

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-sixth Session
April 11, 2011**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Michael A. Schneider at 1:26 p.m. on Monday, April 11, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Shirley A. Breeden, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator James A. Settelmeyer
Senator Elizabeth Halseth
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Senator Barbara K. Cegavske, Clark County Senatorial District No. 8

STAFF MEMBERS PRESENT:

Scott Young, Policy Analyst
Matt Nichols, Counsel
Vicki Folster, Committee Secretary

OTHERS PRESENT:

Michael Carey Edwards, M.D., Board Certified Plastic Surgeon and Licensed Physician
Lawrence Matheis, Executive Director, Nevada State Medical Association
Denise Selleck Davis, Executive Director, Nevada Osteopathic Medical Association
Dianna Hegeduis, Esq., Executive Director, State Board of Osteopathic Medicine

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Cindy Edwards, Administrator, Buildings and Grounds Division, Department of Administration
Gustavo Nunez, P.E., Manager, State Public Works Board
Monica Brett, Southwest Energy Efficiency Project
Robert Compan, Farmers Insurance Group
Renny Ashleman, Chairman, Nevada Health Care Association
Carol Cohen, President, Nevada Society of Medical Assistants
Debra Scott, M.S.N., R.N., F.R.E., Executive Director, State Board of Nursing
Judy Stokey, Executive Director, Government and External Affairs, NV Energy
Bruce Fong, D.O., H.M.D., President, Board of Homeopathic Medical Examiners
James Jackson, Board of Homeopathic Medical Examiners
Michael Gerber, M.D., H.M.D., President, Nevada Homeopathic and Integrative Medical Association
Billie Shea, L.M.T., Chair, Board of Massage Therapists
Lisa O. Cooper, Executive Director, Board of Massage Therapists
Paula Berkley, State Board of Physical Therapy Examiners; Board of Occupational Therapy
Marsha Berkgigler, Chiropractic Physicians' Board of Nevada
Robert Ostrovsky, Nevada Association of Health Plans
Elizabeth Aiello, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Kurt Grange, Ph.D., Opti-Health
James (Jim) Jenks, N.D., Sunshine Health Freedom Foundation
Hans Frischeisen, Unified Health Alliance
Glenn A. Hausenfluke, Ph.D.
Harish Aggarwal, G.A.M.S.
Everett Broderick
Toni Fain, Unified Health Alliance
Barbara Kubichka
Patrick Moriarty
Christine Burns, Nevada Legislative Affairs Committee
Mary Brower

CHAIR SCHNEIDER:
The first bill up for discussion is Senate Bill (S.B.) 367.

[SENATE BILL 367](#): Requires certain health care practitioners to communicate certain information to the public. (BDR 54-625)

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SENATOR BARBARA K. CEGAVSKE (Clark County Senatorial District No. 8):
Senate Bill 367 is a truth in advertising bill designed to provide greater transparency to the public concerning the qualifications of their health-care practitioners. It is a consumer protection bill that requires a health-care professional to disclose information to help patients understand who will be treating them.

In summary, S.B. 367 requires that effective January 1, 2012, certain health-care practitioners must communicate to each patient certain information concerning the practitioner's professional qualifications. The bill specifies the method by which the practitioner would be allowed to meet this requirement. This bill exempts certain health-care practitioners from these disclosure requirements. The purpose of these exemptions is to limit the disclosure requirements to practitioners working in what most of us would refer to as our doctor's office, as opposed to hospitals, urgent care facilities or medical laboratories. This bill also exempts practitioners of respiratory care, hearing aid specialists, veterinarians, marriage and family therapists, and social workers.

With me today testifying from Las Vegas is Dr. Michael Edwards.

MICHAEL CAREY EDWARDS, M.D. (Board Certified Plastic Surgeon and Licensed Physician):

I respectfully offer a proposed amendment ([Exhibit C](#)) to S.B. 367 which is based upon successful implementation of health care truth in advertising legislation in California. The language we are proposing today will help provide clarity and transparency for patients when they seek health-care services from any type of health-care professional. Senate Bill 367 would require all health-care practitioners to disclose their license type and additionally places requirements on physicians' use of the term "board certified" in advertising efforts.

Senate Bill 367 does not place restrictions on the current scope of practice for any health-care practitioners in Nevada. It increases transparency of health-care practitioners' qualifications for patients so they may clearly see and make informed decisions about who provides their care. These commonsense measures are aimed to help alleviate the white-coat confusion that may exist in the health-care setting today. We know that patients often mistake medical doctors with nonphysician providers and they do not know that certain medical specialists are physicians. A recent telephone survey conducted by the

American Medical Association (AMA) of 852 adults nationwide showed 67 percent of the respondents believed that podiatrists were medical doctors. The same survey revealed that only 30 percent of the respondents believed otolaryngologists are physicians, and of course they are.

Patients deserve to know what type of health-care professional is treating them, whether it is a physician, a nurse, medical assistant or technician. Uninformed choices may lead to unintended consequences. That is why passage of this legislation is so important. Along those same lines, it makes sense that patients be informed of the specific training and credentials of their treating physician. If you are licensed to practice medicine in Nevada, you are virtually unrestricted in how you choose to focus your practice in the specialized care provided. This legislation would not change that. This amendment would provide clear parameters for usage of the term "board certified" which the public considers to have significant meaning and importance when distinguishing the credentials of providers.

The name-your-board provision in this amendment would require the physicians using the term "board certified" do so only in conjunction with stating the full name of the approved medical-specialty certifying board. Simply stating one is board certified alone is not enough for a patient to understand the type of training the physician has. As mentioned earlier, I am board certified in plastic surgery. If I decide to open a Lasik clinic in Carson City, I could advertise as being a board certified surgeon without ever making the qualification that my certificate is not in fact in ophthalmology.

Requiring physicians to disclose the full name of the board from which they receive their certificate provides additional transparency, allowing prospective patients to discern the credentials and training of the physicians from who they will receive care. This legislation is founded on the notion that patients and the public should be confident that medical and health-care advertising is clear and informative. In the same survey mentioned earlier, less than half of the respondents felt confident that health-care professionals only advertise and provide services for which they are properly trained.

In garnering the public's trust in medical advertising, patients must be able to rely that physicians uniformly and appropriately use the term "board certified." Patients deserve to be sure they are engaging physicians who have the requisite

education and training necessary to provide the specialty care they are seeking. The proposed amendment I offer to S.B. 367 would serve to do that.

The basic idea of the proposed amendment is that we want providers to be able to describe the board that certified them. These boards need to be recognized by the American Board of Medical Specialties (ABMS), which is the overarching organization that nationally certifies specialty boards. Boards that are not recognized by the ABMS would not be included and should not be used in advertising.

LAWRENCE MATHEIS (Executive Director, Nevada State Medical Association):

We support the bill. It is a transparency issue. As the health professions improve their knowledge base, there are doctors of physical therapy, doctors of optometry, doctors of nursing and doctors of virtually every one of the graduate-school-based professions. Increasingly, patients get confused as to the actual background and training of somebody who is treating them. This is a step toward opening that up. It will enable patients and their families to understand the backgrounds of their treating professionals and what they can expect from them. It is also another step in improving physicians' communication with their patients about their own background and training.

This measure is being worked on in a number of states, and similar legislation was passed in California. There is also a national bill as there are a number of health-care settings that are controlled by the federal government. We support S.B. 367.

DENISE SELLECK DAVIS (Executive Director, Nevada Osteopathic Medical Association):

We support transparency for patients' care. This is a wonderful bill and a good idea. We ask the Committee to consider the two boards that oversee board certification. One is ABMS which is for allopathic programs. The other board is the American Osteopathic Association (AOA) which also issues board certifications through their college of specialties.

CHAIR SCHNEIDER:

Is that osteopathic and homeopathic?

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MS. DAVIS:

Homeopaths can be either a medical doctor (M.D.) or a doctor of osteopathic medicine (D.O.). A D.O. can be a homeopath, but it is not necessarily the same thing.

DIANNA HEGEDUIS, ESQ. (Executive Director, State Board of Osteopathic Medicine):

We support this bill. Our physicians are also, as Ms. Davis indicated, board certified by the AOA. We ask the Committee to include the AOA in the section where ABMS is mentioned.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 367.

SENATOR SETTELMAYER:

Does the proposed amendment cover the issues and concerns that people had about being included?

CHAIR SCHNEIDER:

Yes.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 367.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR SCHNEIDER:

We will open the hearing on S.B. 409.

[SENATE BILL 409](#): Revises provisions relating to the lease of office space for use by certain state agencies. (BDR 27-221)

There is a unanimous recommendation from the interim study on the Production and Use of Energy authorized by S.C.R. No. 19 of the 75th Session. A major focus of that study was to look at ways to implement energy conservation

measures, particularly in State-owned and leased buildings. You have heard me say on several occasions that the cheapest and cleanest watt is the one never produced. This is a particularly important concept during these difficult economic times when every dollar counts and the State is seeking to be more prudent with the revenue collected from its citizens and businesses.

We do not want to spend more for energy usage than is absolutely necessary. During the 75th Session of the Legislature, we obtained information that the State's electrical consumption was about \$25 million per year. I also mentioned some facts about energy use in buildings. In connection with some of these bills this Legislative Session, I want to repeat some of these facts. Buildings in the United States account for 40 percent of primary energy used. According to the U.S. Energy Information Administration, homes and commercial buildings use 71 percent of electricity in the United States. That is expected to increase to 75 percent by 2025. Most carbon emissions come from electricity production. Electric generation also produces byproducts such as nitrogen oxide, sulfur dioxide and mercury that pollute the environment.

Nevada has one of the highest per capita energy consumption rates in the West. The Legislative findings on State energy policy are embodied in *Nevada Revised Statute* (NRS) 701.010. I would like to read some portions of that statute:

The Legislative findings state the policy [sic]

1. The Legislature finds that:

[a] Energy is essential to the economy of the State and to the health, safety and welfare of the people of the State.

[b] The State has a responsibility to encourage the maintenance of a reliable and economical supply of energy at a level which is consistent with the protection of environmental quality.

[c] The State has a responsibility to encourage the utilization of a wide range of measures which reduce wasteful uses of energy resources.

[d] The State and the public have an interest in encouraging public utilities to promote and take actions toward energy conservation.

[e] Planning for energy conservation and future energy requirements should include consideration of state, regional and local plans for land use, urban expansion, transportation systems, environmental protection and economic development.

[f] Government and private enterprise need to accelerate research and development of sources of renewable energy and to improve technology related to the research and development of existing sources of energy.

[g] While government and private enterprise are seeking to accelerate research and development of sources of renewable energy, they must also prepare for and respond to the advent of competition within the electrical energy industry and are, therefore, encouraged to maximize the use of indigenous energy resources to the extent competitively and economically feasible.

[h] Prevention of delays and interruptions in providing energy, protecting environmental values and conserving energy require expanded authority and capability within State Government.

2. It is the policy of this State to encourage participation with all levels of government and private enterprise in cooperative state, regional and national programs to assure adequate supplies of energy resources and markets for such energy resources.

3. It is the policy of this State to assign the responsibility for managing and conserving energy and its sources to agencies whose other programs are similar, to avoid duplication of effort in developing policies and programs for energy.

Nevada Revised Statute 701.215 is another statute designed to implement this legislative energy policy. That statute requires the director, Office of Energy (OE), Office of the Governor, to prepare a state energy reduction plan with a goal of reducing grid-based energy purchases by 20 percent for State-owned buildings by the year 2015. Another energy program enacted by the Legislature is in NRS 331.095. It has been implemented at times but apparently has not been actively pursued throughout the 18 years of its existence for a variety of reasons. It requires the administrator of the Buildings and Grounds Division (BGD), Department of Administration, to establish a program to track the use of energy in buildings owned by the State and in buildings leased by the State.

Senate Bill 409 compliments these two programs by requiring the administrator to consider the energy efficiency and energy costs of any building space leased by the State before entering into or renewing a lease. To the extent practicable, the administrator shall only lease space that meets or exceeds minimum energy standards set by the OE. This is not an absolute mandate, since there may be times and places where meeting this goal is not feasible.

The second major provision of S.B. 409 requires the administrator to cooperate with the State Public Works Board (PWB) in developing long-range plans for capital improvements and the means to finance them. In this regard, S.B. 409 directs the administrator to consider the feasibility of constructing energy-efficient capital improvements to replace leased space. This is not a mandate to build rather than lease, but it is a directive to consider such an alternative in appropriate cases.

Senate Bill 409 will help Nevada achieve its legislatively established goals of frugal and friendly use of energy in State facilities. I urge you to support the unanimous recommendation in S.C.R. No. 19 of the 75th Session.

SENATOR SETTELMAYER:

How many buildings do we have that do not meet that minimum standard?

CINDY EDWARDS (Administrator, Buildings and Grounds Division, Department of Administration):

I would defer the question to Gustavo Nunez, Manager, PWB, if you are referring to State-owned buildings. I will answer questions on the leased buildings.

GUSTAVO NUNEZ, P.E. (Manager, State Public Works Board):

Could Senator Settelmeyer please restate the question?

SENATOR SETTELMAYER:

I am referring to section 1, subsection 2 of S.B. 409 which states that the "chief" shall only lease office rooms that meet or exceed the minimum standards for the conservation of energy and energy efficiency in buildings in this State adopted by the OE. When we are discussing the concept of renewing a lease, how many buildings do we currently lease throughout the State that do not meet those standards?

MR. NUNEZ:

The current standards the OE is in the process of adopting are 2009 International Energy Conservation Code standards. The PWB has also adopted that code. We have not built any buildings to that level at this point because it is a brand new code. Of the 1,600 buildings the State owns, not including the Nevada System of Higher Education or the Nevada Department of

Transportation, all were built under prior codes. In the future, because we have adopted the 2009 family of codes, buildings will meet those standards.

SENATOR SETTELMAYER:

So, are you saying the OE has set, as our minimum standards, the 2009 International Energy Conservation Code standards?

MR. NUNEZ:

Yes. That is what the OE is currently planning to adopt. The PWB has already adopted the 2009 International Energy Conservation Code.

SENATOR SETTELMAYER:

In effect, this bill would mean we could not lease any property?

MR. NUNEZ:

I do not believe the bill prohibits that. With respect to leasing, I will allow Ms. Edwards to address that perspective. The bill says, " ... to the extent practicable" In the future, most likely in the private sector, you will not find many buildings that have been built to a code that has just been adopted.

SENATOR ROBERSON:

Chair Schneider, why is there no fiscal note on this bill? Clearly it has a fiscal impact. As a disclosure, I have represented and been involved in lease negotiations for a developer with the Public Utilities Commission of Nevada (PUCN). They were leasing a "green building," and they were under instructions to find a "green building" to lease. I know from experience that it costs the State more money when seeking to lease a green building.

MS. EDWARDS:

I did not submit a fiscal note to the bill because, as the Chair stated, the bill says "as practicable." So if there were not many buildings in the area to rent, then the cost of moving and the lease cost are my concerns. I was under the assumption those costs would be taken into consideration.

SENATOR ROBERSON:

It is my experience that it will cost the taxpayer more money. When you say "to the extent practicable" if there is a green building that meets those standards, whether it is in Clark County or up here, you will lease that building. Typically, those leases will cost more than many other available, leasable office spaces in

the area. My concern is we are not being very good stewards for the taxpayer when we are not going after the lowest cost provider for government office space. I believe there is a fiscal impact and it should be noted.

CHAIR SCHNEIDER:

A building with more insulation, a higher efficiency air-conditioning unit and better windows will cost more. It would cost more if you are just seeking to lease the building for a year. But if you are seeking to lease a building over a 20-year period, the energy bills will be much less. As that energy escalates and increases in price, in the long run, you will come out ahead. That savings is where the fiscal note decreases over the life of the lease.

This bill asks the State, when practicable, to determine whether they can enter into a lease that will decrease energy bills over the life of the lease.

SENATOR ROBERSON:

I appreciate your point. I would feel more comfortable if we had language in the bill that provided for a cost-benefit analysis over the life of the lease to determine if it is going to save the taxpayer money to enter into one of these leases.

MS. EDWARDS:

I concur with Senator Roberson. It will cost more to lease those energy-efficient buildings. The PUCN building was one of the transactions we dealt with and it was more expensive. To stay within the guidelines, looking at when we could construct a state-owned building to replace these buildings, we would not want to enter into a 20-year lease. We want to keep our leases in five-year periods to have flexibility to build state-owned buildings.

Based on the BGD's experience with leases, there are a few buildings in the urban areas that do meet the OE criteria of NRS 701.220. If this bill is enacted, we would need to develop a new policy and regulation in order to implement the requirements of the bill. My assumption is the rent rate would be a significant factor in considering the potential leases, especially since the majority of leases include utilities. It is expensive to move an agency when considering the costs of tenant improvements and other data.

CHAIR SCHNEIDER:

Do you ever rent any buildings with a turnkey deal?

MS. EDWARDS:

Yes. That is the majority of the leases.

CHAIR SCHNEIDER:

Does the landlord cover all the expenses?

MS. EDWARDS:

That is correct.

MR. NUNEZ:

With respect to S.B. 409, section 2, subsection 3, instructing cooperation with the PWB, we typically utilize our "Statewide Advance Planning Project" of the State's Capital Improvement Program. This will require the assistance of the Office of the State Treasurer for the means of financing, and that should be stated. We will definitely need their cooperation, particularly when it comes to lease purchase. Because the current bonding capacity for the State is so low now, it only allows us to do deferred maintenance projects. The only option we see with respect to being able to put one of these projects in place will require financial analysis which is typically completed by the Office of the State Treasurer.

SENATOR BREEDEN:

Ms. Edwards, has your office completed any research as far as considering the current buildings being leased and their energy consumptions? Are there any differences between the rates and the expenditures, or have you completed some type of analysis to review the differences and how much the prices have increased? Have you thought about a mechanism to lower them?

MS. EDWARDS:

Are you referring to the leased buildings?

SENATOR BREEDEN:

Yes.

MS. EDWARDS:

On the leased buildings, the utilities are included in the majority of lease agreements, and we have looked at the buildings and still have been able to procure those leases below the market value of the buildings in the areas that we currently occupy. We mostly just looked at the cost of the lease and

whether the tenant would have to move out of the building. They are in multiple buildings in many cases, and we cannot simply track the energy for the area the tenant occupies. These are some of the stumbling blocks.

SENATOR ROBERSON:

To clarify, the vast majority, if not all, of the leases you have are gross rather than net office leases. The utilities are included in the rent, and whether the utility cost to the developer is low or high, it does not affect the amount of rent the agency pays. Is that correct?

Ms. EDWARDS:

That is correct.

MONICA BRETT (Southwest Energy Efficiency Project):

Southwest Energy Efficiency Project (SWEEP) is a public interest organization based in Boulder, Colorado, promoting energy-efficiency policies and programs in the states of Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming. I would like to support this bill and address some of Senator Roberson's concerns. Obviously, this bill is asking State government to consider energy efficiency and energy costs of office space. It is a good business model to consider how much energy an office uses. As a Nevada resident, I support the State anytime it is considering efficient use of funds. Obviously, there are some issues regarding leasing versus state-owned buildings. This bill provides guidance for the administrator to the extent practicable. At some point, government has to give guidance to its government workers. There may be some issues regarding the cost, but at least we are moving in that direction to determine how much it is going to cost over the long term.

I also support a cost-benefit analysis. That is in line with looking at the long term, but I want to state that Tara Vogel, OE, is conducting a study on energy costs of state-owned buildings. Perhaps you may want to contact her to speak about her research and determine if it is in line with this bill.

As a Nevada resident and a member of SWEEP, I support S.B. 409.

SENATOR ROBERSON:

Addressing your statement, "How does this benefit the taxpayer?" Ms. Edwards made it clear that the leases into which we enter on behalf of the agencies include utilities as part of the costs. There are thousands of office spaces in

Clark County. Existing developers are hurting, and we have way too much vacant office space. There are very few office buildings that would meet this standard. I am looking out for the taxpayers who are trying to lease existing space, and it appears to me this proposal would make it more difficult. It is not going to help the taxpayer.

MS. BRETT:

I appreciate what you are saying, and at this point, it is just giving guidance to consider the energy cost-effectiveness when leasing a building. You are correct; there are not enough office spaces that would be cost-effective at this time. Perhaps this bill is ahead of its time. I am saying that in the end, when giving someone guidance as to what to lease, consider the cost of energy. I am on board with being a good steward to the community and being cost-effective when it comes to taxpayer's money. I completely support you on that. In the meantime, I want to point out that we should provide some guidance. If it is more cost-effective and we complete a cost-benefit analysis, I am okay with that. From my perspective, we provide guidance to the administrator to consider, and if it works out, that direction is worth considering.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 409.

Before we go to our work session, we will take a five-minute recess at 2:13 p.m.

The meeting is called back to order at 2:20 p.m. The first bill we will discuss in our work session is S.B. 142.

SENATE BILL 142: Makes various changes concerning the towing and storage of motor vehicles. (BDR 58-924)

There are two proposed amendments for this bill (Exhibit D). One is from Robert Compan on behalf of Farmers Insurance, page 3 and the second was prepared by the Legal Division, Legislative Counsel Bureau (LCB), page 6.

ROBERT COMPAN (Farmers Insurance Group):

During the original hearing on this bill, there were some objections to sections 1, 2 and 3. In a previous legislative session, there was an amendment to this bill, and inadvertently a chapter of language was removed. All interested parties

met, and section 1, subsection 3 of the proposed amendment has been reinserted, page 3. The 14 days is amended to 4 business days to benefit consumers.

Section 2 has been stricken altogether. The concern was how the tows in Clark County were being handled through the sheriff's office and their current request for quotes process, which is much like the ideal model for the tariff system, and we may want to address it in the future.

Section 3 addressed concerns from the tow operators and the Division of Insurance's (DOI's), Department of Business and Industry, concerns about the consumers' rights and the ability of insurance companies to pick up cars on their behalf. With the help of Matt Nichols, Counsel, there is a mock-up proposed amendment 6114 to S.B. 142, on page 6 of [Exhibit D](#). I received agreements from the DOI today that they are okay with the language proposed.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 142.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 142.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

We will now hear S.B. 288, a bill sponsored by Senator James Settelmeyer. There are three proposed amendments to this bill ([Exhibit E](#)).

SENATE BILL 288: Revises provisions governing renewable energy. (BDR 58-1026)

SENATOR JAMES SETTELMAYER (Capitol Senatorial District):

This idea started out about six or eight years ago from discussions about creating the ability for contiguous net metering on multiple meters. That is what the entire bill was about. Since then, the drafting process incorporated trying to

simplify things and adding concepts from another bill. Senator Schneider wanted to add a couple of things too, and the concept was multiplying as it went along. The concept involved trying to extend out what is going to expire shortly, the Hydro Demonstration Project. There are only about seven kilowatts (kW) of power left within that demonstration project, so many individuals requested an extension of the cap. When discussing this with Judy Stokey, Executive Director, Government and External Affairs, NV Energy, an agreement was made. Extending the project from 2012 to 2014 was decided and NV Energy suggested going from 500 kilowatts to 5 megawatts in that program, as shown on page 8 of the proposed amendments, [Exhibit E](#). From that suggestion, I wanted to ensure that no one entity would use up the entire project, so I proposed ensuring that no less than 1 megawatt of the total program capacity would be available for projects under 100 kW or less. I would hate to see one large hydro project use up all the kilowatts.

Other discussion included making sure someone was not getting reimbursed more than 50 percent of the total project costs and making sure it was for contiguous properties. One item of discussion included land that is contiguous now but for some reason gets severed and then is no longer contiguous, [Exhibit E](#), page 3. Net metering would no longer apply to that situation.

The last concept addresses the addition of Native-American tribes and tribal organizations' participation in the proposed amendment, page 5, [Exhibit E](#).

Regarding adding municipalities, my opinion is that they already have access to taxpayer dollars, and this program is more in line to benefit individuals who cannot find the financial means to step forward. I do not want municipalities to be added here.

CHAIR SCHNEIDER:

Senator Settelmeyer, Jason Geddes of Reno indicated he could not "pencil it out" without the rebate as well.

SENATOR SETTELMEYER:

That would mean they would have to use taxpayer dollars to do that. That would be their decision. I do not believe we should be having ratepayers reimburse municipalities. It is not the right way to go, and I object to the concept.

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SENATOR ROBERSON:
I support my colleague, Senator Settelmeyer.

SENATOR COPENING:
It would be my desire to follow Senator Settelmeyer's lead on this bill. Perhaps we should vet this more to hear from the municipalities as to whether or not this is something they want or something in which they need to be involved. We could fix it on the Assembly side or on the Senate Floor. I suggest we amend and do pass the bill with the three amendments and exclude the portion on municipalities.

CHAIR SCHNEIDER:
We will close the hearing on S.B. 288.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 288.

SENATOR SETTELMAYER SECONDED THE MOTION.

MR. NICHOLS (Counsel):
"How far out do we want to extend the demonstration program?"

SENATOR SETTELMAYER:
I believe Senator Schneider's proposed amendment, [Exhibit E](#), extends it out to 2016. I am agreeable to that.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR SCHNEIDER:
Discussion is now open for S.B. 294. There is a mock-up proposed amendment 6118 in the work session documents, ([Exhibit F](#)). Senator Cegavske will walk us through the amendment.

SENATE BILL 294: Establishes provisions governing medical assistants.
(BDR 40-16)

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SENATOR CEGAVSKE:

On page 4, line 44 of the proposed amendment, [Exhibit F](#), we need to add "physician assistant."

An important change suggested by Keith Lee, is in section 4, line 26 of the proposed amendment changing "shall" to "may," and that cemented everything for us. There were different elements we had asked to be put in that were presented previously such as the veterinarian assistant, and everyone was in agreement. We have four or five different entities that gave their opinions, and everyone agreed to everything that was recommended.

For the record, we want to make sure Senator Leslie is indicated as a sponsor of this bill.

CHAIR SCHNEIDER:

Staff indicated this has to be done on the Senate Floor.

SENATOR CEGAVSKE:

That is what was indicated to me as well.

SENATOR COPENING:

Senator Cegavske, does the fiscal note go away with the switch from the term "shall" to "may?"

SENATOR CEGAVSKE:

Correct.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 294.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 294.

SENATOR HALSETH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

We will now discuss S.B. 411. This bill and S.B. 294 address different types of medical professionals. Senate Bill 411 relates to medication aides while S.B. 294 relates to medical assistants. According to Debra Scott, Executive Director, State Board of Nursing, the two types of practitioners are different ([Exhibit G](#)).

SENATE BILL 411: Provides for the regulation of certified medication aides.
(BDR 54-1104)

SENATOR SETTELMAYER:

Looking through the fiscal note, there are some good items that may need to be reviewed. Are we going to review this or rerefer to the Senate Committee on Finance?

CHAIR SCHNEIDER:

I am sure the chairman of the Senate Committee on Finance will grab this one when he sees the fiscal note attached.

SENATOR COPENING:

Was there any opposition to this bill?

RENNY ASHLEMAN (Chairman, Nevada Health Care Association):
There was no opposition to S.B. 411.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 411. Note that anything with a fiscal note will be brought to the Senate Committee on Finance.

SENATOR COPENING MOVED TO DO PASS S.B. 411.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CAROL COHEN (President, Nevada Society of Medical Assistants):

Was there any consideration regarding the e-mail from our Executive Director, Donald A. Balasa, to change the wording from certified medication aide to medication aide-certified (MA-C)?

DEBRA SCOTT, M.S.N., R.N., F.R.E. (Executive Director, State Board of Nursing):
I want to address the fiscal note discussion for this bill. This is probably something the Committee has not heard, but the State Board of Nursing (Board) manages its money well, and this would not have to go to the Senate Committee on Finance for a fiscal note. We have it in our budget already.

CHAIR SCHNEIDER:

Will you remove this fiscal note from this bill?

Ms. SCOTT:

No.

CHAIR SCHNEIDER:

No, so will you explain to the Majority Leader of the Senate that there is money there for this?

Ms. SCOTT:

Yes, I will.

CHAIR SCHNEIDER:

Ms. Scott, can you respond to Ms. Cohen's question?

Ms. SCOTT:

Yes. I have not heard that recommendation, but I would be in support of it for the reason we spoke about when discussing this bill earlier. It would decrease the amount of confusion that MA-C is much different than a medical assistant. It would be a good clarification and I would agree to that.

SENATOR SETTELMAYER:

I am going to need additional time to consider this bill with the new information. I would like to rescind my vote to a no vote.

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CHAIR SCHNEIDER:

The bill was passed, and now we have a new request. We can let the bill proceed and correct it in the Assembly, or we can withdraw the action and consider an amendment.

SENATOR COPENING:

Is the only new information we are considering the change of the name from certified medication aide to medication aide–certified?

CHAIR SCHNEIDER:

Yes. That is what I understand.

SENATOR COPENING:

I do not see a need to retract the motion. It seems like a simple one that could be amended in the Assembly or on the Senate Floor.

SENATOR ROBERSON:

I think there is some disagreement in the caucus with the bill and its substance. With the new items coming to light, could we table this bill until the next work session?

SENATOR COPENING:

I do not have an issue with doing that if there is a way to withdraw the previous action.

MR. ASHLEMAN:

We have no trouble indicating to you from the standpoint of the proponents that if the Board wants to change the name through action in the Assembly, we are not going to oppose the change. Also, they are a fee-based agency, and that is why the money is in their budget.

CHAIR SCHNEIDER:

Counsel indicates that the previous action can be rescinded.

SENATOR COPENING MOVED TO RESCIND THE PREVIOUS ACTION ON
S.B. 411.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SCHNEIDER:

We have rescinded our action on S.B. 411.

SENATOR COPENING:

Could we get some clarification from Senator Roberson that is the only issue he is concerned with, or whether he wants to table the bill for further research?

SENATOR ROBERSON:

Senator Copening, I have a couple of concerns. It appears the fiscal note concern is resolved. I saw a big fiscal note and understand that a two-thirds majority vote is required. There is a fee increase, and that is a concern.

CHAIR SCHNEIDER:

Senator Roberson, if we pass this bill, would it go to the Senate Committee on Finance?

SENATOR PARKS:

As I review pages 14 and 15 of the bill, it shows the addition of the certified medication aide. However, I do not see where there is an increase in fees. The fees stay the same and are applied to the certified medication aide.

CHAIR SCHNEIDER:

So is there no increase?

SENATOR ROBERSON:

I confirmed that with Mr. Nichols.

SENATOR SETTELMAYER:

If we can agree that with the creation of the new category, it creates and triggers a two-thirds majority vote, do you want to take a motion to rerefer this to the Senate Committee on Finance and get a unanimous vote now?

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CHAIR SCHNEIDER:

It is a good bill worth processing, and we will not hold it up in this Committee. The Board indicated they have the fiscal note covered, and it would not be an issue.

SENATOR ROBERSON:

To clarify, is there no fiscal note?

CHAIR SCHNEIDER:

No, there is no fiscal note.

SENATOR ROBERSON:

In that case, I am all right with it.

MR. NICHOLS:

There is a fiscal effect to the bill, but I think what the Board was trying to explain is that the Nursing Board is self-funded. It is not a General Fund entity, so the money is coming out of the fees that are paid to the Board by the people who are licensed and supervised by the Board.

CHAIR SCHNEIDER:

We will close the discussion on S.B. 411.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 411.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR SCHNEIDER:

We are opening discussion for S.B. 488. The bill is described in the workbook ([Exhibit H](#)).

SENATE BILL 488: Revises provisions relating to energy. (BDR 58-1274)

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JUDY STOKEY (Executive Director, Government and External Affairs, NV Energy):
The bill was proposed for NV Energy by the Senate Majority Leader. Did the
Committee have any questions?

CHAIR SCHNEIDER:

There being no further questions, we will close the hearing on S.B. 488.

SENATOR SETTELMAYER MOVED TO DO PASS S.B. 488.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR SCHNEIDER:

We will close the work session and open the hearing on S.B. 412.

SENATE BILL 412: Provides for the regulation of the practice of complementary
integrative medicine. (BDR 54-1105)

Senate Bill 412 addresses complementary integrative medicine (CIM). Assembly
Bill (A.B.) No. 208 of the 73rd Session gave a mandate to the Board of
Homeopathic Medical Examiners (BHME) to submit an annual report to the
Legislature and make recommendations concerning the enactment of legislation
relating to alternative and CIM, including without limitation, homeopathic
medicine. Beginning in 2006, the BHME carried out extensive research and
provided reports to the LCB. Based upon research, the BHME recommends
additions, deletions and new language to NRS 630A to protect and make
available to the public treatment modalities of alternative medicine and CIM,
including, without limitation, homeopathic medicine.

Assembly Bill No. 286 of the 69th Session was enacted in 1997. The scope of
NRS 630A was expanded beyond the practice of homeopathic medicine with
the addition of neural therapy, herbal therapy, neuromuscular integration,
orthomolecular therapy and nutrition. These are complementary integrative
alternative medicine therapies. Senate Bill 412 proposes a name change for the
BHME. The new name, Board of Complementary Integrative Medicine,
incorporates many CIM therapies, one of which is homeopathic medicine.

Senate Bill 412 clarifies the systems of CIM recognized by the National Center for Complementary and Alternative Medicine. Included in this bill are some, but not all, systems of CIM. Many practitioners use systems of alternative medicine modalities that are not regulated by the NRS. This bill will protect the public and improve the quality of health care for those choosing alternative therapies. The BHME recognizes the need for research in the area of CIM. Two-thirds of Australians use some sort of complementary medicine every year. Notwithstanding the high rate of usage, there is very little research being conducted. The BHME strongly recommends the establishment of an entity that will cooperate with licensees under NRS 630A in CIM research.

BRUCE FONG, D.O., H.M.D. (President, Board of Homeopathic Medical Examiners):
As you have indicated, this bill started out as the BHME's annual report. The bill is submitted with a proposed amendment ([Exhibit I](#)) based on our feedback from our community and issues we have encountered over the years. I will address many of the issues that may be contentious.

The BHME did run into some issues this year, and it took several sessions for us to work through them. These are the things that have been assessed and placed in the annual report. The name change would more truthfully and accurately describe the BHME. As a matter of disclosure, my stepfather, Dr. Yiwen Tang, was one of the founders of this board in 1983. Over the years, this board has been covering many alternative complementary integrative therapies. Over time, we have added more of the modalities through different bills. To reflect more accurately what BHME does, it is imperative to have the name changed.

Another issue is the addition of a fourth categorization under the BHME. Currently, the BHME serves three categories of physicians, advanced practitioners and assistants. We are requesting to have a fourth category of "technician" added. Under technician, we are asking to incorporate many of the alternative modalities being practiced outside that are not currently under the purview of the BHME. We are not asking to take away any of the health freedoms. This is a situation where we are trying to meet our mandate to allow for the safe practice of alternative complementary integrative medicine by making sure there is safe practice of these modalities.

To implement and create the standards we need to make this happen, I invite folks in the community to work with us to create standards whereby practitioners are judged to be certified under this categorization.

The next contentious issue is a request for prescribing rights by licensees under this BHME. The issue came up from an applicant who wanted to practice under BHME and had no intentions of doing any other types of medicine. It became a valid argument. The BHME has had discussions with the State Board of Pharmacy, but the Office of the Attorney General recommended getting something changed legislatively.

SENATOR COPENING:

There is much to take in, and we have received many e-mails as to the controversy and misunderstanding. To what extent did you poll people of the industry to gather information for the bill? Have you had any public meetings for public input?

DR. FONG:

I took it upon myself to talk to community members and those in alternative practices. The feedback I received is that we have a standing committee on the board which we call the "NRS NAC [Nevada Administrative Code] 630A Committee" that vetted the language on these proposed changes. Given the input of that feedback from the community and other board members, it took several meetings to finalize the language.

SENATOR COPENING:

Beginning at section 32, the bill lists many different treatment techniques. Regarding section 33, would it be the first time the technique Reiki would be regulated? I ask this because I was contacted by someone wanting to have this particular technique recognized, I believe, through certification. Are all these sections new?

DR. FONG:

Yes. All those sections should be new.

We introduced a proposed amendment revising our original annual report in which some language was omitted that created exemptions for existing boards such as M.D., D.O. and oriental medicine. We also added massage therapy, among others, which have existing rules and regulations. We have no intention of stepping on anybody's toes. We are trying to incorporate those who are not incorporated at this time to make sure there is some oversight for these different techniques.

SENATOR COPENING:

I recall that some of the e-mails I received were for things such as, "Don't take our freedoms away" and things of that nature. Are these situations in which there are people who possibly should not be doing what they are doing and this is one reason you want to come forward with regulation?

DR. FONG:

These regulations are not meant to affect sales of vitamins or people being able to talk about different types of treatments such as whether or not to take vitamins. This applies to us not wanting to see someone who is potentially not qualified, who is basically giving hardcore medical advice, causing a problem for that person in the long run.

SENATOR SETTELMAYER:

With all these different techniques listed, I understand the concept of trying to be sure the individuals doing this are properly trained. Can people use their insurance to pay for these techniques? Would people who work for the State be able to qualify for these treatments?

DR. FONG:

That issue has not been directly addressed in this bill. There has been discussion about some other bills that try to get insurance reimbursement for alternative treatments, but at this time, I am not able to comment specifically to your question.

Most of us complementary alternative physicians have been exempted from Medicare. We are out of the realm of insurance quite often. Private insurance may reimburse things like office time, lab tests, etc. but most of the therapies are not actually paid for by them.

SENATOR ROBERSON:

I want to echo my colleague, Senator Copenings' concerns. It is late in the process for us to hear this bill. It is very lengthy and controversial, considering the 12 e-mails in opposition to the bill I have received this week. One example is, "This is a horrible idea and will only serve to put a lot of great people out of business. Consumers are smart people. Let them have the choices they deserve." Many of them are like this one. I have not heard from you or anyone from your organization about this bill before today. Based on these e-mails, I think you may have some more work to do.

CHAIR SCHNEIDER:

A CIM modality such as AquaStretch has a tremendous potential to promote health and wellness tourism to Nevada. This is a "jobs bill," as S.B. 412 has the potential of creating over 2,000 high-paying jobs in the health-care profession. Complementary integrated medicine modalities have the potential to reduce significantly health-care costs. The University of Nevada, Las Vegas has begun a program of instruction and training in the use of AquaStretch. This is the future of medicine.

Dr. Fong, please describe your credentials to the Committee.

DR. FONG:

I graduated from osteopathic school in 1997. I completed a rotating internship in Florida, a three-year internal medicine residency in Las Vegas and spent most of my life, because of my parents, learning about this field, so I had a unique experience of alternative medicine before going into osteopathic school. Most of my colleagues who have gone in this direction actually started out being more conventional.

CHAIR SCHNEIDER:

You have an extensive medical background in the traditional medical field as well as alternative medicine.

SENATOR ROBERSON:

Mr. Chairman, I think you are misunderstanding my potential objection. I am not questioning the merit of these different services. I am seeing, along with some of my colleagues, many e-mails in opposition to this bill. There seems to be no support for this bill. The proponents of this bill did not come to us to explain this bill prior to this meeting. It is hard for me to say yes to this bill without getting additional information earlier on the rationale for this legislation.

DR. FONG:

In response to Senator Roberson, as mentioned previously, we did not expect this to become a bill. Originally it was an annual report. There are some things we do need to hammer out, and I agree with your comments. We were trying to reflect the changing environment in which we are practicing and to help confer legitimacy to these practitioners. Certification will assure consumers that the individual who practices alternative modalities has the requirements for certification.

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SENATOR ROBERSON:

I appreciate that, Dr. Fong. I do not mean in any way to demean your legislation or what you do. There is much to understand at this point.

SENATOR SETTELMAYER:

Dr. Fong, would you send me a list indicating what is necessary for someone to be an expert and administer therapy in the alternative modalities? What are the qualifications for these modalities?

DR. FONG:

Presently, there are no qualifications. My vision is to be able to work with the community as a representative of these practitioners who represent a specific technique and develop those guidelines and qualifications to allow for certification. If this bill was passed, it may not be something we could implement right away.

SENATOR COPENING:

You said there were some amendments you wanted to offer and there were some problems you recognized with the bill. Can you tell us what those problems were and do you have the amendments ready?

DR. FONG:

We provided the amendments, [Exhibit I](#).

JAMES JACKSON (Board of Homeopathic Medical Examiners):

Those amendments were submitted on April 8, 2011, [Exhibit I](#).

SENATOR COPENING:

Mr. Jackson, would those proposed amendments address all the concerns of which you are aware so we may review this and know there are no other amendments coming forward?

MR. JACKSON:

That is our goal, but I am not sure we have cast that net as wide as we need to. We are willing to discuss and work on issues with any concerned parties.

DR. FONG:

The proposed amendments we submitted, [Exhibit I](#), have to do with language that was omitted from our annual report which became this current draft of

S.B. 412. One of the suggested amendments list the exemptions mentioned earlier, stating that none of the new tenets would apply to existing boards. Another amendment addresses the potential change in fees. We were trying to indicate how we would enact specific fees, but we did not state they would be new fees. They would be the same level as our current assistant-level fees.

SENATOR COPENING:

One of the e-mails we received said, "Don't take away our freedom." Are herbalists, for example, addressed in this as a group you are proposing to regulate?

DR. FONG:

We are proposing to regulate to some degree. I want to emphasize we have not created these standards.

SENATOR COPENING:

I have to say I am more for regulation of these things because I think there are too many scams out there. Too many people profess to be experts and take people's money, and it goes on. I am not against regulation. My concern was, and I echo Senator Roberson, that this bill came late in the game, and it is a complex bill. There are new techniques and information to which we have not been exposed. It causes us to pause, because we are concerned about unintended consequences if we pass this bill. I hope these things can be addressed before coming back to the next work session.

MICHAEL GERBER, M.D., H.M.D. (President, Nevada Homeopathic and Integrative Medical Association):

I want to emphasize some of the things Dr. Fong mentioned. The National Institutes of Health, U.S. Department of Health and Human Services, recognizes CIM services. It has potential for enormous health-care savings over a period of time. We have been able to incorporate some of the very best practices from Germany and China and other modalities that have been around for thousands of years. It is important to be integrative. We are all M.D.s and D.O.s by training before we can be homeopathic medical doctors. We have allopathic fundamental background training and have been taught to use pharmacology.

As far as prescribing medicine is concerned, A.B. No. 286 of the 69th Session gave full prescribing authority for homeopaths. It was upheld by LCB Opinion Re 99-06, January 31, 2000. That law has been on the books for some time and

has been reinforced by the LCB on a number of different rulings. Even in nutritional orthomolecular medicine, if you want to give a shot of vitamin B12, you need to be able to prescribe. You cannot purchase medications without a U.S. Drug Enforcement Administration, U.S. Department of Justice, license.

CHAIR SCHNEIDER:

Dr. Gerber, would you tell the Committee what your credentials are?

DR. GERBER:

I am a graduate of the University of Kansas School of Medicine in 1972; I completed an internship in the Oakland County Hospital System; I worked in psychopharmacology research at the Palo Alto Veterans Administration (VA) Hospital and the Stanford Research ward of the VA Hospitals in Palo Alto and Menlo Park, California.

BILLIE SHEA, L.M.T. (Chair, Board of Massage Therapists):

We heard about this bill a week or two ago and spoke with Dr. Fong about the amendment that would allow for an exemption. Overall, we are neutral about the bill. I think what they are trying to do is good.

There are problems with this bill moving into areas that heretofore have been considered other scopes of practice. On page 6 of the bill, several of the items described—Qigong, Reiki, therapeutic touch and thought field therapy—can fold into other fields. Massage therapists do perform some of those tasks. I am a Reiki Master. There is no national certification for many of these modalities. They are considered modalities of another profession. We are happy to work with Dr. Fong and the BHME to help draft language that would allow them to be successful in this effort.

LISA O. COOPER (Executive Director, Board of Massage Therapists):

When this bill came to us, we contacted Dr. Fong and Mr. Jackson as they were concerned about overreaching their scope. We are neutral on S.B. 412 and will work with them. Personally, I support the bill.

PAULA BERKLEY (State Board of Physical Therapy Examiners; Board of Occupational Therapy):

I spoke to Mr. Jackson to add as an exemption the State Board of Physical Therapy Examiners and the Board of Occupational Therapy specifically so there

would be no confusion as to who needs to be licensed. I have submitted a proposed amendment to exempt them ([Exhibit J](#)).

MARSHA BERKBIGLER (Chiropractic Physicians' Board of Nevada)

We are neutral on the bill as long as the amendment excludes the chiropractors from this practice. One point we wanted to make is there are some modalities that are listed in the bill that would be under control of the Board of Complementary Integrative Medicine (BCIM). Even if chiropractors are excluded, some of the modalities are things that are done by chiropractors, and we would want to make sure the record reflected that those already licensed under the Chiropractic Physicians' Board of Nevada did not have to be licensed additionally under the BCIM.

ROBERT OSTROVSKY (Nevada Association of Health Plans)

We are opposed to S.B. 412. To correct the record, Dr. Fong indicated under questioning whether this bill contained a mandate for insurance companies. It contains two mandates, not one. Section 108 mandates insurance carriers adopt the Advanced Billing Concepts (ABC) coding system, a proprietary coding system created in 1996. Presently, we use Current Procedural Terminology (CPT) codes and other codes that are approved by the AMA. This would require significant changes in our programming and methodology in handling bills, because many of these modalities are not covered under the CPT codes commonly used by every insurer in the federal government or almost anyone who processes bills. The CPT codes are number codes whereas the ABC codes are letters. This bill says that if you sell insurance in this State, you need to be able to handle billings that have the ABC code. This would be an extensive expense to use this method.

Further, in section 109 and following sections, this bill creates a mandate for individual policies, group policies, small insurance policies and HMOs to provide coverage. It does not, however, provide a mandate for Taft-Hartley Funds, Employee Retirement Income Security Act funds or government employee funds. All of those would be exempted from this bill.

If the new federal health-care plan does not include these mandates—we do not know what that list of mandates are—then if someone enters into the insurance exchange to buy a policy, and if that person has to be subsidized by the State, this mandate would have to be paid for by the State.

We hold no position to establish licensing. It may be very appropriate to establish a licensing board for these modalities, but we think that is step one before you get to mandating insurance companies to provide these benefits. We ask the Committee that sections 108 through 114 be deleted from the bill.

CHAIR SCHNEIDER:

Regarding the CPT code, is there a fee paid each time the code is used? Do you know who owns them?

MR. OSTROVSKY:

Yes, there is a fee for CPT codes. I believe the codes are purchased from the AMA. I do not know what the fee structure is for the use of those codes. There is a small fee to buy the ABC codes.

ELIZABETH AIELLO (Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):

We are neutral on S.B. 412. Having a licensure board to oversee practicing professionals is positive to create consistent standards, but we ask that the Division of Health Care Financing and Policy's, Department of Health and Human Services Nevada Medicaid and Nevada Check Up programs be specifically exempt from this bill for reasons listed in my written testimony ([Exhibit K](#)). Federal reimbursements are not authorized under Medicaid for homeopathic interventions. To be covered, those would have to be fully a State expense.

We have submitted an amendment to S.B. 412 to exempt Nevada Medicaid and Nevada Check Up from this regulation ([Exhibit L](#)).

MR. MATHEIS:

We oppose the bill and believe the integration of alternative and complementary modalities is the practice of medicine. It is being encouraged, and there is national work being done. That appears to be the proper way to assure its integration with other modalities as appropriate, using science to do that over time. The licensing boards under NRS 630 and 633 for the M.D.s and the D.O.s are adequate to that. Perhaps more direction as to how they should approach alternative complementary medicine would be the appropriate way to address this. This is a tremendous expansion of authority of a licensing board and into territory that no one anywhere has taken. This is something that should be done with extreme caution.

Ms. DAVIS:

I am still receiving feedback from members regarding this bill. We did get the proposed amendment today. We had initially planned to be neutral. However, there are things in the amendment about which we have concerns. Upon further reflection of the long and complicated bill, we also have concerns about the expansion of pharmaceutical prescribing and a shortening of training programs described in section 65. Physicians must complete a three-year postdoctoral training program prior to being licensed, and this actually shortens that time. They have concerns this bill also allows medical education that the board determines is of equivalent quality.

It may be in the public's best interest to look at regulating some of these things in the future. We would be happy to be part of that conversation.

KURT GRANGE, PH.D. (Opti-Health):

I am opposed to this particular method. Although Dr. Fong said he did not want an encompassing thing to take place, it looks like that is what is taking place. Referring to section 14, addressing dietary supplements; section 21, addressing lifestyle modification and section 37, about a wellness program; how are these sections going to be licensed? According to what is being proposed and in order for a person to do this, that person would have to be licensed. What this would entail is that anyone who teaches health, biology or human anatomy would not be able to tell their students about any of these things, because they would have to be licensed. Are you going to license each and every one of the people who are going to sell you something in the health food stores? What will you do about the publications?

I think this bill as it is will create a general hardship for many people who are not specifically in the medical profession. I do agree with the licensing factors, but this bill goes beyond the boundaries as to what it wants to accomplish and needs more thought about what really should be controlled.

CHAIR SCHNEIDER:

You have some good points. I would suggest you contact Mr. Jackson and Dr. Fong to work with them. I believe it is the State's desire to move in the direction of alternative medicine. We are progressive in that light. To improve your specific industry would require you to work with these folks.

Nevada could be a destination for health-care tourism. We have spas, and we know we are on the verge of a health-care explosion. That does not mean leaving you and your folks behind; it means bringing you with it. As we move toward more progressive medicine, we want these modalities to move with it.

JAMES (JIM) JENKS, N.D. (Sunshine Health Freedom Foundation):

I oppose S.B. 412 as it is written. We understand what the BCIM wants to do. What we hear is "certified" versus being "State licensed." You might classify me as an herbalist, and I do not have a board to protect me or to which I must answer. I have been certified by several different programs. I have attended hundreds of programs about health, nutrition, etc. Many of those were produced by medical doctors.

We have submitted a proposed amendment to S.B. 412 to exclude unlicensed alternative health practitioners from needing to be licensed by a medical board, the BCIM ([Exhibit M](#)).

The way this bill is written, it actually makes it a Category D Felony to practice any of the holistic therapies; a list is provided in my written testimony ([Exhibit N](#)). Senate Bill 412 does not provide a comprehensive exemption for unlicensed people practicing within the broad scope of CIM.

Please do not pass this bill unless it contains proper language to protect consumer access to all alternative and complementary health-care options.

HANS FRISCHEISEN (Unified Health Alliance):

I oppose S.B. 412 as it is written. My credentials are that I have not been sick a single day since 1972. I believe strongly that what has worked for me can work for anyone. I do not know anyone with such excellent health. Would that not be the dream of any society? I wish to maintain the freedom to share my experience and knowledge with anyone personally or through the health center I own for natural healing, free of any requirement for licensing.

Please do not pass this bill until it contains language of the amendment as presented by Dr. Jim Jenks.

GLENN A. HAUSENFLUKE, PH.D.:

I have been practicing as a Naturopathic Physician for 34 years. I am opposed to S.B. 412 as it is written. It would keep many people sick and keep people

from having a chance to get better. I would not want to work with a board that is a homeopathic board trying to work with medical doctors. They do not go together. For that reason, I am opposed to this legislation.

CHAIR SCHNEIDER:

Would you please review your credentials with the Committee?

DR. HAUSENFLUKE:

I received my Ph.D. in 1984 from Clayton University, a division of the University of Alabama at Birmingham. I have been practicing in the field of addictions for 34 years. I was licensed in Florida, Texas and Colorado when I was a resident. Even though we have a naturopathic association in Las Vegas, we are not allowed to be licensed in this State, so I currently spend time in California because you are not required to be licensed in California.

HARISH AGGARWAL, G.A.M.S.:

I am a graduate with a degree in Ayurvedic Medicine and Surgery. I would be in favor of this bill if every single person in this State is licensed. Everyone in this room may, at some time, need to indicate to someone to take something or not take something; even mothers have to tell their children to take something. They are not licensed to do this. Does it mean that every person in this State needs to be licensed?

EVERETT BRODERICK:

As a private citizen I am not representing any board or organization and I oppose S.B. 412. I believe the bill, as it is written, is akin to a fishing troll net; a bottom-drag net. This bill catches many things that are not intended to be caught. It is a bill written and proposed by homeopathic physicians, and much of it is going to be tossed out. One important aspect that has not been fully addressed by the Board of Homeopathic Medical Examiners is that in general the people who are intended to be licensed are physicians. We are talking about homeopathic medical doctors, osteopathic physicians and medical doctors. People at the other end of the spectrum, who currently are not licensed, such as herbalists and some other modalities mentioned, would be caught in that net. I feel that physicians should focus on disease care and disease intervention and the modalities mentioned previously should focus on health care.

TONI FAIN (Unified Health Alliance):

I am a doctor of natural medicine. I believe that all of us, medical doctors, herbalists and natural health-care providers, are necessary to keep humankind alive and well and to deal with some of the "superbugs" that regular allopathic medicine is not addressing. However, I do get nervous when I hear someone in authority say, "Hurry up and take care of this." It makes me nervous to hurry up and press through a bill that is complex. I think this bill is premature and would prefer you vote no at this time.

CHAIR SCHNEIDER:

Would you tell the Committee your background?

DR. FAIN:

My certification says that I am a doctor of natural medicine and I have been practicing for 40 years; 20 years in Nevada and 20 years in California.

BARBARA KUBICHKA:

I am an American Nevada citizen with disabilities. My qualifications are a BA in business from a California university. I was a private sector entrepreneur in Silicon Valley for 15 years before retirement due to my disability.

I urge you not to rush to judgment on this bill. It is huge and complex. I as a citizen walk into offices and read qualifications on the wall which are most likely "on the wall." I use my brain and determine how to use my money to pay for the services I receive. I am a Medicare patient, and these offices do not accept Medicare. Where is the choice here? You want to regulate everything. I have been a client of Dr. Gerber and Dr. Edwards, I have been a client of allopathic medicine. I have had many types of medicine such as Chinese and German medicine.

The problem I have with regulating these modalities now is bureaucracies are being created. Government cannot keep up with the breaking, cutting edge of science. What do these people want to exclude by using BCIM? There will be western medical doctors on this board who do not believe in this type of medical care. They do not believe my condition exists. I get benefits from Chinese, Russian and German medicine.

This bill will create more expenses to the taxpayers. I say, do not rush to pass this bill just because it might seem popular.

PATRICK MORIARTY:

Forty-six years ago I came from Ireland and was drafted into the U.S. Army during the Vietnam era. For me to sit and see what those people are trying to do to this once great Country that I was willing to die for is an absolute disgrace. It is unbelievable to see what has happened to this Country in the short term. The only thing that really works in this life is alternative medicine. My niece was given six months to live in July 2006. I brought her from New Jersey to Reno to the very program that Dr. Gerber is using today. My niece is alive and well. In November 2007, one of my best friends had about six months to live from cancer. I put her through the same program, and she is alive and well today. Alternative medicine does work. I, the least qualified person in this room, have not failed in 35 years to get rid of someone's migraine headache with the hand stretch. It works every time without medicine.

CHRISTINE BURNS (Nevada Legislative Affairs Committee):

I think you are correct. There are some positive things that came out of this discussion. I also believe there are many things that are not stated and are not clear in this bill. Hopefully, they can be worked out.

Referencing section 1, does this mean that our health savings accounts can be used for alternative medicines? If so, and that is the intent of this, that would be a positive thing to be brought forth with this bill. The intent is not clear. Sometimes the problem is the intent of the bill and what the legislation reads does not always match, leading to unintended consequences.

I want to make sure those individuals who do not claim to be doctors are likewise protected from being inadvertently scooped into this bill, hindering their ability to provide opportunities for people to learn about other health-care alternatives.

MARY BROWER:

I oppose this bill. I have been working with a nutritionist for over 10 years. He is the person who has turned my health around. I actually went to a doctor ten years ago, reluctantly, because I was not doing well and I was looking for an answer. The doctor wanted to put me on an antidepressant. I told him I was not depressed and I know what antidepressants can do to people. People commit murder and suicide on antidepressants. My nutritionist taught me about good nutrition. The food I was eating was making my body sick. He told me about vitamins and minerals. I now work for a company that has amazing health

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products, and I am sure going to tell people that this is what changed my life. I think it would be a sad day when we as American citizens are going to have our hands tied and be sent to jail or arrested and fined because we want to help people.

CHAIR SCHNEIDER:

I am a supporter of alternative medicine and know that many allopathic drugs make one very sick. We will close the hearing on S.B. 412. There being no further business of the Senate Committee on Commerce, Labor and Energy, we are adjourned at 4:14 p.m.

RESPECTFULLY SUBMITTED:

Vicki Folster,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 367	C	Michael Carey Edwards, M.D.	Proposed Amendment
S.B. 142	D	Robert Compan	Work Session Documents
S.B. 288	E	Senator James A. Settelmeyer	Work Session Documents
S.B. 294	F	Chair Schneider	Work Session Document
S.B. 411	G	Chair Schneider	Work Session Document
S.B. 488	H	Chair Schneider	Work Session Document
S.B. 412	I	Bruce Fong, D.O., H.M.D.	Proposed Amendment
S.B. 412	J	Paula Berkley	Proposed Amendment
S.B. 412	K	Elizabeth Aiello	Written Testimony
S.B. 412	L	Elizabeth Aiello	Proposed Amendment
S.B. 412	M	Jim Jenks	Proposed Amendment
S.B. 412	N	Jim Jenks	Written Testimony