscal notes on many of the properties defined as real property, which had more value in the earlier years. If the County Assessor classified some of the property as personal property, there would be more depreciation of the value in the early years.

Assemblywoman Kirkpatrick noted that the regulation process included notifying 333 individuals and 138 participated, which she greatly appreciated. She advised that she would move approval of the regulation but would submit a bill for the 2013 Session if she decided on the need for additional dialogue.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF
R068-12.

SENATOR PARKS SECONDED THE MOTION.

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

Regulation 070-12

A REGULATION relating to permits for the movement of oversized and overweight vehicles.

Senator Settlemeyer noted that Regulation 070-12 appeared to be based on Senate Bill (S.B.) No. 48 76th Session (2011), which revised provisions related to permitting and enforcement of standards for oversize and overweight vehicles operating on Nevada highways. The bill, he said, failed.

Senator Settlemeyer expressed concern that the regulation included language regarding operating over-dimensional vehicles, which he indicated could include agricultural equipment used to cut hay, such as a swather with a 14 foot to 16 foot header.

Senator Settlemeyer commented that as an agriculturist he found the following language included in the regulation troubling:

- The Nevada Department of Transportation (NDOT) could issue a permit for the operation of an over-dimensional vehicle that would be valid for 5 days. The permit restricted operating vehicles that exceeded 12 feet in width and 15 feet in height during hours of darkness or on holidays, and a vehicle greater than 14 feet in width could not be operated on weekends. The restrictions, he said, would prevent ranchers from moving equipment from ranch-to-ranch during hours in which there was minimal traffic on Highway 395.
- NDOT might require law enforcement escorts to be present during the movement of a vehicle if it was anticipated that movement of the vehicle would affect public traffic.
- The provisions of the regulation would apply to the movement of husbandry and farm equipment.

Senator Settlemeyer said that, in his opinion, a regulation on businesses should go before the Legislature. Additionally, Senator Settlemeyer noted that in the informational statement attached to the regulations, NDOT had determined that the adopted regulations would not impose an economic burden on small business, a statement with which he disagreed.

Senator Settlemeyer asked that the Nevada Farm Bureau Federation representative be permitted to provide the Bureau's views on the regulation.

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation, identified himself for the record. Mr. Busselman advised that he had testified during the 2011 Legislative hearings on S.B. 48 and recalled that part of the Farm Bureau's concern with the bill went beyond the unintended consequences for agriculture although Farm Bureau representatives were not engaged in discussions prior to the hearings on the bill. Similarly, Mr. Busselman said he had no opportunity to participate in the workshop or hearings held for R070-12 because he was unaware of the hearings.

Mr. Busselman advised that the Farm Bureau concerns were primarily over moving oversized vehicles, which would affect agricultural producers who had to move agricultural equipment.

Senator Settlemeyer asked to have the Nevada Department of Transportation (NDOT) representative comment on moving oversized farm equipment on weekends, holidays, and during hours of darkness.

Jeff Richter, Management Analyst, Administrative Services Division, NDOT, apologized that the representative of the Nevada Farm Bureau Federation was not informed of the two formal workshops and a hearing that NDOT conducted.

Mr. Richter indicated he would discuss the substance of the regulation changes and although S.B. 48 included similar language, he said there had been no intent to "lockdown" farm equipment and other vehicles. Mr. Richter advised that farm equipment was only a small part of the tens of thousands of oversized and overweight vehicles moving on Nevada highways.

He said NDOT was not trying to impose additional standards on farm equipment other than trying to conduct the movement of oversized farm equipment safely and in a manner that did not affect traffic in certain areas.

Mr. Richter advised that although the language was confusing, *Nevada Revised Statutes* (NRS) precluded NDOT from permitting or regulating farm equipment that operated off interstate highways or controlled access highways. He said there was nothing in the regulation that restricted farm equipment from moving on roads other than the interstate and controlled access highways, and NDOT had the authority to permit oversized equipment on interstate or controlled access highways. Mr. Richter again apologized for failing to contact Mr. Busselman and Senator Settlemeyer regarding the workshops and hearings schedule.

Mr. Richter advised that the conditions set forth in R070-12 as well as in S.B. 48 were designed to protect the public and the infrastructure from over-dimensional vehicles, prevent traffic congestion, and to standardize Nevada regulations and laws with adjacent states in the western region.

Additionally, Mr. Richter provided an example of managing over-dimensional vehicles during a recent mine exposition at the Las Vegas Convention Center in southern Nevada. NDOT, he said, permitted about 100 different 25 to 30 foot-wide loads into the Las Vegas Convention Center. Mr. Richter said there was no intent on NDOT's part to spend additional time to keep farmers from moving equipment from ranch-to-ranch. He said the Nevada Transportation Association, the Nevada Trucking Association, and others who participated in the workshops and hearings supported the regulation, which would allow more opportunities for oversize-overweight vehicles to move around the state. Mr. Richter also pointed out that language in the regulation allowed NDOT to accommodate oversize convoys and cut back on the number of escorts needed for multiple loads.

Mr. Richter advised that he was open to suggestions on how to improve the language, and, if requested to do so, he would conduct additional workshops and hearings.

Assemblyman Conklin commented that S.B. 48 did not pass during the 2011 Session because of opposition and disagreement. It was Assemblyman Conklin's opinion that if a regulation was being considered to replace a bill that did not pass, work had to be done with the opposition to be certain that the problems legislators thought were important enough to stop the bill from passing were dealt with.

Assemblyman Conklin also commented that it appeared some of the issues related to the regulation were convoluted. He said it was NDOT's job to notify all parties interested in a regulation, but Mr. Busselman and Senator Settlemeyer also had some responsibility to follow events or subjects in which they were interested.

Assemblyman Conklin also observed that the regulation included some inherently unique Nevada traffic issues that needed to be dealt with versus the more commercial traffic associated with highways and over-dimensional vehicles passing through the state or being in

the state for trade shows. Those areas, he said, needed to be addressed before approving the regulation.

Senator Settlemeyer agreed with Assemblyman Conklin's observations concerning issues related to counties with populations of over 100,000. He said, however, he was more concerned about the unintended consequences because the regulation included language that applied to the movement of husbandry and farm equipment, which he found problematic. Senator Settlemeyer said he could not support approval of the regulation considering the number of constituents in the agricultural areas he represented. He advised that he would move to defer the regulation and reserve a bill draft request for NDOT to work the issues out during the 2013 Legislative Session.

Assemblywoman Kirkpatrick asked whether Mr. Richter wanted to withdraw the regulation and work with the Legislature on a bill draft request.

Vice Chair Denis noted that the options included deferral or denial and asked Senator Settlemeyer for his preference.

Senator Settlemeyer said that if acceptable to the Vice Chair, he wanted to give Mr. Richter the opportunity to suggest a possible solution.

Mr. Richter commented that one of the reasons S.B. 48 did not pass was because of several lines in the bill that referred to farm equipment. He said it was difficult as a regulator to separate and distinguish one category from another with respect to oversize and overweight vehicles.

Assemblywoman Kirkpatrick suggested that Senator Settlemeyer could withdraw the regulation and Mr. Richter could submit two separate regulations, one that applied to overweight and oversized farm equipment and another for other oversized and overweight vehicles. Assemblywoman Kirkpatrick agreed that the issue was complicated but pointed out that if Senator Settlemeyer and the constituency he represented had concerns about unintended consequences on farming, the state's third largest economic driver, the Commission had to move on.

Senator Settlemeyer said that since Mr. Richter had not taken the opportunity to withdraw the regulation, he would move to deny and leave it up to NDOT to decide whether to go through the regulation process again or to ask to reserve a bill draft request.

SENATOR SETTELMAYER MOVED TO DENY R070-12.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

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

B. Resolution Recognizing 101st Anniversary of the Founding of the Republic of China
– Rick Combs, Director, Legislative Counsel Bureau

Rick Combs, Director, Legislative Counsel Bureau, addressed the Resolution Recognizing the 101st Anniversary of the Founding of the Republic of China ([Exhibit K](#)). He noted that the Legislative Commission had annually adopted a resolution recognizing Nevada's ongoing sister-state relationship with the Republic of China (Taiwan). The date in the resolution, celebrated as "Double Tenth National Day" commemorated the founding of the Republic of China on October 10, 1911.

There were no questions from the members of the Commission, and Vice Chair Denis indicated he would accept a motion for approval.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF THE
RESOLUTION RECOGNIZING THE 101st ANNIVERSARY OF
THE FOUNDING OF THE REPUBLIC OF CHINA.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Horsford and
Assemblyman Conklin were not present for the vote.)

C. Approval of Regulation Concerning Lobbying for the 2013 Legislative Session –
Rick Combs, Director, Legislative Counsel Bureau

Rick Combs, Director, Legislative Counsel Bureau, addressed the Regulation on Lobbying for the 2013 Legislative Session ([Exhibit L](#)). Mr. Combs advised that the Legislature approved Assembly Bill (A.B.) No. 575, of the 76th Session (2011), which in addition to a number of items, required:

- badges issued to lobbyists would have different colored backgrounds for each type of registration
- the amount charged for the registration of a lobbyist, who represented only nonprofit organizations recognized as 501(c)(3) organizations would be limited

The proposed Regulation, he said, included both requirements from A.B. 575.

Additionally, Mr. Combs reported that the regulation proposed:

- fees for most paid lobbyists would remain at \$300
- fees for unpaid lobbyists would remain at \$20

- lobbyists representing veterans' organizations would continue not to be charged a registration fee
- lobbyists who represented only nonprofit organizations would pay a fee of \$100

Mr. Combs advised that the regulation proposed different badges for each of the four types of lobbyist. Each of the four types of lobbyists would have a different colored stripe on the badge, and the type of lobbyist would be designated in writing. Additionally, a technical adjustment was proposed to clarify the requirements for lobbyists to report expenditures for parties attended by legislators.

Senator Parks asked how it was determined that the badge for unpaid lobbyists who were veterans was white with a green stripe.

Mr. Combs explained that staff selected the colors based on what the Legislature had the ability to print. He advised that the requirements for unpaid lobbyists for veterans had been in statute for a lengthy period and was not a part of the changes that occurred during the 2011 Legislative Session.

There were no additional questions, and Vice Chair Denis indicated he would accept a motion for approval.

SENATOR PARKS MOVED APPROVAL OF THE LOBBYING
REGULATION FOR THE 2013 LEGISLATIVE SESSION.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED. (Senator Horsford and
Assemblyman Conklin were not present for the vote.)

D. Approval of Regulation Concerning Vehicular and Pedestrian Traffic on Legislative Grounds and in the Legislative Parking Facility –
Rick Combs, Director, Legislative Counsel Bureau

Rick Combs, Director, Legislative Counsel Bureau (LCB), addressed the proposed Regulation Concerning Vehicular and Pedestrian Traffic on Legislative Grounds and in the Legislative Parking Facility ([Exhibit M](#)).

Mr. Combs advised that Assembly Bill (A.B.) No. 575, of the 76th Session (2011), authorized the Legislative Commission to adopt reasonable regulations governing vehicular and pedestrian traffic on the property within the supervision and control of the Legislature.

The proposed regulation prohibited:

- a person from storing or parking a vehicle, bicycle, or other item on legislative grounds, or in or on a legislative parking facility for more than 24 hours unless the person obtained the approval of the Director of the LCB or his or her designee
- a person from parking a vehicle on legislative grounds, or in or on a legislative parking facility in noncompliance with signage or painted surface markings, or in a manner otherwise prohibited by law
- a person from using any part of the legislative grounds or parking facility for skateboarding, roller skating, biking, or engaging in any other recreational activity in any manner other than a means of transportation across the grounds or parking facility
- a person from engaging in any illegal conduct in or on any part of the legislative grounds, or in or on a legislative parking facility

Additionally, Mr. Combs advised that the proposed regulation allowed the Legislative Police to warn persons they determined were engaged in unsafe activities and to issue misdemeanor citations to those violating the regulations.

Vice Chair Denis noted that although play on the legislative grounds was prohibited, skateboarding would be recognized as a valid method of transportation to move across the grounds.

Assemblyman Stewart asked whether the regulation would preclude southern Nevada legislators from leaving vehicles in the Legislative parking garage during legislative session weekends when they returned to their homes.

Mr. Combs assured Assemblyman Stewart that legislators' vehicles parked in assigned parking spaces would not be a cause of concern. He said, however, that a legislator who wished to park in another area should notify the Legislative Police in advance.

In response to Vice Chair Denis' question concerning posting signs, Mr. Combs advised that the Legislative Police would post appropriate signage to provide notice regarding the parking of vehicles and the process for obtaining approval for "extraordinary uses" of the grounds or parking facilities. Mr. Combs pointed out that there had been cause for concern when an unrecognized vehicle remained in the parking garage or in a parking lot for any length of time.

There were no additional questions, and Vice Chair Denis indicated he would accept a motion for approval.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF THE
REGULATION CONCERNING VEHICULAR AND PEDESTRIAN
TRAFFIC ON LEGISLATIVE GROUNDS AND IN THE
LEGISLATIVE PARKING FACILITY.

SENATOR PARKS SECONDED THE MOTION.

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

- E. Amendments to "Rules and Policies of the Legislative Counsel Bureau" Concerning
Employees of the Legislative Counsel Bureau –
Brenda J. Erdoes, Legislative Counsel, Legislative Counsel Bureau

Brenda J. Erdoes, Legislative Counsel, Legislative Counsel Bureau, reported that because of federal and state case law changes and a class in employment law, staff suggested amendments to the "Rules and Policies of the Legislative Counsel Bureau" concerning employees of the Legislative Counsel Bureau. Additionally, she reported that a consultant that assisted staff on personnel issues during the past few years also suggested some of the changes. Ms. Erdoes advised that if the members approved the amendments during the September 14, 2012, meeting, additional changes could be made during subsequent meetings.

Ms. Erdoes provided the following brief explanation of each proposed revision to the “Rules and Policies of the Legislative Counsel Bureau”:

Rule No. 23 Annual reports of performance for permanent employees: Time and method

Rule No. 23 was amended to require the immediate supervisor of an employee and the chief of the division to sign the annual report of performance, and if the employee objected to the report, the employee was required to note any objections on the report. Additionally, Rule No. 23 was amended to delete the requirement for the Director of the Legislative Counsel Bureau to sign the evaluation report.

Rule No. 26.5 Deductions

Rule No. 26.5 was amended to include adjusting for a previous overpayment of wages or for a negative vacation balance.

Rule No. 37.5 Family and medical leave

Rule No. 37.5 was amended to clarify that an employee on unpaid family and medical leave was responsible for payment of health insurance premiums to the Administrator of the plan for the Public Employees’ Benefit Program (PEBP). The amendment provided that an interruption in coverage could occur if payments were not made in a timely manner.

Rule No. 38 Maternity leave

Rule No. 38 was amended to remove the requirement that an employee immediately notify the Division Chief on verification of pregnancy and clarified that leave other than sick leave could be used for maternity leave after the birth or adoption of a baby.

Rule No. 44.4 Administrative leave with pay

Rule No. 44.4 was amended to allow an employee to be placed on administrative leave with pay during an investigation of the employee’s alleged wrongdoing. The amendment removed the phrase, *if his retention on active duty posed a threat to life, limb, or property, or might be seriously detrimental to the interests of the state*.

Rule No. 52 Causes for action

Rule No. 52 was amended to remove the phrase, *as provided in these rules*, which related to activity determined to be incompatible with an employee’s employment because incompatibility was not further defined in the policy.

Additionally Rule No. 52 was amended to remove the phrase, *if he has refused treatment* concerning abuse of drugs or alcohol because the language conflicted with the drug-free workplace policy.

Rule No. 52.5 Driving under the influence as ground for disciplinary action

Rule No. 52.5 was amended to correct the reference to *Nevada Revised Statutes* (NRS) from 484.379 to **484C.110**.

Rule No. 53 Request for hearing

Rule No. 53 was amended to remove an employee's ability to appeal a termination action to the Legislative Commission. The revision would allow an employee of the Legislative Counsel Bureau to request a closed hearing before the Director in the event of termination or other disciplinary action. If the hearing proved unsuccessful before the Director, the employee could go directly to court.

Rule No. 54 General Rules for conduct of hearings before the Legislative Commission**Rule No. 55 Order of Procedure, and****Rule No. 56 Modification**

If the Commission approved Rule No. 52 Causes for action, Rules No. 54, No. 55, and No. 56, which provided the procedure for appeals to the Legislative Commission would be removed.

Rule No. 58 Working hours

Rule No. 58 was amended to allow the chief of the division, rather than the Director of the Legislative Counsel Bureau, the ability to approve a flex schedule for an employee.

There were no questions from members of the Commission and Vice Chair Denis indicated he would accept a motion for approval.

SENATOR PARKS MOVED APPROVAL OF THE PROPOSED
REVISIONS TO THE RULES AND POLICIES OF THE
LEGISLATIVE COUNSEL BUREAU.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

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

F. Approval of Session Hires for the 2013 Legislative Session –
Rick Combs, Director, Legislative Counsel Bureau

Rick Combs, Director, Legislative Counsel Bureau, addressed the request for approval of session hires for the 2013 Legislative Session ([Exhibit N](#)) and advised that during the May 30, 2012, Legislative Commission meeting, Acting Director Tammy Grace presented, for the Commission's approval, a list of early session hires, some of whom were already hired. The current request, before the Commission, was for the remainder of the session hires including additional janitors, police officers, and camera operators for the Administrative Division as well as a few clerical and professional positions for the Research and Legal Divisions.

There were no questions from members of the Commission, and Vice Chair Denis indicated he would accept a motion for approval.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF
SESSION HIRES FOR THE 2013 LEGISLATIVE SESSION.

SENATOR PARKS SECONDED THE MOTION.

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

VII. INFORMATIONAL ITEMS:

Rick Combs, Director, Legislative Counsel Bureau, advised that there had been no request from members prior to the meeting to hear comment on informational items.

Vice Chair Denis advised that since the members of the Commission had not requested to hear any of the informational items listed below, he would proceed directly to public comment.

A. Interim Committee Reports

B. Miscellaneous Reports or Correspondence from State Agencies and Others:

1. Nevada State Board of Medical Examiners Annual Report 2011
2. Office of the Attorney General Summary Report Concerning the Advisory Committee to Study State and Federal Laws on Sex Offender Registration – Assembly Bill (A.B.) No. 85 of the 75th Session (2009) (Entire Report on File in the Director's Office of the Legislative Counsel Bureau)
3. Public Works Construction Project Data Pursuant to NRS 338.0117
 - a. Las Vegas Convention and Visitors Authority
 - b. Washoe County School District
 - c. Las Vegas McCarran International Airport
 - d. Clark County Department of Finance
 - e. City of Las Vegas
 - f. Las Vegas Valley Water District
 - g. Southern Nevada Water Authority
 - h. Truckee Meadows Water Authority
 - i. Nevada Department of Transportation

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

VIII. 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.)

Vice Chair Denis asked for public comment in the Carson City and Las Vegas locations.

There was no response in either location to Vice Chair Denis' request for public comment.

Assemblywoman Kirkpatrick commented on discussions that took place during the Commission's consideration of Review of Administrative Regulations, Item VI.A. She expressed concern over the difficulties Commission members heard were encountered by interested persons who wanted to participate in agency regulation workshops and public hearings as well as the problems with the agencies' ability to notify all interested parties.

Assemblywoman Kirkpatrick asked that a message be sent to state agencies to provide notice on the scheduling of agency regulation workshops and public hearings in a manner broad enough to reach all interested parties. She advised that she had encountered difficulty in finding the location of hearings and workshops online and that state agencies should use online as well as use other methods of providing information to the public.

Additionally, Assemblywoman Kirkpatrick commented that the Legislative Website under New and Notable Information now listed reports required by statute to be submitted to the Legislature. She thanked legislative staff for providing the ability to view the reports on the Legislative website.

Assemblywoman Kirkpatrick again expressed her concern regarding the provision of information to the public on agency regulation workshops and asked all state agencies to be attentive to posting notices to a broad audience.

Vice Chair Denis agreed that Assemblywoman Kirkpatrick's point was valid.

There were no additional questions or comments from the members of the Commission, and Vice Chair Denis adjourned the meeting at 11:43 a.m.

Respectfully submitted,

Connie Davis, Secretary
Legislative Commission

Senator Mo Denis, Vice Chair
Legislative Commission

EXHIBITS Nevada Legislative Commission Date – September 14, 2012 – Time 9:05 a.m.		
Exhibit	Witness/Agency	Description
A		Agenda
B		Guest List
C	Deb Corp, Legal Division, Legislative Counsel Bureau	State Agency Regulations to be Reviewed by the Legislative Commission
D	Paul Townsend, Legislative Auditor, Legislative Counsel Bureau	Letter Dated August 31, 2012 to the Members of the Legislative Commission
E	Deborah McBride, Agency Director, SAPTA	Letter Dated July 03, 2012
F	Deborah McBride, Agency Director, SAPTA	Letter Dated September 10, 2012
G	Paul Townsend, Legislative Auditor, Legislative Counsel Bureau	Performance Audit of the Nevada State Board of Medical Examiners (Report and Executive Summary only)
H	Paul Townsend, Legislative Auditor, Legislative Counsel Bureau	Nevada State Auditors Association Quality Control Review of the Audit Division of the Legislative Counsel Bureau
I	Assemblywoman Irene Bustamante Adams	Sunset Subcommittee of the Legislative Commission Draft Bulletin No. 13-17
J	Legislative Counsel Bureau Legal Division	Pages 2 and 3 from Regulation 025-12
K	Rick Combs, Director, Legislative Counsel Bureau	Legislative Resolution Congratulating the Republic of China (Taiwan) on the 101st Anniversary of the Republic of China
L	Rick Combs, Director, Legislative Counsel Bureau	Regulation Concerning Lobbying for the 2013 Legislative Session
M	Rick Combs, Director, Legislative Counsel Bureau	Regulation Concerning Vehicular and Pedestrian Traffic on Legislative Grounds and in the Legislative Parking Facility
N	Rick Combs, Director, Legislative Counsel Bureau	September 7, 2012 Letter Regarding Session Hires