MINUTES OF THE
LEGISLATIVE COMMISSION
NEVADA LEGISLATIVE COUNSEL BUREAU
***Nevada Revised Statutes* (NRS) 218E.150**

The Legislative Commission held its third meeting in Calendar Year 2018 on Tuesday, June 26, 2018. The meeting began at 9 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and was videoconferenced to Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada.

COMMISSION MEMBERS PRESENT:

Assemblyman Jason Frierson, Chair
Assemblywoman Teresa Benitez-Thompson, Vice Chair
Senator Kelvin D. Atkinson
Senator Moises (Mo) Denis
Senator Patricia Farley
Senator Scott T. Hammond
Senator Ben Kieckhefer
Senator David R. Parks for Senator Aaron D. Ford
Assemblywoman Maggie Carlton
Assemblyman Chris Edwards for Assemblyman James Oscarson
Assemblyman Al Kramer for Keith Pickard
Assemblyman Jim Wheeler

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Rick Combs, Director
Rocky Cooper, Legislative Auditor, Audit Division
Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division
Kevin C. Powers, Chief Litigation Counsel, Legal Division
Michael J. Stewart, Research Director, Research Division
Marsheilah D. Lyons, Chief Principal Policy Analyst, Research Division
Deborah (Debbie) Gleason, Research Policy Assistant, Research Division
Sylvia A. Wiese, Executive Assistant, Director's Office

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I—ROLL CALL

Chair Frierson called the meeting to order.

AGENDA ITEM II—PUBLIC COMMENT

Chair Frierson called for public comment and reviewed meeting protocol. He announced there would be an additional opportunity later in the meeting for public comment regarding the ballot questions.

Mona Lisa Samuelson, advocate for medical marijuana, submitted suggestions for legislative protections for medical marijuana patients (Agenda Item II A).

Bryan C. Mortensen, Nevada resident, expressed concern that basic fundamental principles and ideals that have been taught for many years have been removed in R056-17 (Agenda Item V A-1) and replaced with divisive activities and troubling ideology. He also expressed concern with the cost of revising the social studies curriculum and requested the Legislative Commission return the regulation to Nevada's Department of Education (NDE) for further public discussion.

Wendy Mulcock, Nevada resident, submitted written testimony (Agenda Item II B) expressing her concerns of R056-17 (Agenda Item V A-1). She suggested the new regulations lower the expectations of students and should be reviewed again before passage.

Hugh Goodwin, tax attorney, Palo Alto, California, counsel for Edible Arrangements, LLC, explained the intent of R038-17 as it relates to his client. He urged the Commission to pass the regulation.

AGENDA ITEM III—APPROVAL OF MINUTES OF THE MAY 16, 2018, MEETING

MOTION: Senator Atkinson moved to approve the minutes of the May 16, 2018, meeting. The motion was seconded by Assemblywoman Carlton and passed unanimously.

AGENDA ITEM IV—PROGRESS REPORT—LITIGATION CURRENTLY IN PROGRESS

Kevin C. Powers, previously identified, reported on the progress of five cases currently in litigation. He mentioned there has been no change to the first two cases since the Legislative Commission's last meeting.

1. *Board of Trustees of the Glazing Health & Welfare Trust v. Chambers*, United States District Court, District of Nevada, and U.S. Court of Appeals for the Ninth Circuit:

On March 12, 2018, the Ninth Circuit heard oral arguments, and the parties are awaiting a decision.

2. The homeowners' associations' nonjudicial foreclosure super-priority lien statutes, United States District Court, District of Nevada, and Nevada Supreme Court:

On March 21, 2018, the Nevada Supreme Court entered an order submitting the case for a decision on the parties' briefs without oral argument, and the parties are awaiting a decision.

3. *Commission on Ethics v. Hansen*

The case has resulted in a final, published decision: *Commission on Ethics v. Hansen*, 134 Nev. Adv. Op. 40, 419 P.3d 140 (2018). On June 29, 2017, a three-justice panel of the Nevada Supreme Court dismissed the appeal by the Commission on Ethics based on the fact that the Commission did not authorize its counsel to file the appeal in a meeting that complied with the Open Meeting Law (OML). The full seven-member court accepted a petition for en banc reconsideration, and on May 31, 2018, the full seven-member court issued a published decision in the matter. The court held that the Commission's notice of appeal was filed without the Commission's prior authorization in a public meeting that complied with the OML; therefore, the notice of appeal was defective and the Supreme Court lacked jurisdiction and it dismissed the appeal. Therefore, this case is now closed.

4. *Degraw v. Eighth Judicial District Court*, Nevada Supreme Court:

This case involves the legislative continuance statute, and there is a recent published decision from the Nevada Supreme Court: *Degraw v. Eighth Jud. Dist. Ct.*, 134 Nev. Adv. Op. 43, 419 P.3d 136 (2018). This was an underlying family law case where one of the attorneys was a member of the Nevada Legislature, and the attorney requested a continuance for the duration of the 2017 Legislative Session. The district court granted the continuance in part but held that the legislative continuance statute that authorizes the continuance on behalf of the legislator was unconstitutional in violation of separation of powers. The party that was seeking continuance sought a petition in the Nevada Supreme Court to review that constitutional decision. While that petition was pending in the Nevada Supreme Court, the underlying family law case was resolved. The Nevada Supreme Court determined the case had then become moot because there was no longer a live controversy, so it did not get to the merits of whether the legislative

continuance statute was constitutional. However, the Nevada Supreme Court suggested that as currently written, the legislative continuance statute raises serious constitutional doubts. Therefore, because the constitutionality of this legislative continuance statute involves important institutional interests of the Legislature, the Legislative Counsel determined, under her power to ask for the clarification of statutes, to submit a bill draft request (BDR) to address the constitutional issues raised by the legislative continuance statute as currently written, which will be presented to the Legislature during the 2019 Session.

5. *Pharmaceutical Research and Manufacturers of America (PhRMA) v. Sandoval,* United States District Court, District of Nevada:

This case is a challenge to Senate Bill 539 (2017), which created transparency requirements for certain diabetes drugs and required manufacturers of those drugs to submit certain reports to the Department of Health and Human Services (DHHS). At the last Legislative Commission meeting on May 16, 2018, the Commission provided for early review and approval of LCB File No. R042-18, which was the regulation proposed by DHHS to administer the challenged provisions of SB 539. Following the Legislative Commission's meeting on May 16, 2018, DHHS adopted the regulations in identical form as submitted to the Legislative Commission for its early review and approval. As a result, the regulations became effective on May 31, 2018, and now have the force of law.

After the regulations became effective, the parties entered into negotiations intending to potentially resolve the litigation. First, the parties agreed to file a joint status report with the federal district court regarding the implications of the now effective regulations on the constitutional questions. Second, DHHS represented on its website that it would not bring any enforcement actions against manufacturers between July 1, 2018, when the bill's challenged provisions become effective, and January 15, 2019, so long as the manufacturers submit compliance reports by the later date of January 15, 2019. As a result of the regulations being adopted and DHHS delaying enforcement until January 15, 2019, the plaintiffs withdrew their renewed motion for preliminary injunction. Finally, once the parties have finalized the language in the joint status report, the plaintiffs have agreed to separately file an unopposed motion for voluntary dismissal of the lawsuit under Fed.R. Civ. P. 41(a)(2). Therefore, it is possible that this litigation may be resolved by agreement of the parties in the near future.

AGENDA ITEM V—LEGISLATIVE COMMISSION POLICY

A. Review of Administrative Regulations Submitted Pursuant to NRS 233B.067.

The list of regulations (Agenda Item V A) can be accessed electronically at: https://www.leg.state.nv.us/Register/IndexesRegsReviewed/LCMtg_List_2018_June26.pdf.

The following regulations were identified by members to be held for discussion: R113-16, R159-16, R049-17, R053-17, R056-17, R008-18, R009-18, and R010-18.

MOTION: Assemblywoman Carlton moved approval of R095-16, R038-17, R047-17, R048-17, R050-17, R051-17, R052-17, R077-17, R079-17, R080-17, R081-17, R082-17, R087-17, R096-17, R098-17, R101-17, R102-17, R103-17, R104-17, R105-17, R106-17, R107-17, R119-17, R121-17, R122-17, R123-17, R124-17, R128-17, R131-17, R150-17, R151-17, R153-17, R157-17, R158-17, R011-18, R013-18, R022-18, R023-18, R024-18, R028-18, R033-18, R040-18, R041-18, R047-18, R054-18, and R064-18. The motion was seconded by Senator Denis and passed unanimously.

Regulation 056-17

A REGULATION relating to education; revising the performance standards for a course of study in social studies for pupils enrolled in kindergarten and grades 1 to 12, inclusive; and providing other matters properly relating thereto. (Agenda Item V A-1).

Assemblyman Edwards suggested there is no logical progression of education that expands with each grade in the regulations. He noted that sensible skills, such as using globes and maps, are being removed from geography, and he questioned how intensive reasoning and analysis can be applied in kindergarten when the students are still learning their numbers and alphabet.

Brett Barley, Deputy Superintendent for Student Achievement, NDE, explained that NDE and the drafting committee created "teacher friendly standards," which were adopted by the State Board of Education in September 2016. He said the standards are separated by grade level, the progression can be seen more easily, and they are color-coded by five content areas: civics, economics, geography, history, and multicultural education. The standards for Grades 6 through 8 and 9 through 12 are banded together to provide districts with the flexibility to align content themes and standards to courses of study and curriculum. The standards for Grades K through 5 are grade-specific. All grade levels and content areas include disciplinary skills and the use of inquiry through primary and secondary text, as well as other media sources. Mr. Barley noted the goal of the drafting committee was to focus more on the development of deeper thinking skills and less on the recall of information and rote memorization of content knowledge.

Jayne Malorni, Education Programs Professional, NDE, stated she was a member of the standards drafting committee, but she was also a curriculum coordinator with the Clark County School District at that time. She said the drafting committee focused on moving students from recall to a deeper analysis and breadth of knowledge, with the intent of helping them become responsible members of their communities. Ms. Malorni explained the students will receive a comprehensive

social studies education throughout the K-12 content themes. The standards are not taught in isolation, but rather they are taught together to provide a full overview of what students should bring forward as they move into adulthood.

Assemblyman Edwards expressed concern that these regulations do more harm than good by taking away basic tools, such as learning how to use a globe in geography class. He is of the opinion students must have a base level of knowledge that is rote memory before they can move into critical thinking and analysis. He reiterated his concern that R056-17 does not provide a base level of knowledge.

Ms. Malorni said the standards now use the phrase "multiple types of representations," which include a map, a globe, and other methods to teach different geographic models. She stated the drafting committee tried to incorporate all possible methods and tools, including technology, that teachers and school districts could utilize to teach these standards. Referring to Assemblyman Edwards' concern for basic knowledge, she said the teacher's documents for the standards include a preamble for each grade and grade band as well as content topics to be discussed, which are referenced by each standard. Ms. Malorni mentioned the students will receive basic knowledge foundation in Grades K-5, with a focus on early American history; in middle school and high school, the focus is on referencing our founding documents.

Assemblyman Edwards opined that a solid civics education is needed throughout the entire state, but R056-17, as written, opens the door to misunderstanding and confusion.

Chair Frierson understood the standards were broadened to provide teachers flexibility and creativity to incorporate them and other methods, as technology develops, into their curriculum. He expressed concern about removing the political process, historical comprehension, and the Pledge of Allegiance from the curriculum.

Ms. Malorni stated the drafting committee wanted to provide teachers the flexibility to teach the standards in a nonbiased, nonpartisan way so that students can utilize research and knowledge-based methods to compile their thoughts and develop opinions. She explained the political process is addressed throughout the standards under the civics content themes, and even though historical comprehension is not specifically stated in the standards, it will be taught in the curriculum. Ms. Malorni said the intent was that as districts developed their curriculums, the teachers would use different examples for analysis and review for students to build progression.

Chair Frierson questioned whether the current regulations deprive teachers of creativity and whether R056-17 fixes any possible problems.

Ms. Malorni suggested R056-17 fixes the standards by: (1) adding multicultural standards to demonstrate the positive effects diverse cultures bring to the country; (2) adding inquiry standards, giving students the ability to become intense thinkers who can challenge others to do what is best for their communities; (3) allowing for the creation of civil discourse in classrooms; and (4) using a national framework to build the standards.

Senator Hammond questioned whether the current standards prevent inquiry-based education. He expressed concern that R056-17 allows scaffolding in questioning techniques in Grades K-12; the regulation offers no base of knowledge for younger students to compare or contrast ideas or think at a higher level. Senator Hammond also expressed concern with the number of concrete terms removed from the regulation and that flexibility will be eliminated when the standards are tested. He agreed with the inclusion of multicultural standards, but he wondered why the standards are being changed to include something that teachers should already be doing—challenging their students to help them formulate their own thoughts and opinions.

Senator Denis asked whether the process of updating the social studies standards is part of the natural process of updating all standards.

David Brancamp, Director, Office of Standards and Instructional Support, NDE, explained the normal review cycle for core subject standards is every ten years. He noted this is the third reiteration of the social studies standards. Mr. Barncamp also explained how the members of the review committee were selected.

Ms. Marlorni discussed the drafting committee's review process and acknowledged that a major discussion point was allowing flexibility for the teachers. She said the committee unanimously agreed on the final proposed regulations.

Chair Frierson questioned what would happen if the Legislative Commission requested NDE to continue working on R056-17.

Mr. Brancamp replied the standards went before the State Board of Education in September and were passed as "teacher friendly." Districts have already begun work on developing curriculum, and NDE has instructional materials posted to its website. If the Legislative Commission does not approve the regulations today, NDE would inform the districts to hold off on their revisions to curriculum and professional development.

Mr. Barley added the current social studies standards do not include multiculturalism, which was the purpose of Assembly Bill 234 in 2015. If R056-17 is delayed, he said the standards would not be included in the curriculum for School Year 2018–2019.

Chair Frierson questioned whether the current regulations would preclude schools from teaching the new standards added in R056-17 and from teachers continuing to prepare for the upcoming school year.

Mr. Barley stressed the districts desire clarity; they want to know in advance what will be required of them so they can plan and provide professional development. At a minimum, NDE would want to give them clear directions about expectations and professional development for the upcoming school year as a result of this meeting.

Senator Hammond mentioned that five or six years ago, professional development was provided on asking questions using an inquiry-based system. He suggested nothing in the current social studies standards prevents teachers from using that type of questioning. Senator Hammond is of the opinion teachers should already be discussing current events, such as social justices, with middle and high school students and helping them think at a higher level; but he expressed concern about asking kindergarteners to think "outside the box" or critically summarize analyses.

Assemblyman Kramer stated the *Nevada Administrative Code* (NAC) should make NRS understandable regarding the implementation of law. He expressed concern with a lack of examples in the regulation and a lack of clarity with some of the definitions. He opined that social studies should help students develop pride in our country based on an awareness of both positive and negative aspects of history. Assemblyman Kramer is concerned that removing some of the positive aspects of history from the regulation may result in students feeling ashamed of their country.

Senator Kieckhefer objected to the continuum of civics regulations in Grades K-12. He is of the opinion that civic disposition and democratic principles should include not only the ideas articulated in the regulation that "shall" be taught, but they should also include loyalty and pride. Senator Kieckhefer suggested the regulations will not foster nonpartisan discussion and do not accurately reflect civic life in the United States. He wondered how the drafting committee decided on which standards to include as well as those removed.

Ms. Malorni discussed the drafting committee's conversations regarding the civics K-12 continuum. Since many subjects are taught, particularly in Grades K-5, the drafting committee wanted the standards to be both supplementary and complimentary. She said service was a passionate topic of the committee, and the inquiry standards promote the idea that students can take action in their schools or communities.

Senator Kieckhefer stated his opinion that service is not always necessary to make a change, but rather it is part of the gears that make our society move. He suggested the list in the regulation identified as the items that "shall be taught" ignores much of what brings us together and plays to the extreme individualism that is creating some of the problems in our country.

Assemblyman Edwards shared that 50 percent of his college students did not know when the *Declaration of Independence* was signed; 90 percent did not know when the *Emancipation Proclamation* was signed; and 80 percent of them could not score 80 percent on the citizenship exam. He concluded that what is being taught in the schools now is not sufficient to prepare Nevada's students to participate and serve as members of society in the political realm. He expressed concern that we are setting up our children for failure, and the standards are constantly changing, but not for the better. Assemblyman Edwards questioned how the regulation will ensure that our students will understand the subject matter when so many concrete examples have been eliminated and replaced with ambiguous ideas.

Ms. Malorni suggested his concerns will be addressed in the instructional materials that will be provided to the teachers.

Assemblyman Edwards disagreed with her comment.

Chair Frierson said this lengthy regulation reflects a tremendous amount of work. He said he would entertain a motion to defer the regulation in order to make further adjustments to address the concerns expressed by members.

MOTION: Senator Atkinson moved to defer R056-17. Assemblyman Edwards seconded the motion.

Senator Hammond questioned whether the regulation was being deferred until the next Commission meeting.

Chair Frierson stated he did not know whether there would be time to address the regulation at the next meeting scheduled for August 30, 2018. He verified that "defer" means to put off indefinitely.

Senator Denis acknowledged there are challenges with the regulation, but he expressed concern that the motion to defer means the regulation will not be passed today and the Commission is not giving any direction as to the changes that need to be made for passage. Senator Denis suggested the regulation should be moved forward and it can always be changed later. He disagreed with delaying the regulation for another year because it contains ideas that need to be implemented now before school starts in a few weeks. Senator Denis said he does not support the motion to defer.

Senator Farley asked whether the positive aspects of the regulation can be implemented if R056-17 is not passed today. She questioned not teaching the fundamentals that provide our values as a country.

Mr. Barley clarified that deferring the regulation today would not prohibit a school district from including the multicultural standards in its curriculum, but there also would be nothing that would require the school district to do so.

Mr. Brancamp said if R056-17 is deferred today and someone challenged a district about what should be taught, the district would have to defer to the current NAC.

Assemblywoman Carlton asked for clarity regarding the removal of the Pledge of Allegiance. She asked for verification that students will not only learn the Pledge but that they will understand what the flag and citizenship truly means.

Mr. Brancamp said the Pledge can be brought back to the standards if the Commission so requests.

Chair Frierson said the Commission has the option of calling the Subcommittee to Review Regulations (NRS 233B.067) to meet on the regulation rather than having to wait until the next Commission meeting. He pointed out that state law, independent of the regulation, requires the Pledge of Allegiance. Chair Frierson suggested that putting it back in would not conflict with anything. He suggested deferring the regulation with direction to NDE to include the Pledge of Allegiance and review page 109 through the end of the regulation.

Senator Denis said he would support the motion, but he expressed concern that this regulation will not be implemented this year.

The previous motion by Senator Atkinson and seconded by Assemblyman Edwards passed unanimously.

Regulation 049-17

A REGULATION relating to education; revising the authorized activates of the holder of a conditional license; providing for the conversion of a conditional license to a license that is not conditional under certain circumstances; providing that a conditional license becomes invalid under certain circumstances; authorizing the holder of an invalid conditional license to apply for the reinstatement of the license under certain circumstances; and providing other matters properly relating thereto (Agenda Item V A-2).

Senator Hammond expressed concern that more is being asked of those people who use the alternative route to licensure (ARL) program than those who obtain a teaching license through the normal process.

Jason Dietrich, Director, Office of Educator Licensure, NDE, and Secretary, Commission on Professional Standards in Education (CPSE), NDE, explained that current law requires CPSE to adopt regulations that allow for the completion of an alternative license within two years or less. He said CPSE decided two years would

be a standard to uphold, keeping in line with statute. The license for the ARL program is issued for a three-year period as a conditional license for an educator to teach and continue to take coursework throughout the three-year period. The CPSE felt it was important that these individuals obtain an evaluation rating of standard or above to be deemed effective to maintain their license in the ARL program. He clarified the ARL program differs greatly depending on the strand of licensure received. Mr. Dietrich stated there are traditional ARL programs whose oversight is provided by higher education institutions—degree-granting bodies that provide traditional coursework. He mentioned nontraditional ARL providers, or private entities, offer a professional development-type training that do not grant degrees. Nevada allows both pathways for educators in the ARL system. To ensure that both pathways receive appropriate preparation, CPSE uses the Nevada Educator Performance Framework as its method of measurement.

Senator Hammond said he understands that some people in the ARL program are hired and teaching in the classroom, but when they receive the provisional license, their two years of experience in the classroom do not count.

Mr. Dietrich questioned whether those individuals, to which Senator Hammond referred, are teaching in the classroom under a substitute license.

Senator Hammond replied they are either teaching under a substitute license or they are enrolled in a program designed to offer a substitute license.

Mr. Dietrich explained that Nevada law currently precludes an individual from obtaining teaching experience under a substitute license; therefore, those prior two years in the classroom are excluded intentionally. To be treated as a teacher of record and have that time count towards evaluation, licensure period, or time as a contracted educator in the retirement system, the time starts when a person is placed under contract as an educator. He reiterated the substitute period is intentionally excluded.

MOTION: Senator Farley moved to approve R049-17. The motion was seconded by Assemblywoman Carlton and passed unanimously.

Regulation R053-17

A REGULATION relating to education; providing that an applicant for issuance or renewal of a special license with an endorsement as a substitute teacher is exempt from certain requirements; authorizing a person who holds a license to teach pupils in a program of early childhood education to serve as a substitute teacher; and providing other matters properly relating thereto (Agenda Item V A-3).

Regulation R009-18

A REGULATION relating to education; converting an endorsement as an emergency substitute teacher to a special license as an emergency substitute teacher; establishing the period of validity of such a special license; authorizing a person to reapply for such a special license not more than two times, except as otherwise authorized by the Superintendent of Public Instruction; authorizing certain charter schools to hire an emergency substitute teacher in certain circumstances; and providing other matters properly relating thereto (Agenda item V A-4).

Senator Denis asked for verification that R053-17 pertains to substitutes and the pre-K endorsement.

Mr. Dietrich said AB 77 from the 2017 Session clearly identifies that an early childhood license was only an endorsement on an elementary license. Regulations that limited a license at kindergarten through Grade 12 have been updated, so the language in the regulation is modified to allow for early childhood through Grade 12 as a substitute.

Senator Denis questioned why R009-18 is needed at this time.

Mr. Dietrich explained that R009-18 provides significant changes regarding the endorsement as an emergency substitute. To receive such an endorsement, he said a district's enrollment must be less than 9,000 students; this means the rural and smaller districts can employ emergency substitutes. Mr. Dietrich noted a substantive change was to allow charter schools located within those boundaries the same availability to hire emergency substitutes, which they were not previously afforded. Additionally, emergency substitutes had no preclusion from obtaining an emergency substitute license in perpetuity; these individuals merely required a high school education or equivalency and no formal college education, whereas a standard substitute license requires at least 60 college credits. He mentioned some individuals have held emergency substitute licenses for over 20 years in rural districts. The intent is that if a person wants to substitute teach in a rural or smaller district with an emergency endorsement, they would take college courses to obtain a standard substitute license and eventually obtain an actual educator's license. The CPSE reduced the availability to the emergency substitute license to two periods, but if the superintendent of a rural or small district needs to request an exception to that rule, Steve Canavaro, Ph.D., Superintendent of Public Instruction, NDE, can grant an exception and allow the emergency substitute license to be renewed.

Senator Denis asked for confirmation that: (1) an individual has the ability to meet the requirements to obtain a standard substitute license within the two periods; and (2) someone who has been in a district for 20 years still has the ability to request an exemption.

Mr. Dietrich confirmed both instances are correct.

MOTION: Senator Denis moved to approve R053-17 and R009-18. The motion was seconded by Assemblywoman Carlton and passed unanimously.

Regulation R113-16

A REGULATION relating to economic development; establishing requirements for certain allocations, grants or loans of money or other incentives for economic development provided by the Office of Economic Development; adopting provisions governing certain nonprofit entities formed by the Executive Director of the Office to promote economic development in this State; establishing certain application requirements for authorized providers applying to the Office for approval of programs of workforce recruitment, assessment and training; requiring certain authorized providers of programs of workforce recruitment, assessment and training to submit periodic reports to the Executive Director; and providing other matters properly relating thereto (Agenda Item V A-5)

Regulation R159-16

A REGULATION relating to economic development; establishing provisions governing the confidentiality of certain records and documents in the possession of the Office of Economic Development; establishing criteria for the designation of regional development authorities; adopting requirements for certain plans submitted by a regional development authority to the Executive Director of the Office; establishing requirements for certain allocations, grants or loans of money or other incentives for economic development provided by the Office; establishing certain requirements relating to the approval of applications for certain transferable tax credits; establishing certain requirements relating to the application for and disbursement of grants or loans of money from the Catalyst Account in the State General Fund to promote economic development in this State; repealing certain regulations relating to economic development; and providing other matters properly relating thereto (Agenda Item V A-6).

Vice Chair Benitez-Thompson requested that R113-16 and R159-16 be heard simultaneously since R113-16 addresses the creation of the nonprofit corporations and R159-16 clearly pertains to the Catalyst Account in the State General Fund. She asked which funds would be used to support the establishment of nonprofit corporations.

Derek Armstrong, Deputy Director, Las Vegas Office, Office of Economic Development, Office of the Governor (GOED), stated the funding for nonprofit corporations comes directly out of GOED's budget.

She asked whether the funding is a combination of federal dollars and GOED's Knowledge Fund.

Mr. Armstrong said Knowledge Fund dollars can be used if it is tied to a university.

Referring to subsection 2 of Section 5 of R113-16, which states, "The Executive Director shall evaluate the information in the report submitted by the nonprofit corporation pursuant to subsection 1 and may create an assessment of the overall performance of the nonprofit corporation," Vice Chair Benitez-Thompson wondered if the assessment will judge the overall performance of the nonprofit corporations based on the performance measures GOED provided to the Interim Finance Committee in response to questions asked by that Committee.

Mr. Armstrong said the criteria listed evaluates whether a nonprofit corporation is following the intent of the law as well as what GOED is asking for regarding the number of jobs created. He noted GOED posts the performances of nonprofit corporations on its website.

Vice Chair Benitez-Thompson questioned changing the definition of "economic development" in Section 17 of R113-16.

Mr. Armstrong replied the definition was changed to be more in line and accurate with GOED's mission and operation. He verified the change in the definition does not enlarge or limit GOED's scope or the types of businesses it affects.

Referring to Section 4 of R159-16, Vice Chair Benitez-Thompson questioned why Item J (details relating to transferring tax credits to a third party) and Item K (salaries and other personnel information) would be kept confidential.

Mr. Armstrong said Section 4 is not a complete list of confidential items but rather a list of examples. He explained that when companies provide GOED with a list of salaries, GOED aggregates that data to come up with an average wage and does not incentivize companies unless they meet an average wage of $21.95, which is the current state median wage. He said GOED will not disclose information relating to a person's salary that a company deems as proprietary, confidential, or sensitive.

Vice Chair Benitez-Thompson asked for confirmation that R159-16 would not prohibit average salary information for an employer from being disclosed and that only information regarding the salaries of specific employees would be confidential.

Mr. Armstrong confirmed that average salary information would still be included in reports and that the regulation only addresses proprietary or sensitive salary information.

Vice Chair Benitez-Thompson asked why details relating to transferrable tax credits to a third party would be kept confidential.

Mr. Armstrong explained it is a private transaction between two companies.

Vice Chair Benitez-Thompson questioned if the intent of the regulation is to keep the actual date, time, and information related to the transaction confidential and whether the Legislature would still be able to determine when tax credits had been used.

Mr. Armstrong said he would have to get back with a specific answer.

Vice Chair Benitez-Thompson questioned repealing the definition of "nonprofit private entity."

Mr. Armstrong said Section 8 of R113-16 contains clarifying language to define nonprofit corporations in NRS and align them with the state plan.

Vice Chair Benitez-Thompson asked the legal staff to provide clarification on the transferable tax credits.

Kevin Powers, previously identified, stated his interpretation is that the regulation protects the details of a transaction between two private parties. Ultimately, the parties who purchase the transferrable tax credits will have to submit those to the Department of Taxation in order to use them. Therefore, we will know who purchased the transferrable tax credits and used them; we just will not know the details of the transaction and the price paid. He suggested the intent of that is to ensure there is a market for these transferrable tax credits in which the private parties can negotiate on terms and prices. If that was public information, then it would create a competitive disadvantage in that market. Mr. Powers is of the opinion that this is only about the details of the private transaction, but eventually, who purchases the tax credits will be known when the information is submitted to the Department of Taxation.

Vice Chair Benitez-Thompson stated she is satisfied with Mr. Powers's explanation.

MOTION: Assemblywoman Benitez-Thompson moved to approve R113-16 and R159-16. The motion was seconded by Senator Denis and passed unanimously.

Regulation R008-18

A REGULATION relating to education; removing references to a business and industry endorsement of a license for which such an endorsement is not available; removing a requirement that a licensee who wishes to renew an endorsement to teach reading has completed certain graduate courses; and providing other mattes properly relating thereto (Agenda Item V A-7).

Regulation R010-18

A REGULATION relating to education; revising the requirements to obtain or renew a business and industry endorsement; and providing other matters properly relating thereto (Agenda Item V A-8).

Senator Hammond asked how R008-18 relates to R010-18 and whether they are getting rid of the business and industry endorsement.

Mr. Dietrich said the substantive change made in the regulation primarily addressed the renewal requirements for the business and industry endorsement. Previously, six semester hours at the graduate level were required to renew this endorsement. The regulation states that individuals with a standard or even a general professional license are still required to complete the six credits, just not at the graduate level since courses at this level cost more and some institutions may not allow these individuals to take the courses because they are not seeking a degree.

Mr. Dietrich indicated that the regulation also makes it clear that a business and industry endorsement is only available for a license to teach secondary education. In the regulation, all other types of licenses are excluded from eligibility for the business and industry endorsement.

Mr. Dietrich said R010-18 allows an individual who is not classically trained through the educational realm to teach career and technical courses by obtaining a business and industry endorsement. He stated the existing regulation requires an applicant for a business and industry endorsement to have been employed for at least five years after 16 years of age in a position which relates to the program for which they apply to teach. After engaging in group discussions about how the age requirement and the mandatory 12 credits were affecting the districts, CPSE decided to change the requirements for a person who wishes to obtain a business and industry endorsement. The regulation now requires that an applicant must have been employed full-time for at least two years after 18 years of age in such a position. He stated the most substantial modification was to allow the mandatory 12 credits of training (4 courses) to be acquired at a professional development level and not require a traditional college transcript. Mr. Dietrich acknowledged this is foreign territory in a traditional license setting; however, he reminded Commission members that obtaining coursework through institutions that do not grant degrees occurs in the ARL program. To better serve the education community, especially in rural districts, CPSE wanted to break down as many barriers as possible to allow individuals to maintain these licenses and teach.

Senator Hammond said he was satisfied with the explanation.

MOTION: Senator Hammond moved to approve R008-18 and R010-18. The motion was seconded by Assemblywoman Carlton and passed unanimously.

B. Approval of Bill Draft Request Concerning the Legislature and the Legislative Counsel Bureau

Rick Combs, previously identified, explained that a BDR is submitted prior to session as a placeholder for issues that come up between now and the end of session regarding the Legislature and the Legislative Counsel Bureau (LCB).

MOTION: Assemblywoman Carlton moved to approve the BDR for the Legislature and the LCB. The motion was seconded by Senator Farley and passed unanimously.

C. Approval of Language of Ballot Questions Pursuant to NRS 218D.810

Chair Frierson stated he would allow public comment at this time regarding the ballot questions; however, no testimony was presented.

Mr. Combs explained the process for legislatively approved ballot questions.

He presented the LCB's draft ballot question language for Senate Joint Resolution No. 17 (2015), which asks:

> Shall the *Nevada Constitution* be amended to: (1) remove existing provisions that require the Legislature to provide certain statutory rights for crime victims; and (2) adopt in their place certain expressly stated constitutional rights that victims may assert throughout the criminal or juvenile justice process? (Agenda Item V C-1)

He mentioned this question is commonly referred to as "Marsy's Law."

Mr. Combs also presented draft ballot question language for SB 415 (2015), which asks:

> Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use, or other consumption of feminine hygiene products? (Agenda Item V C-2)

Senator Hammond asked whether any public comments changed the language of either ballot question.

Mr. Powers said all public comments were reviewed to see whether they were already included in the draft language. He said the changes were not elaborate and most comments focused on SJR 17; if the draft language accurately reflected the public's comments, the language was not changed. Mr. Powers pointed out the goal is to present a legally and factually accurate description of the explanation and

how the proposal would change existing law in language that is not argumentative or inflammatory but rather fair, even-handed, and balanced. He said the goal of the ballot question team was to draft legally strong and factually accurate policy-based arguments that attempted to convince the voter of the policy behind the proposal. He said the same was true with the arguments against the ballot question—provide a counter proposal based solely on policy, not intending to inflame or incite the emotions of the voters.

MOTION: Assemblywoman Carlton moved to approve the draft ballot language for both questions. The motion was seconded by Senator Atkinson and passed unanimously.

D. Request by the Legislative Committee on Health Care (NRS 439B.200) for an Extension of the Deadline to Submit Bill Draft Requests

Marsheilah D. Lyons, previously identified, presented a memorandum on behalf of Senator Patricia (Pat) Spearman, Chair, Legislative Committee on Health Care (LCHC), requesting approval to submit BDRs after the September deadline for statutory committees (Agenda Item V D). She noted the LCHC will have a work session in August and a second work session in September.

MOTION: Senator Denis moved to approve the request by the LCHC to submit BDRs after the September deadline. The motion was seconded by Assemblywoman Carlton and passed unanimously.

E. Request by the Interim Committee to Study the Advisability and Feasibility of Treating Certain Traffic and Related Violations as Civil Infractions (ACR 9, 2017) for Approval to Meet Later than June 30, 2018

On behalf of Assemblyman Steve Yeager, Chair, Committee to Study the Advisability and Feasibility of Treating Certain Traffic and Related Violations as Civil Infractions, Mr. Combs reported the Committee is required to complete its work by June 30, 2018, but due to difficulty in obtaining a quorum for a previously scheduled meeting, the Committee has not met its allotted number of meetings. Therefore, Chair Yeager has requested that the Committee be allowed to meet in the month of July, and he does not anticipate the need to extend the September deadline for submitting BDRs.

MOTION: Assemblywoman Carlton moved to approve the request by the Committee to Study the Advisability and Feasibility of Treating Certain Traffic and Related Violations as Civil Infractions to meet after June 30, 2018. The motion was seconded by Senator Farley and passed unanimously.

AGENDA ITEM VI—APPOINTMENTS AND NOMINATIONS OF MEMBERS TO NONLEGISLATIVE COMMITTEES AND OTHER ENTITIES

A. Advisory Task Force on School Leader Management (SB 497, 2017)

Rick Combs, previously identified, stated the appointment by the Legislative Commission to the Advisory Task Force on School Leader Management, which must be a member of the business community, is vacant (Agenda Item VI A).

Chair Frierson said he would like to take additional time to find a replacement and that no action would be taken on this item.

B. Commission on Ethics (NRS 281A.200)

Mr. Combs reviewed the qualifications that must be met as a member of the Commission on Ethics (Agenda Item VI B). He reported three applications were received, of which two did not meet the qualifications in subsection 5 of NRS 281A. 200. He said the only application that met the requirements was that of Kim Wallen, former state controller.

Chair Frierson mentioned he received several recommendations for Kim Wallen and would support her appointment to the Commission.

MOTION: Senator Denis moved to approve the appointment of Kim Wallen to the Commission on Ethics. The motion was seconded by Assemblywoman Carlton and passed unanimously.

C. Southern Nevada Enterprise Community Board (AB 304, 2009)

Mr. Combs mentioned the Southern Nevada Enterprise Community Board carries a three-year term and anyone who is appointed must live in the Southern Nevada Enterprise Community, which includes Senate Districts 2, 3, 4, and 10 and Assembly Districts 6, 7, 10, 11, 15, and 16. He said Senator Atkinson and Assemblywoman Dina Neal were appointed to the Board and they can be reappointed (Agenda Item VI C).

Chair Frierson said he has spoken to the current members and both of them have agreed to reappointment.

MOTION: Senator Kieckhefer moved to reappoint Senator Atkinson and Assemblywoman Neal to the Southern Nevada Enterprise Community Board. The motion was seconded by Assemblyman Wheeler and passed unanimously.

AGENDA ITEM VII—INFORMATIONAL ITEMS

(This agenda item was taken out of order.)

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. Department of Transportation, Construction Manager at Risk (CMAR) Report for 2017 Pursuant to Section 14.5 of AB 283 (2013 Session)

2. Women Veterans Advisory Committee, 2018 Biennial Report Pursuant to NRS 417.330

The members of the Legislative Commission did not have any questions on the informational items.

AGENDA ITEM VIII—PUBLIC COMMENT

Chair Frierson called for public comment.

Mona Lisa Samuelson, previously identified, stated she is Nevada's first medical marijuana patient advocate and community activist. She requested the Commission consider medical marijuana patients as a relevant part of their communities and consider issues that are important to them.

AGENDA ITEM IX—ADJOURNMENT

There being no further business to come before the Commission, the meeting was adjourned at 11:46 a.m.

Respectfully submitted,

Janet Coons
Manger of Research Policy Assistants

APPROVED BY:

Jason Frierson, Chair
Legislative Commission

MEETING MATERIALS

AGENDA ITEM	WITNESS/ENTITY	DESCRIPTION
Agenda Item II A	Mona Lisa Samuelson, advocate for medical marijuana patients	List of legislative protections for medical marijuana patients
Agenda Item II B	Wendy Mulcock, Nevada resident	Written testimony
Agenda Item V A	Legal Division, Legislative Counsel Bureau (LCB)	State agency regulations to be reviewed
Agenda Item V A-1	Legal Division, LCB	Adopted Regulation of the State Board of Education, LCB File No. R056-17
Agenda Item V A-2	Legal Division, LCB	Adopted Regulation of the Commission on Professional Standards in Education, LCB File No. R049-17
Agenda Item V A-3	Legal Division, LCB	Adopted Regulation of the Commission on Professional Standards in Education, LCB File No. R053-17
Agenda Item V A-4	Legal Division, LCB	Adopted Regulation of the Commission on Professional Standards in Education, LCB File No. R009-18
Agenda Item V A-5	Legal Division, LCB	Adopted Regulation of the Office of Economic Development, LCB File No. R113-16
Agenda Item V A-6	Legal Division, LCB	Adopted Regulation of the Executive Director of the Office of Economic Development, LCB File No. R159-16

Agenda Item V A-7	Legal Division, LCB	Adopted Regulation of the Commission on Professional Standards in Education, LCB File No. R008-18
Agenda Item V A-8	Legal Division, LCB	Adopted Regulation of the Commission on Professional Standards in Education, LCB File No. R010-18
Agenda Item V C-1	Legislative Counsel Bureau	Draft ballot question language for Senate Joint Resolution No. 17 of the 78th Session
Agenda Item V C-2	Legislative Counsel Bureau	Draft ballot question language for Senate Bill 415 of the 79th Session
Agenda Item V D	Senator Patricia (Pat) Spearman, Chair, Legislative Committee on Health Care	Memorandum
Agenda Item VI A	Rick Combs, Director, LCB	Information regarding the Advisory Task Force on School Leader Management
Agenda Item VI B	Rick Combs, Director, LCB	Information regarding the appointment of members to the Commission on Ethics
Agenda Item VI C	Rick Combs, Director, LCB	Information regarding appointments to the Southern Nevada Enterprise Community Board

This set of "Minutes of the Legislative Commission" is an informational service. Meeting materials are on file in the Director's Office of the Legislative Counsel Bureau, Carson City, Nevada.