



MINUTES OF THE  
LEGISLATIVE COMMISSION  
NEVADA LEGISLATIVE COUNSEL BUREAU  
December 20, 2013

The Legislative Commission, created pursuant to *Nevada Revised Statutes* (NRS) 218E.150, held its fourth meeting in calendar year 2013 on Friday, December 20, 2013. The meeting began at 12:44 p.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and was simultaneously videoconferenced to Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada.

**COMMISSION MEMBERS PRESENT:**

Assemblywoman Marilyn Kirkpatrick, Chair  
Assemblywoman Bustamante Adams for Assemblyman Jason M. Frierson,  
Vice Chair  
Senator Kelvin D. Atkinson  
Senator Moises (Mo) Denis  
Senator Ben Kieckhefer  
Senator Ruben J. Kihuen  
Senator Michael Roberson  
Senator James A. Settelmeyer  
Assemblyman Richard (Skip) Daly  
Assemblyman James Oscarson for Assemblyman Wesley K. Duncan  
Assemblyman Ira Hansen  
Assemblyman Lynn D. Stewart

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

Rick Combs, Director  
Brenda J. Erdoes, Legislative Counsel  
Risa B. Lang, Chief Deputy Legislative Counsel  
Mark Krmpotic, Senate Fiscal Analyst  
Paul V. Townsend, Legislative Auditor  
Donald O. Williams, Research Director  
Janet Coons, Secretary for Minutes  
Tarron L. Collins, Committee Assistant

Chair Kirkpatrick called the meeting to order. [Exhibit A](#) is the agenda; the attendance sign-in sheets are [Exhibit B](#). All exhibits are filed in the Director's Office of the Legislative Counsel Bureau (LCB) and on the Legislative Commission's webpage at <http://www.leg.state.nv.us/Interim/77th2013/Committee/Interim/LC/?ID=2>. Agenda items taken out of order have been placed in proper 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.)

Chair Kirkpatrick called for public comment.

Phil Johncock, Executive Director, Alliance for Nevada Nonprofits, encouraged the adoption of R068-13, which is related to solicitations for charitable contributions according to *Nevada Administrative Code* (NAC) 82 and 598. (Please see [Exhibit C](#).)

#### II. APPROVAL OF MINUTES OF THE OCTOBER 3, 2013, MEETING— Assemblywoman Marilyn Kirkpatrick, Chair

ASSEMBLYMAN DALY MOVED APPROVAL OF THE MINUTES  
OF THE OCTOBER 3, 2013, MEETING.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### III. APPROVAL OF MINUTES OF THE OCTOBER 22, 2013, MEETING— Assemblywoman Marilyn Kirkpatrick, Chair

SENATOR DENIS MOVED APPROVAL OF THE MINUTES OF THE  
OCTOBER 22, 2013, MEETING.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### IV. LEGISLATIVE COMMISSION POLICY:

- A. Review of Administrative Regulations—Brenda J. Erdoes, Legislative Counsel,  
(Copies of the permanent regulations are on file in the Director's Office of  
the LCB)

Referring to the list of State Agency Regulations to be Reviewed by the Legislative Commission, Chair Kirkpatrick asked members of the Commission to identify any regulations they wanted to hold for discussion. (Please see [Exhibit D.](#)) She announced that the Committee on Local Government Finance withdrew R010-13.

Members requested that Chair Kirkpatrick hold the following regulations for discussion: R188-12; R014-13; R058-13; R066-13; R068-13; R071-13; R081-13; R083-13; R089-13; R090-13; R094-13; R102-13; R120-13; and R046-13.

SENATOR DENIS MOVED APPROVAL OF R172-12; R189-12; R016-13; R041-13; R042-13; R054-13; R055-13; R056-13; R057-13; R060-13; R064-13; R072-13; R075-13; R077-13; R078-13; R079-13; R080-13; R082-13; R091-13; R093-13; AND R100-13.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### Regulation 188-12

A REGULATION relating to peace officers; revising provisions governing the training of peace officers; authorizing the Executive Director of the Peace Officers' Standards and Training Commission to temporarily reinstate a basic or reserve certificate under certain circumstances; revising the requirements for obtaining intermediate and advanced certificates; revising provisions governing courses of training above the level of basic training; and providing other matters properly relating thereto.

Assemblyman Hansen asked if the new requirement of a college degree is authorized in statute. He stated he could not find a clear and concise explanation of the need for the regulation in No. 1 of the Informational Statement. (Please see [Exhibit E.](#))

Scott Johnson, Bureau Chief, Professional Standards Bureau, Peace Officers' Standards and Training Commission (POST), stated that past regulations did not accommodate officers who obtained higher education. Regulation 188-12 recognizes the value of higher education, allowing officers to earn different levels of certification based on years of education, service, and training. Rather than specify a particular degree, he said the regulation values the core subjects met and approved by the United States Department of Education. As the amount of college education increases, the time of service needed decreases. Officers with less higher education will have to work longer and obtain more training throughout their careers.

Assemblyman Hansen asked again if there is a statutory provision that allows a person with a college degree to receive an advantage over someone who does not have a degree. He repeated his concern that he could not find a clear and concise explanation of the need for the regulation in No. 1 of the Informational Statement.

Brenda J. Erdoes, Legislative Counsel, Legal Division, LCB, stated no specific provision in the NRS addresses the kind of degree and the amount of credit received, but she said POST has the general authority to adopt regulations that provide for these requirements and set them up in the manner it believes to be best.

Mr. Johnson could not clarify why No. 1 of the Informational Statement did not include an explanation of the need for the regulation.

Because POST struggles to hire and keep employees, Chair Kirkpatrick surmised the regulation would give POST more flexibility in attracting potential employees. She asked Mr. Johnson if he knew the reason for the public workshop.

Referring to No. 7 of the Informational Statement, Mr. Johnson said amending the regulation would increase a level of professionalism among law enforcement officers and agencies. The restructuring provides equal opportunity for all levels of education, which may encourage officers to stay longer.

A discussion ensued regarding compliance with the law when agencies present regulations to the Commission for approval. Noting that Mr. Johnson's explanation was helpful, Chair Kirkpatrick stressed the Commission is looking for a clear and concise reason for bringing R188-12 forward. Assemblyman Hansen expressed concern about making exceptions when an agency fails to comply with the law. Mr. Johnson agreed that cleaner justification for the need of the regulation is necessary.

Concerned that POST cannot keep enough people employed, Chair Kirkpatrick stated her willingness to move R188-12 forward even though the agency did not fully comply with the law. She requested POST submit a clear and concise explanation that answers No. 1 of the Informational Statement by the end of business on Monday, December 23, 2013.

SENATOR KIECKHEFER MOVED APPROVAL OF R188-12.

He added that for any future meetings, the Legislative Commission should not extend leniency to agencies that do not appropriately complete the paperwork.

ASSEMBLYMAN OSCARSON SECONDED THE PREVIOUS  
MOTION BY SENATOR KIECKHEFER TO APPROVE R188-12.

THE MOTION CARRIED UNANIMOUSLY.

### Regulation 014-13

A REGULATION relating to prescription drugs; repealing provisions governing the delivery of prescription drugs; and providing other matters properly relating thereto.

Assemblyman Stewart asked for confirmation that R014-13 would not negatively affect small businesses. (Please see [Exhibit F.](#))

J. David Wuest, R.Ph., Deputy Executive Secretary, Inspector, State Board of Pharmacy, stated that as a pharmacist he has no concerns regarding the regulation.

Elizabeth MacMenamin, Vice President of Government Affairs for Pharmacy and Health Care, Retail Association of Nevada (RAN), stated that RAN worked closely with the State Board of Pharmacy on R014-13 by petitioning its members for any negative impact. Members of RAN support the regulation because it furthers their availability to deliver drugs and take care of community members.

Responding to a question from Assemblyman Oscarson regarding the impact that R014-13 would have on smaller, rural communities, Ms. MacMenamin said a pharmacy delivery person is required by law to be bonded, which has been a major concern in the rural communities. The regulation helps pharmacies ensure that patients in smaller, rural areas are receiving their medications.

Discussion ensued regarding whether the regulation would apply to the new medical marijuana dispensaries. Mr. Wuest pointed out that NAC 639.748 requires the recipient of a controlled substance to present proper identification. He is of the opinion that R014-13 would not be applicable to medical marijuana dispensaries but suggested that could change over time. Because federal law prohibits dispensing medical marijuana, Ms. MacMenamin stated that RAN members would not be participating as a dispensary.

ASSEMBLYMAN STEWART MOVED APPROVAL OF R014-13.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

### Regulation 058-13

A REGULATION relating to energy; revising the process of accounting for and recovery of revenues lost due to programs for energy efficiency and conservation; and providing other matters properly relating thereto.

Hayley Williamson, Administrative Attorney, Public Utilities Commission of Nevada (PUCN), testified that a utility's lost revenues cannot contribute to the utility earning more than its authorized rate of return under Regulation 058-13. (Please see [Exhibit G.](#))

Chair Kirkpatrick suggested the regulation provides consumer protection by ensuring that a utility company is not making more money because of a recovery guarantee on lost service due to renewables over the years. She also suggested there is a balance as opposed to a windfall.

Paul Anderson, Policy Advisor, PUCN, agreed with Chair Kirkpatrick.

Responding to Senator Denis's question regarding why the regulation was brought forward at this time, Mr. Anderson explained that when Sierra Pacific Power Company and Nevada Power Company each filed an application in 2013 to seek recovery of lost revenues, it was determined that both utilities earned more than their last authorized rate of return. At that time, it was also determined that lost revenues contributed to those additional earnings. Ms. Williamson added that the utility companies had not over earned since the late 1990s.

Senator Denis and Ms. Williamson discussed the estimated ongoing costs to the agency for adopting R058-13. She explained the regulation requires a utility company to file more evidence if it exceeds the authorized rate of return. The ongoing costs, built into an agency's budget, cover the necessary staff time to review the additional evidence.

Concerned that NV Energy made \$250 million above its authorized return and is seeking compensation for lost revenue, Assemblyman Hansen asked Mr. Anderson if the PUCN is going to deny NV Energy its lost compensation claims because it has exceeded its authorized rate of return. Mr. Anderson replied the parties will calculate to what extent lost revenues contributed to the company earning more than its authorized rate of return. The company will return any funds to the customer as a separate charge over a one-year period. Mr. Anderson noted that Sierra Pacific asked for approximately \$7 million in lost revenues for 2012, and Nevada Power asked for approximately \$14 million.

To help explain the need for R058-13, Chair Kirkpatrick recalled that Southwest Gas was the first company to recover lost revenue with the use of decoupling. When the electric company asked to use decoupling, there was concern that at some point it would make more money than what the loss recovery program intended. If this happened, Chair Kirkpatrick said the PUCN agreed to develop regulations that would ensure consumers were not paying more than they should and that the company was not benefiting more than it should. She stated that Senate Bill 358 (Chapter 321, *Statutes of Nevada*) from the 2009 Session addressed concerns of the legislators; the PUCN met additional legislative concerns during the 2011 Session, which is why the Commission is hearing R058-13 today.

SENATOR ROBERSON MOVED APPROVAL OF R058-13.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Regulation 066-13

A REGULATION relating to public employees; revising provisions concerning the Public Employees' Deferred Compensation Program; and providing other matters properly relating thereto.

Referring to No. 4 of the Informational Statement, Rick Combs, Director, LCB, clarified that Kent M. Ervin testified at the workshop regarding R066-13 in his capacity as a member of the Nevada Public Employees' Deferred Compensation Program rather than as a representative of the University of Nevada, Reno. Mr. Combs also clarified that Brian L. Davie testified in his capacity as a member of the Committee on Deferred Compensation for State Employees as well as a participant in the Program rather than as a representative of the LCB. (Please see [Exhibit H.](#))

Assemblyman Daly asked why the terms used in the regulation were being changed.

Scott K. Sisco, Chair, Committee on Deferred Compensation for State Employees, introduced Shane Chesney, Deputy Attorney General, Office of the Attorney General, who represents the Committee. Mr. Sisco stated the changes are due to a conflict between the NRS and the regulations regarding the number of recordkeepers, or service providers. For years, service providers offered a line-up of investments within their own companies, but the industry has changed. The service providers, or recordkeepers as they are now called, work with payroll centers; collect the money deferred from the employee's compensation; invest with selected choices set up through the Committee's investment consultants; and provide quarterly statements to the participants. Mr. Sisco said the Committee decided it was necessary to update the regulation—which has not been revised in over 20 years—to reflect the new terms used by the industry.

Assemblyman Daly asked for clarification of the term "investment consultant" and the new term "recordkeeper."

Mr. Chesney explained that the Deferred Compensation Program currently consists of two providers, Hartford and the International Netherlands Group (ING). The companies are "recordkeepers" that provide statements, maintain a website, and assist customers. Twenty years ago, a customer invested in either Hartford or ING mutual funds. Now, an "investment consultant" recommends high-performing mutual funds to the Committee, which makes the decision on which funds to add. He said both Hartford and ING can offer the selected funds. Since "provider" is an antiquated term, Mr. Chesney suggested it might be worthwhile to review and update the appropriate statutes during the 2015 Session.

Chair Kirkpatrick and Mr. Sisco discussed the \$50,000 cost of the regulation. He explained the Committee only bids every five years; it pays the investment consultant a \$50,000 fee to help develop the request for proposal (RFP), analyze the RFP, and select the winning bidder. Money collected from the winning bidder on the contract helps pay for the \$50,000 fee, which Mr. Sisco added is not new.

ASSEMBLYMAN DALY MOVED APPROVAL OF R066-13.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED  
THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### Regulation 068-13

A REGULATION relating to solicitations for charitable contributions; setting forth certain information relating to certain nonprofit corporations that intend to solicit charitable contributions which must be provided on a form prescribed by the Secretary of State; establishing certain requirements for disclosures relating to solicitations of contributions or donations; and providing other matters properly relating thereto.

Senator Denis asked if R068-13 affects all nonprofit corporations or just a specific type. (Please see [Exhibit I.](#))

Nicole Lamboley, Chief Deputy, Office of the Secretary of State (SOS), said the regulation applies to nonprofit corporations filed in Nevada under Chapter 82 of NRS, "Nonprofit Corporations," and recognized by the Internal Revenue Service (IRS) Code 501(c)(3), which can receive charitable or tax deductible contributions. She stated the entities are required to file a Form 990, a 990-EZ, or a Form 990-N, also known as an *e-Postcard*. She added that churches are not required to file.

Senator Denis questioned if R068-13 requires a corporation that currently does not have to file at the federal level to file at the State level.

According to the regulation, Ms. Lamboley explained if a corporation has not filed a Form 990 because its 501(c)(3) status is pending, it can file an estimation of similar information with the State. For an organization to claim that its donations are tax-exempt, she said the entity must have the 501(c)(3) designation or be in a pending status of approval from the IRS. Ms. Lamboley noted the IRS can go back three years to review an organization's application in order to grant 501 (c)(3) status.

Continuing, Ms. Lamboley said the SOS has worked for approximately one and one-half years on this issue, holding extensive meetings and webinars with the nonprofit community. Nevada has become the forty-first state to have some form of registry related to charitable organizations. Consumers will now be able to verify whether calls



they receive at their homes for charitable solicitations are legitimate by accessing information about the organizations from the SOS's public website.

Senator Settlemeyer referenced Section 4, subsection 2(a)(4) ([Exhibit I](#)) which states, "Of a type size that is sufficient to be clearly readable by the recipient of the communication." He said the Senate Committee on Commerce and Labor chose to use the concept "by a reasonable person" when it addressed this issue during legislative hearings. Senator Settlemeyer questioned how a recipient would determine if a communication was "clearly readable."

Ms. Lamboley replied that common sense would have to prevail, adjusting for different levels of vision. Because the federal government has requirements about legibility and readability, the SOS did not want to create a standard different from what other states use. She said the submissions will be reviewed on a case-by-case basis; if problems persist, the regulation can be revisited.

Senator Settlemeyer asked if Nevada is referring to the recipient in Section 4 ([Exhibit I](#)) as "average," to which Ms. Lamboley stated that was correct.

ASSEMBLYMAN DALY MOVED APPROVAL OF R068-13.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### Regulation 071-13

A REGULATION relating to telecommunications; revising provisions relating to the submission of certain reports and money collected as surcharges for the program to provide devices for telecommunication to persons with impaired speech or hearing; and providing other matters properly relating thereto.

Senator Denis asked the reason for R071-13. (Please see [Exhibit J.](#))

Hayley Williamson, previously identified, explained that R071-13 requires the telecom carriers to file their reports and fees quarterly instead of biannually, as requested by some of the carriers. The payments would be smaller and the companies would not have to track as much data throughout the year. She added there was consensus among the carriers to make this change.

Assemblyman Stewart asked to hear from the carriers to verify their agreement with the PUCN.

Carolyn Tanner, General Counsel, PUCN, clarified there has been no change in the fee; only the timing of the payment has changed. She repeated the change came about due

to requests by many of the regulated entities that it is easier to comply quarterly rather than biannually.

A discussion ensued regarding the rulemaking process for the PUCN. Senator Denis surmised that the involved entities participated in the process. Ms. Tanner stated the Order in Attachment 2 of the packet ([Exhibit J](#)) includes the procedural history, which shows that AT&T Nevada, CenturyLink, and the PUCN's regulatory staff all filed comments. Assemblyman Stewart surmised the entities were not concerned since they were not present at today's meeting.

Discussion about the rulemaking process continued. Senator Denis asked if there was any opposition during the process; Ms. Williamson replied there was none. Assemblyman Daly asked if the PUCN could streamline the process even more. Ms. Tanner said the entities could file monthly if they chose to, but the request was for quarterly filings. Senator Denis noted that a representative from CenturyLink was present earlier at today's meeting; he speculated the person would have stayed if there were concerns about the regulation.

ASSEMBLYMAN STEWART MOVED APPROVAL OF R071-13.

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### Regulation 081-13

A REGULATION relating to business licenses; adopting procedures for the imposition of penalties on persons who conduct a business in this State and willfully fail or neglect to obtain or renew a state business license and pay the accompanying required fees; requiring a person who claims to be excluded from the requirement to obtain a state business license to submit an annual claim for the exemption on a form that contains certain required information; and providing other matters properly relating thereto.

Assemblyman Hansen stated that NRS 76.020 provides an exemption for small businesses from having to obtain a State business license. He asked what dollar amount Regulation 081-13 uses for this exemption. (Please see [Exhibit K.](#))

Scott Anderson, Deputy for Commercial Recordings, SOS, said the figure comes from the Department of Employment, Training and Rehabilitation (DETR) annually. Currently, if a business exceeds 66 and two-thirds percent of the Nevada average annual wage, the business is subject to the State business license. He estimated that amount to be \$34,000.

Renée L. Olson, Administrator, Employment Security Division, DETR, clarified that the Nevada annual wage for 2014 had been computed at \$27,400.

Assemblyman Hansen asked how the exemption for small businesses is determined, to which Mr. Anderson said a person must multiply the average annual wage by 66 and two-thirds percent.

Chair Kirkpatrick interrupted and asked Mr. Anderson to answer Assemblyman Hansen's initial question. He said he would perform the calculation and forward it to each of the Commission members.

A discussion took place regarding possible felony charges under Regulation 081-13. Assemblyman Hansen expressed concern that small business owners applying for an exemption who do not understand the calculations could face a felony charge under the new regulation. Mr. Anderson stated that would only happen if a person willfully failed to correct any deficiencies cited by the SOS.

Assemblyman Hansen and Mr. Anderson also discussed the July 1, 2015, effective date regarding penalties and the annual renewals of licenses cited in NRS 76.130. Assemblyman Hansen asked if that date is included in the regulation for the exemption for small businesses. Mr. Anderson stated the exemption for small businesses was effective October 1, 2009. Assemblyman Hansen asked for clarification that no penalties would be assessed prior to July 1, 2015. Mr. Anderson said he would carefully look at the NRS and get back to Mr. Hansen with an answer.

Chair Kirkpatrick moved R081-13 to the end of the agenda in order to clarify the small business exemption.

#### Regulation R083-13

A REGULATION relating to state parks; revising provisions governing annual permits for the use of state parks; providing for the issuance of permits for disabled veterans; providing for the issuance of permits for landing nonemergency aircraft in designated areas of state parks; revising provisions governing commercial photography in state parks; imposing and revising various fees; providing for the waiver of fees under certain circumstances; allowing pets and other domestic animals in the Sand Harbor Management Area between October 16 and April 14 of each year; and providing other matters properly relating thereto.

Assemblyman Hansen referenced Section 11 that states, "The Administrator may, with the approval of the Director, waive fees and provide annual or daily permits without charge to organizations and natural persons to promote parks and recognize special events and programs." (Please see [Exhibit L](#).) He asked under what circumstances the parks use this type of waiver.

Eric Johnson, Administrator, Division of State Parks, State Department of Conservation and Natural Resources, said the Division has been waiving fees for school groups, as an example, for decades even though it technically does not have the authority to do so. Regulation 083-13 now establishes such authority.

Senator Kieckhefer questioned the addition of “portraits” in Section 7, which addresses commercial photography. He also referenced Section 8, subsection 8 on page 8 ([Exhibit L](#)) that states, “A park supervisor or regional manager in charge of a region in which a park is located may determine the area of the park that can be used under a commercial photography permit.” Senator Kieckhefer asked for clarification of his understanding of the new regulation that a photographer he hires to take a picture of his family must obtain a commercial permit, and the Division of State Parks will identify where the photographer can take the picture within the park.

Mr. Johnson replied that was correct, but he stressed this is primarily an issue at Valley of Fire State Park and the Spring Mountain Ranch State Park where the volume of commercial photography has caused backups in the parks, prompting the supervisors to assign times for portrait photography.

Responding to Senator Kieckhefer’s question regarding why a problem in a few parks justifies adding a restriction in R083-13 to govern all parks, Mr. Johnson said the Division anticipates commercial photography also becoming a problem in Lake Tahoe Nevada State Park at Sand Harbor. The park supervisor has the discretion to prohibit commercial photography on the rocks at Sand Harbor on a Saturday if the normal park user is affected. He said R083-13 would decrease the impact commercial photography has on the normal family recreating at the parks.

More discussion occurred between Senator Kieckhefer and Mr. Johnson regarding photography. Senator Kieckhefer asked if there is a difference between commercial photography used for advertising and taking a family portrait. Mr. Johnson said that a person or family in a single vehicle taking family photos does not need a permit, as stipulated in the filming and photography permit policy of the regulations. Senator Kieckhefer asked for clarification that if he hires a photographer to take a family portrait, there would be no commercial photography fee assessed and the park would not determine the location of the portrait. Mr. Johnson replied that was correct, if they are all in the same car.

Chair Kirkpatrick asked what section of the regulation addresses Senator Kieckhefer’s concern regarding commercial photography, to which Mr. Johnson replied the Division’s policies address that issue. She asked if the regulation supersedes the policy or if the policy supersedes the regulation.

Mr. Johnson assured Chair Kirkpatrick the regulations would not change anytime soon because arriving at the proposed regulations was a lengthy process that involved several commercial photography vendors from Las Vegas. He said he did not have a legal interpretation as to whether the policy or the regulation superseded the other. Managing a park involves much discretion, and Mr. Johnson stated he does not anticipate any park supervisors taking liberties with the regulations. He stressed the Division created R083-13 to accommodate the needs of a specific group of people.

Referencing Section 8, subsection 7 on page 7 ([Exhibit L](#)), Chair Kirkpatrick agreed with Senator Kieckhefer regarding the family portrait issue. She acknowledged that wedding parties are the focus, but in her opinion, the regulation does not give any leeway for families or noncommercial use. Chair Kirkpatrick suggested it would be a great disservice if the parks imposed fees on family portraits.

Discussion ensued regarding the management of the regulation. Knowing that amendments to the regulation are possible if problems arise, Senator Kieckhefer indicated he would defer to the Division's judgment in administering R083-13. Mr. Johnson stated there has been no opposition to the regulation, and in his opinion, R083-13 will solve current problems rather than create additional ones. Having had extensive dealings with Mr. Johnson at the Spring Mountain Park, Assemblyman Oscarson conveyed his support for him and his staff's ability to work with the public and adhere to the intent of the regulation.

Senator Denis asked how the parks handle students wanting to learn the craft of photography. Mr. Johnson replied the park rangers handle most cases via informal conversations with the students.

Referring to Mr. Johnson's earlier comment that there is no extra fee if the photographer arrives in the same vehicle as the subject(s), Senator Denis asked what fees must be paid if the photographer travels in a separate car. Mr. Johnson said the only fee that would have to be paid is the entrance fee to the park.

Chair Kirkpatrick asked if the items regarding commercial photography stricken from Section 8, subsection 10 on page 8 ([Exhibit L](#)) are still in the Division's policies. Mr. Johnson said that was correct and he could provide the policy.

Until a problem arises, Senator Kieckhefer supports the Division of State Parks continuing its current operations. He praised how the parks' personnel deal with the public.

SENATOR KIECKHEFER MOVED APPROVAL OF R083-13.

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

### Regulation 089-13

A REGULATION relating to wildlife; revising provisions relating to licenses required for fishing in the reciprocal waters of the Colorado River, Lake Mead and Lake Mohave; and providing other matters properly relating thereto.

Assemblyman Stewart expressed confusion regarding fishing stamps and licenses. (Please see [Exhibit M.](#)) He asked if this process is explained clearly when people apply for a license.

Jon Sjoberg, Fisheries Division, Nevada's Department of Wildlife (NDOW), stated that NDOW's regulation booklet fully explains the process for stamps and licenses. The age requirement for licensure has changed in order to be consistent with Arizona's lower minimum age, but the stamp provisions are the same. He explained that fishing only on Nevada's shoreline does not result in the need for a stamp, but fishing on the water or the Arizona shoreline with a Nevada License requires a stamp. Mr. Sjoberg said these provisions are clearly explained when a license is purchased.

ASSEMBLYMAN STEWART MOVED APPROVAL OF R089-13.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED  
THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

### Regulation R090-13

A REGULATION relating to wildlife; revising provisions relating to the assessment of demerit points for conviction of certain wildlife violations; establishing distinct tags for the hunting of ram and ewe bighorn sheep; and providing other matters properly relating thereto.

Assemblyman Hansen shared that he helped write the demerit system and served on a committee to establish the points. After comparing the original numbers to the current numbers, he has noticed a consistent increase in the penalties. It appeared to Assemblyman Hansen that any two tickets are grounds for revocation, and he suggested this idea might need future review. (Please see [Exhibit N.](#)) He asked if NDOW's hunting season for female bighorn sheep is strictly for studies on blood sampling and disease issues rather than for sport.

Michael Cox, Wildlife Staff Specialist, NDOW, stated that NDOW tries to manage herd numbers rather than subsample individual animals for tissues or disease verification.

Assemblyman Hansen asked if NDOW is going to use female harvesting to reduce the number of bighorns in certain areas, to which Mr. Cox replied in the affirmative.

Assemblyman Hansen commented that the domestic sheep industry seems to shoulder the blame for die-offs of bighorn sheep. He referenced an original herd living in the Grant Range for almost 100 years that has been subject to interaction with domestic sheep, yet there has not been a die-off. Assemblyman Hansen wondered if that was the reason for the regulation. He asked Mr. Cox his opinion regarding die-offs and their relationship to domestic sheep.

Mr. Cox declared the Grant Range herd was lost in the mid-1990s. He said NDOW was harvesting the herd and it was doing well, but unfortunately, no surviving animals could be documented. During the mid to late 1990s, bighorn sheep from southern Nevada were reintroduced into the Grant Range. Mr. Cox stated that NDOW has been sampling herds statewide to understand which ones have virulent pathogens in order to map out the risks and associated problems with these sheep herds contracting disease. Research has documented that pathogens in domestic sheep and goats have deadly results when transmitted to wild sheep naïve to those pathogens. Mr. Cox appreciated Assemblyman Hansen's concern that a particular industry is blamed for the die-offs; NDOW's veterinarian staff is trying to learn everything it can to understand these disease events.

According to current law, Assemblyman Hansen understands that if a person finds a bighorn sheep skull, that person is not required to get a seal. He asked if the new law exempts hikers who discover a skull or horns from penalties if they do not have a seal.

Rob Buonamici, Chief Game Warden, Law Enforcement Division, NDOW, testified that NDOW does not issue citations to recreating citizens who find a bighorn sheep skull. Citizens can keep the skull unless NDOW determines that man-caused issues or poaching were involved, in which case, NDOW retains the skull for evidence and does not issue a citation. To Mr. Buonamici's knowledge, NDOW has issued only two citations since 2002 for possession of a bighorn sheep head when a hunter failed to bring in a legally harvested animal to be sealed.

Responding to Assemblyman Hansen's question regarding whether those citations were the result of an actual NDOW policy or the Department's own discretion, Mr. Buonamici replied nothing in policy states that NDOW can issue citations at its own discretion. There are hundreds of bighorn sheep skulls in people's backyards around the State, and he is not aware of NDOW ever issuing a citation to anybody for picking up a sheep head.

Assemblywoman Bustamante Adams suggested it would be helpful to the Commission if NDOW would identify the individuals who speak during its workshops as being in support of or against the regulation(s) heard. (Please see [Exhibit N](#)).



ASSEMBLYMAN HANSEN MOVED APPROVAL OF R090-13.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Regulation 094-13

A REGULATION relating to unemployment compensation; prescribing the contribution rate schedule for calendar year 2014; and providing other matters properly relating thereto.

Assemblyman Hansen expressed concern that a typical construction company in Nevada may be paying a disproportionate share of the federal debt due to a high rate of job turnover during difficult economic times. He asked how much federal debt Nevada currently has and the estimated pay-off based on the new classification system.

Renée L. Olson, previously identified, stated that the classification structure is not new; only the levels at which people qualify within the structure are new. (Please see [Exhibit O](#).) She said Nevada does not owe the federal government any money at this time because the State successfully refinanced its debt through a bond issuance. This has allowed Nevada to reset the federal unemployment tax rate to its lowest level and stop the increase in federal tax rates. Ms. Olson explained the bond is approximately \$600 million with a four-year term for repayment. The first option to call the bond due is at the end of 2017, but if the State chooses not to call the bond at that point, it will mature the first quarter of 2018.

Chair Kirkpatrick added that businesses have been receptive to this plan because it provides stability while they are getting back on their feet. They can plan accordingly rather than endure the variation in State and federal rates, to which Ms. Olson agreed.

ASSEMBLYMAN HANSEN MOVED APPROVAL OF R094-13.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Regulation 102-13

A REGULATION relating to economic development; adopting provisions governing the certification of local emerging small businesses by the Office of Economic Development; interpreting certain provisions relating to reports concerning local emerging small businesses submitted to the Office; adopting provisions governing the establishment of goals for the participation of local emerging small businesses in certain contracts relating to purchasing and public works; and providing other matters properly relating thereto.



Assemblyman Daly requested confirmation that when a business qualifies to be a local emerging small business, the status certificate is good for two years, and if the business secures a project two months later that puts it over the dollar threshold, that job does not disqualify it as a local emerging business. He suggested that if a business qualifies based on the information submitted, any challenges under section 7 of the regulation should not disqualify the business from its approved two-year status. If the business reapplies when its two-year certificate expires, it would be subject to another evaluation; if it does not meet the proper thresholds, the business would not receive recertification. (Please see [Exhibit P.](#))

Steve Hill, Executive Director, Governor's Office of Economic Development (GOED), introduced Lyndee Cichon, Director, Procurement Technical Assistance Center, GOED.

Ms. Cichon confirmed that eligibility is determined at the time of application or the time of renewal.

Assemblyman Oscarson referred to Section 10, subsection 2, that states, ". . . in a county whose population is 100,000 or more to receive input and provide advice concerning the establishment and achievement of goals for the award of local purchasing contracts . . . ." He asked why the threshold was set at 100,000 and if GOED would be willing to meet with and provide services to the smaller, rural communities.

Mr. Hill replied that legislation stipulated the 100,000 threshold. He confirmed that GOED values the economic development effort in rural Nevada and is available to help the smaller, rural communities.

ASSEMBLYMAN DALY MOVED APPROVAL OF R102-13.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### Regulation 120-13

A REGULATION relating to taxation; adopting provisions governing the approval and issuance of transferable tax credits to a producer that produces a qualified film or other production in this State; adopting provisions governing the calculation of the amount of such credits; and providing other matters properly relating thereto.

Senator Kieckhefer addressed Section 8, subsection 4 that states GOED will deny an application for a certificate of eligibility if the applicant does not commence principal photography or development of the production within 90 days after submitting the application. (Please see [Exhibit Q.](#)) He asked how long GOED has within the 90-day

period to approve the application because the development of the project is sometimes contingent upon the credits being available.

Steve Hill, previously identified, introduced Eric Preiss, Director, Nevada Film Office, GOED, and Brad Mamer, Director, Business Development, GOED, who helped develop the regulation. Mr. Hill stated that legislation required the 90-day timeline, which provides clarity and consistency in the regulation. He implied that even though the timeframe is clear, it could be problematic. Mr. Hill explained from the time GOED receives an application, it has 60 days to hold a public hearing. Following the hearing, GOED then has 30 days to make a determination whether to issue the certificate. These timelines, combined with the requirement that applications should not be filed earlier than 90 days from the date of commencement of principal photography or development, mean that GOED could possibly approve an application the day before the company needs to start principal photography or development. Despite the confining language in the law, Mr. Hill assured the Commission that GOED would make every effort to accelerate the application process.

Senator Kieckhefer questioned how such a short window in which to start production would lure productions to Nevada.

To help speed up the process, Mr. Hill stated GOED will post a schedule of hearings for 2014; it will hold more than one hearing a month in order to accommodate the applicants and award certificates if necessary; and it will present recommendations for improving the application process during the 2015 Legislative Session.

Senator Kieckhefer and Mr. Hill discussed the irrevocable declaration, the application of transferrable credits, and the taxes to which the credits could be applied as noted in Section 11 of R120-13. Senator Kieckhefer asked if the applicant determines the taxes before transferring the credit or if the person receiving the credit transfer provides the determination. Mr. Hill explained that the producer who receives the credit provides a declaration to GOED within 30 days identifying the tax used in the credit process. Senator Kieckhefer asked if there is a difference between transferring tax credits to a gaming company as opposed to an insurance company. Mr. Hill replied there is, and the declaration states the type of tax.

Chair Kirkpatrick explained that Nevada's process is consistent with those of other states, and knowing the type of tax will change the State's economic outlook and the Legislature's budgetary process. She is comfortable that tracking the certificates will provide fraud protection. Recognizing the 90-day window is tight, Chair Kirkpatrick expressed confidence that a sufficient amount of time exists for the film industry to obtain the necessary permits.

Even though he voted against Senate Bill 165 (Chapter 491, *Statutes of Nevada 2013*), Senator Kieckhefer stated his desire for the regulations to work effectively in order to attract new businesses to Nevada.

Responding to Assemblyman Hansen's objection to possible tax breaks for the pornographic movie industry, Mr. Hill explained that the producer applying for the credit must provide GOED with a projected rating of the production based on the industry's standards. He assured the Commission that GOED has no intention of granting breaks to the pornographic movie industry.

Assemblyman Hansen pointed out there was no clear and concise explanation identified in No. 1 of the Informational Statement. He suggested it was an honest oversight, but stressed the explanation is critical to his review of R120-13. Assemblyman Hansen stated his preference to have LCB's Legal Division screen the regulations and reschedule them if they do not comply with statutory requirements.

Responding to Chair Kirkpatrick's question regarding whether the regulation was required pursuant to S.B. 165, Mr. Hill read the last sentence in No. 1 of the Informational Statement, "The adoption of this regulation is necessary to administer the transferable tax credit program." He stated GOED could have added a statement that legislation also required the regulation.

Assemblyman Hansen realized he had been looking at the original Informational Statement and that the one submitted today does have a clear and concise explanation for the regulation; he extended his apologies to Mr. Hill.

Senator Denis asked if R120-13 puts into place all the regulations that will allow the program to move forward in January, to which Mr. Hill confirmed it does. Senator Denis asked if any companies have expressed interest in filing an application. Mr. Hill said GOED has not received any applications yet because the bill prohibits any action until January 1, 2014, but it has received a number of calls.

SENATOR KIHUEN MOVED APPROVAL OF R120-13.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

#### Regulation 046-13

A REGULATION relating to accountants; revising the amounts and applicability of certain fees charged by the Nevada State Board of Accountancy; establishing administrative penalties for failure to comply with continuing education requirements; authorizing the Board to charge a fee for providing a copy of a public record; amending provisions concerning the examination of certified public accountants; removing authorization for the Board to grant a certificate as a certified public accountant by temporary permit; amending certain reporting and notification requirements for persons engaged in the practice of public accounting; amending the requirements for reinstatement of a certificate of certified public accountant; authorizing certain persons engaged in the practice of certified

public accounting to use a fictitious name not registered with and approved by the Board under certain circumstances; establishing the procedure to be followed if a licensee is incapacitated, disappears or dies; and providing other matters properly relating thereto.

Assemblyman Stewart questioned the steep curve in the level of fines for the late completion of continuing education requirements. (Please see [Exhibit R.](#)) He asked if the fines provide any leeway for extenuating circumstances, such as a serious illness.

Vicki A. Windfeldt, Executive Director, Nevada State Board of Accountancy, stated the Board has the ability to waive continuing education requirements based on personal or medical hardships. She explained that for a number of years the Board followed a policy of an escalating penalty—up to \$5,000—for the late completion of education requirements; the Board now wants its regulations to coincide with current policy. Ms. Windfeldt suggested the penalty is a deterrent to repeatedly completing coursework outside the required calendar year, but unfortunately, some people have reached the \$1,600 level of fines.

ASSEMBLYMAN STEWART MOVED APPROVAL OF R046-13.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Returning to R081-13, Chair Kirkpatrick asked for a representative from the Office of the Secretary of State to come forward and respond to Assemblyman Hansen's earlier question regarding the regulation as it relates to the average annual wage. (Please see [Exhibit K.](#))

Scott Anderson, previously identified, stated that Nevada's average annual wage is \$26,900 for 2013 and \$27,400 for 2014. He repeated that if a business exceeds 66 and two-thirds percent of the annual average wage, the business is subject to the State business license. Mr. Anderson stressed it is incumbent upon any business filing for the exemption to be certain it does not exceed the calculated amount because the SOS does not audit that figure.

Assemblyman Hansen asked for clarification that \$27,400 is the gross amount a business can have in revenue before it is required to have a State business license, to which Mr. Anderson confirmed that was correct.

Assemblyman Hansen asked Mr. Anderson to explain the exemption in NRS that is not effective until July 1, 2015. Mr. Anderson said the exemption for the current business license fee of \$200 per year would sunset to \$100 on July 1, 2015, if the Nevada Legislature chooses not to extend the fee increase and allows the sunset.

For clarification, Assemblyman Hansen stated that small “mom and pop” businesses that gross \$27,399 are exempt from the State business license fee, to which Mr. Anderson replied that was correct—if they are a home-based business.

Senator Roberson suggested that not all home-based businesses making less than \$27,400 are exempt from the State’s business license fee. He cited subsection 1, paragraph (a) of NRS 76.020, which defines a business as, “Any person, except a natural person, that performs a service or engages in a trade for profit.” Senator Roberson said NRS 76.020 also provides the home-based business exemption in subsection 2, paragraph (c), which states, “The term does not include a person who operates a business from his or her home and whose net earnings from that business are not more than 66 and two-thirds percent of the average annual wage . . . .”

Senator Roberson acknowledged there was an attempt during the 2011-2012 Interim to change the definition of “person.” It failed in the Subcommittee to Review Regulations; it then went to the Legislative Commission where it also failed; and it returned to the Subcommittee, which approved it through regulations. He suggested the history is important because Section 7 of the regulation ([Exhibit K](#)) states, “. . . For the purposes of this chapter and NRS 76.020, the Secretary of State interprets the term: . . . ,” and subsection 2 states, “‘Person who operates a business from his or her home’ to mean a natural person who individually operates a business and performs all essential business functions exclusively from his or her personal residence . . . .” Senator Roberson suggested that the SOS is asking the Legislative Commission to reinterpret and change the definition of what is in statute; he asked Mr. Anderson for his perspective on this suggestion.

Mr. Anderson replied that regulation already defines “natural person.” Section 7 of R081-13 clarifies that a home-based business is one that operates from an actual person’s residence.

Reiterating Mr. Anderson’s comment that the definition was already in regulation, Senator Roberson suggested the regulation Mr. Anderson was referring to was the one that passed last interim after three attempts, when it could not pass legislatively. He asked Mr. Anderson if the SOS is attempting to reinterpret the portion of NRS 76.020 that describes a business.

Mr. Anderson said that R081-13 does not reinterpret the statute. He commented that during the 2011-2012 Interim hearing in which the definition of “person” was addressed, it was argued that the intent of the home-based business was not to apply to corporations and other business entities filed with the SOS office but to those natural persons operating a business out of their homes.

Senator Roberson suggested that R081-13 is consistent with the regulation from early 2012 that reinterpreted NRS 76.020.

Mr. Anderson stated that R081-13 only adds the terminology operates “a business and performs all essential business functions exclusively from his or her personal residence.” He said it does not redefine “natural person.”

Senator Roberson asked Mr. Anderson to explain which part of Section 7, subsection 2 ([Exhibit K](#)), is being changed from existing statute or existing regulation, to which Mr. Anderson replied that the italicized portions are the changes.

Assemblyman Hansen asked—hypothetically—if he operated an LLC entirely out of his home and grossed less than \$27,400, would he be required to buy a business license.

Mr. Anderson replied that he would have to buy a license because an LLC is not eligible for the exemption from the State business license since it is an entity and not a natural person.

Assemblyman Hansen suggested that subsection 2, paragraphs (c) and (d) of NRS 76.020 distinguish that a person who operates a business from his or her home would include a small LLC entirely operated by a sole proprietor who grosses less than the average annual wage.

Chair Kirkpatrick stated that people form LLCs because of the guarantee of certain legal protections.

Senator Roberson stated he is of the opinion that the regulation passed last interim reinterprets the statute and presents a “Hobson’s choice” for small, home-based businesses—either they no longer have the legal protection of an LLC or they have to pay the business license fee. As businesses are trying to grow, he suggested they must make the hard choice that if they want to have the legal protection of a business, then they will have to pay the business license fee.

Chair Kirkpatrick stated that legislation could be brought forward during the 2015 Session to make any changes. She asked the Commission to proceed with a motion.

SENATOR DENIS MOVED APPROVAL OF R081-13.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION FAILED.

B. Appointment of Alternates for Members of the Legislative Committee on Public Lands (NRS 218E.510)—Rick Combs, Director, Legislative Counsel Bureau

Senator Denis recommended the appointment of Senator Mark A. Manendo; Senator Roberson recommended the appointment of Senator James A. Settlemeyer; Assemblyman Hansen recommended the appointment of Assemblyman James Oscarson; and Chair Kirkpatrick recommended the appointment of Assemblywoman Irene Bustamante Adams.

SENATOR ROBERSON MOVED APPROVAL OF THE RECOMMENDED APPOINTMENTS OF ALTERNATES FOR MEMBERS OF THE LEGISLATIVE COMMITTEE ON PUBLIC LANDS.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

C. Approval of Transfer of \$30,000 Appropriated for Fiscal Year 2014-15 to Fiscal Year 2013-14 for the Replacement and Improvement of the Security Door Audio and Video Access Systems for the Legislative Buildings in Carson City Pursuant to Section 41 of Assembly Bill 507 (2013 Session)—Rick Combs, Director, Legislative Counsel Bureau

Rick Combs, previously identified, explained that Agenda Item IV. C. is a request to transfer \$30,000 appropriated for Fiscal Year (FY) 2014-2015 to FY 2013-2014. The money is designated for the replacement and enhancement of the security door audio and video access systems for the legislative buildings in Carson City. He said the equipment is beginning to fail and replacement parts are difficult to find. Mr. Combs stated the LCB is worried about asbestos and would like to have the project finished before the 2015 Session begins. (Please see [Exhibit S.](#))

SENATOR DENIS MOVED APPROVAL OF TRANSFERRING \$30,000 APPROPRIATED FOR FY 2014-2015 TO FY 2013-2014 FOR THE REPLACEMENT AND IMPROVEMENT OF THE SECURITY DOOR AUDIO AND VIDEO ACCESS SYSTEMS FOR THE LEGISLATIVE BUILDINGS IN CARSON CITY.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

## V. PROGRESS REPORTS AND APPOINTMENTS:

### A. Litigation Currently in Progress—Brenda J. Erdoes, Legislative Counsel, Legislative Counsel Bureau

Brenda J. Erdoes, Legislative Counsel, LCB, provided an update on the following court cases:

- CARRIGAN v. NEVADA COMMISSION ON ETHICS CASE  
Michael A. Carrigan, Fourth Ward City Council Member of the City of Sparks v. Commission on Ethics of the State of Nevada

In 2006, the Nevada Commission on Ethics found that Sparks City Councilman Michael A. Carrigan violated NRS 281A.420, which provides for the disqualification of voting when a public officer has a commitment in a private capacity to others. Mr. Carrigan voted on a tentative approval for the Red Hawk Land Company to build the Lazy 8 Resort Hotel. He appealed the decision of the Commission on Ethics to the Nevada Supreme Court, which first held that NRS 281A.420 was unconstitutional. The Commission on Ethics appealed that decision to the U.S. Supreme Court, and on November 27, 2013, the Nevada Supreme Court upheld the constitutionality of NRS 281A.420. The case has now reached its conclusion.

- PEOPLE’S LEGISLATURE v. MILLER, Case No. 1 (Federal Case)  
People’s Legislature, et al v. Ross Miller, United States District Court, Nevada District Court

On August 15, 2012, a group called the People’s Legislature 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. In this case, the Legislature is defending against those federal constitutional claims in federal court. There are no recent developments; the federal case is stayed, pending the outcome of the State case.

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

The plaintiffs challenged the same issues in the State case, specifically bringing forward S.B. 224 (Chapter 504, *Statutes of Nevada 2005*) and A.B. 81 (Chapter 501, *Statutes of Nevada 2011*) and contending that the Nevada Legislature violated the constitutional single-subject rule in the *Nevada Constitution* when it passed these two bills. Briefing was finished in September 2013, and the case is waiting for the scheduling of oral arguments.



- CONSOLIDATED TAX DISTRIBUTION (CTX) CASE  
City of Fernley v. State of Nevada ex rel. Department of Taxation et al,  
Nevada District Court

The City of Fernley brought an action against the State of Nevada in the First Judicial District Court seeking money damages and declaratory injunctive relief against the State, claiming that the distribution of tax revenue under the CTX system is unequal and unfair. A number of federal constitutional claims have been dismissed, leaving the separation of powers clause claim and the claim regarding the special local legislation clause in the *Nevada Constitution*. The case is currently in discovery, with possible completion in early 2014.

- FORECLOSURE DEFICIENCY JUDGMENT CASES
- SANDPOINTE APARTMENTS, LLC v. EIGHTH JUDICIAL DISTRICT COURT and NIELSEN v. DISTRICT COURT

On May 29, 2012, the Nevada Supreme Court directed the LCB to file an amicus brief addressing NRS 40.459. The Nevada Legislature passed A.B. 273 (Chapter 311, *Statutes of Nevada 2011*) to eliminate the amount of the deficiency judgment that a successor creditor may be awarded after a foreclosure sale based on the amount of consideration the successor creditor paid to acquire the right to the mortgage-backed debt. On November 14, 2013, the Nevada Supreme Court held that the bill applied only when both the foreclosure sale and the action for the deficiency judgment occurred after the bill's effective date. On December 2, 2013, the petitioners filed a petition for a rehearing on grounds that the Nevada Supreme Court overlooked or misapprehended the Legislature's intent. On December 11, 2013, the Nevada Supreme Court entered an order directing the parties to answer the petition for rehearing; the parties are now waiting for a decision.

B. Appointment of Members to Various Committees and Similar Entities:

1. Advisory Council on Mortgage Investments and Mortgage Lending (NRS 645B.860)—Rick Combs, Director, Legislative Counsel Bureau

Chair Kirkpatrick reported that a member resigned from the Advisory Council on Mortgage Investments and Mortgage Lending. She directed the Commission's attention to the information regarding potential candidates. (Please see [Exhibit T](#).)

Senator Settlemeyer encouraged individuals from the rural communities to apply for positions on the Advisory Council in order to provide diversity for the State.

SENATOR ROBERSON MOVED TO NOMINATE KYLE NAGY TO THE ADVISORY COUNCIL ON MORTGAGE INVESTMENTS AND MORTGAGE LENDING.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

2. Nevada Silver Haired Legislative Forum (NRS 427A.320)—Rick Combs, Director, Legislative Counsel Bureau

Rick Combs, previously identified, addressed a letter from Mary Shope, Coordinator of the Nevada Silver Haired Legislative Forum, which states the recommended appointments/reappointments made by the Senator of the designated district to terms ending December 31, 2015. (Please see [Exhibit U](#).) The recommendations are: Rick Kuhlmeier—Senate District No. 2; Clo Banks—Senate District No. 3; Verlia Davis Hoggard—Senate District No. 4; Betty Rumford—Senate District No. 6; Joann M. Bongiorno—Senate District No. 7; Evelyn A. Cannestra—Senate District No. 8; John (Jack) P. Ginter, Jr.—Senate District No. 14; Reba June Burton—Senate District No. 15; and Margaret Spooner—Senate District No. 17. James Downer was nominated for a vacancy in Senate District No. 20 that will expire on December 31, 2014.

SENATOR DENIS MOVED APPROVAL OF THE NOMINATIONS TO THE NEVADA SILVER HAIRED LEGISLATIVE FORUM.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

C. Presentation on Nevada's Legislators Back-to-School Program—Kay Graves, Research Analyst

Kay Graves, Research Analyst, Constituent Services Unit, Research Division, LCB, and Coordinator for the Nevada Legislators Back to School Program (BTSP), presented background information and a status update regarding the BTSP. (Please see [Exhibit V](#).) She explained that the BTSP is a nonpartisan initiative, sponsored by the National Conference of State Legislatures (NCSL), which encourages legislators to visit Nevada's schools to promote civic education and participation. Ms. Graves said although legislators are not required to use the BTSP, she assists them in coordinating visits to the schools if requested.

Ms. Graves stated that the NCSL provides a number of age-appropriate materials at no cost to the Nevada Legislature for the BTSP, and the LCB has an inventory of these materials in Las Vegas and Carson City. Due to congressional budget cuts in

2011, federal funds for the program ran out in September 2012, but the NCSL continues to seek private foundation funding. Fortunately, the NCSL has an inventory backlog of BTSP materials and continues to maintain the program for now. She noted that 28 Nevada legislators participated in the program from 2012 through 2013 and visited over 8,000 students.

Senator Denis commented that he has used the materials and he encouraged other legislators to try them.

## VI. INFORMATIONAL ITEMS:

### A. Interim Committee Reports

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

### C. Miscellaneous Reports or Correspondence from State Agencies and Others:

1. Office of the State Treasurer, Annual Report, Fiscal Year 2013, July 1, 2012, to June 30, 2013, Pursuant to NRS 226.120
2. Nevada State Board of Medical Examiners Annual Report, 2012
3. Director of the Office of Energy, Biannual Report on Energy Reduction in State-Owned Buildings Pursuant to NRS 701.215(3)(c)
4. Office of the State Treasurer, Annual Report of Nevada Capital Investment Corporation Pursuant to NRS 355.270
5. Transcripts of Consumer Sessions of General Interest in Clark and Washoe Counties Conducted by the Public Utilities Commission Pursuant to NRS 704.069(2)
6. More COPS Revenue and Expenditure Reports Submitted Pursuant to Sections 13.5 and 13.7 of the Clark County Sales and Use Tax Act of 2005

Assemblywoman Bustamante Adams had a question regarding the Office of the State Treasurer's Annual Report of the Nevada Capital Investment Corporation (NCIC). (Please see [Exhibit W](#).) Stressing that this was an important issue during the 2011 Session for the Assembly Committee on Government Affairs, she pointed out that the NCIC has invested in only one company for 2013 and asked if the strategic plan for 2014 sets a higher goal.

Mark Mathers, Chief Deputy Treasurer, Office of the State Treasurer, replied that the strategic plan for the NCIC sets up an asset allocation that includes roughly 50 percent investments in underlying funds, such as Huntington Capital Partners, and 50 percent in co-investments, which are direct investments in companies. Pursuant to its contract with Hamilton Lane, the fund manager, the NCIC has a four-year commitment to make investments through the manager's funds or companies.

Mr. Mathers acknowledged Assemblywoman Bustamante Adams' concern that only one company received a fund commitment. Because Hamilton Lane's goal is double-digit returns, he said it has admittedly been selective about its investments. The NCIC continues evaluating company requests and anticipates fully committing \$50 million by the fourth year. Mr. Mathers added that the NCIC made a fund commitment to Enhanced Capital subsequent to the end of FY 2013. Since then, the NCIC made a commitment to Waterton Global Resource Management, bringing the total to \$12.5 million in three fund commitments and one co-investment of \$2.5 million. Mr. Mathers noted the underlying funds would make investments in underlying businesses in Nevada.

Referring to page 2-1 of the report, Assemblywoman Bustamante Adams acknowledged that the Silver State Total does not include management fees or partnership expenses regarding the rate of return on investments. She asked if that is also applicable for the rate of return on the Active Co-Investments, to which Mr. Mathers stated that was the case.

#### VII. 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.)

Chair Kirkpatrick called for public comment; however, no testimony was presented.

Chair Kirkpatrick announced that the Peace Officers' Standards and Training Commission submitted a draft of its clear and concise explanation for the need of R188-12 as requested earlier in the meeting.

There being no further business to come before the Commission, Chair Kirkpatrick adjourned the meeting at 3:35 p.m.

Respectfully submitted,

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Janet Coons, Secretary for Minutes  
Legislative Commission

APPROVED BY:

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Assemblywoman Marilyn Kirkpatrick, Chair  
Legislative Commission

## **LIST OF EXHIBITS**

[Exhibit A](#) is the “Meeting Notice and Agenda,” dated December 20, 2013, provided by Sylvia Wiese, Secretary, Director’s Office, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is the attendance sign-in sheets dated December 20, 2013, from Carson City, Nevada, and Las Vegas, Nevada.

[Exhibit C](#) is a letter dated December 20, 2013, to Sylvia Wiese, Secretary, Director’s Office, LCB, from Phil Johncock, Executive Director, Alliance for Nevada Nonprofits, regarding his testimony for the December 20, 2013, meeting of the Legislative Commission.

[Exhibit D](#) is the list of State Agency Regulations to be Reviewed by the Legislative Commission, dated December 20, 2013, submitted by Brenda J. Erdoes, Legislative Counsel, Legal Division, LCB.

[Exhibit E](#) is the Digest for Adopted Regulation R188-12 and the Adopted Regulation of the Peace Officers’ Standards and Training Commission, LCB File No. R188-12, effective December 23, 2013, furnished by the Legal Division, LCB.

[Exhibit F](#) is the Digest for Adopted Regulation R014-13 and the Adopted Regulation of the State Board of Pharmacy, LCB File No. R014-13, effective December 23, 2013, submitted by the Legal Division, LCB.

[Exhibit G](#) is the Digest for Adopted Regulation R058-13 and the Adopted Regulation of the Public Utilities Commission of Nevada, LCB File No. R058-13, effective December 23, 2013, submitted by the Legal Division, LCB.

[Exhibit H](#) is the Digest for Adopted Regulation R066-13 and the Adopted Regulation of the Committee to Administer the Public Employees’ Deferred Compensation Program, LCB File No. R066-13, effective December 23, 2013, furnished by the Legal Division, LCB.

[Exhibit I](#) is the Digest for Adopted Regulation R068-13 and the Adopted Regulation of the Secretary of State, LCB File No. R068-13, effective January 1, 2014, furnished by the Legal Division, LCB.

[Exhibit J](#) is the Digest for Adopted Regulation R071-13 and the Adopted Regulation of the Public Utilities Commission of Nevada, LCB File No. R071-13, effective December 23, 2013, submitted by the Legal Division, LCB.

[Exhibit K](#) is the Digest for Adopted Regulation R081-13 and the Adopted Regulation of the Secretary of State, LCB File No. R081-13, effective December 23, 2013, furnished by the Legal Division, LCB.

[Exhibit L](#) is the Digest for Adopted Regulation R083-13 and the Adopted Regulation of the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources, LCB File No. R083-13, effective January 1, 2014, submitted by the Legal Division, LCB.

[Exhibit M](#) is the Digest for Adopted Regulation R089-13 and the Adopted Regulation of the Board of Wildlife Commissioners, LCB File No. R089-13, effective December 23, 2013, submitted by the Legal Division, LCB.

[Exhibit N](#) is the Digest for Adopted Regulation R090-13 and the Adopted Regulation of the Board of Wildlife Commissioners, LCB File No. R090-13, effective December 23, 2013, furnished by the Legal Division, LCB.

[Exhibit O](#) is the Digest for Adopted Regulation R094-13 and the Adopted Regulation of the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation, LCB File No. R094-13, effective January 1, 2014, furnished by the Legal Division, LCB.

[Exhibit P](#) is the Digest for Adopted Regulation R102-13 and the Adopted Regulation of the Office of Economic Development, LCB File No. R102-13, effective December 23, 2013, submitted by the Legal Division, LCB.

[Exhibit Q](#) is the Digest for Adopted Regulation R120-13 and the Adopted Regulation of the Office of Economic Development, LCB File No. R120-13, effective December 23, 2013, furnished by the Legal Division, LCB.

[Exhibit R](#) is the Digest for Adopted Regulation R046-13 and the Adopted Regulation of the Nevada State Board of Accountancy, LCB File No. R046-13, effective December 23, 2013, submitted by the Legal Division, LCB.

[Exhibit S](#) is a summary of information regarding the Transfer of Appropriated Funds from FY 2014-2015 to FY 2013-2014 for Security Door Audio and Video Access Systems (Section 41 of Assembly Bill 507, 2013 Session) presented by Rick Combs, Director, LCB.

[Exhibit T](#) is a packet of information regarding the appointments to the Advisory Council on Mortgage Investments and Mortgage Lending (NRS 645B.860), presented by Rick Combs, Director, LCB.

[Exhibit U](#) is a memorandum dated December 17, 2013, to Rick Combs, Director, LCB, from Mary Shope, Coordinator, Nevada Silver Haired Legislative Forum, Administrative Division, LCB, regarding the appointments to the Nevada Silver Haired Legislative Forum.

[Exhibit V](#) is the written testimony of Kay Graves, Research Analyst, Constituent Services Unit, Research Division, LCB, titled, "Presentation on Nevada's Legislators Back to School Program to Legislative Commission," dated December 20, 2013.

[Exhibit W](#) is the Office of the State Treasurer, Annual Report of Nevada Capital Investment Corporation Pursuant to NRS 355.270, submitted by Mark Mathers, Chief Deputy Treasurer and Treasurer, Nevada Capital Investment Corporation.

This set of "Minutes of the Legislative Commission" is an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits are on file in the Director's Office of the Legislative Counsel Bureau, Carson City, Nevada.