



MINUTES OF THE
LEGISLATIVE COMMISSION
NEVADA LEGISLATIVE COUNSEL BUREAU
Nevada Revised Statutes 218E.150

The Legislative Commission held its third meeting in calendar year 2015 on Thursday, June 25, 2015. The meeting began at 2 p.m. in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada, and was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

COMMISSION MEMBERS PRESENT:

Senator Michael Roberson, Chair
Senator James A. Settelmeyer, Vice Chair
Senator Aaron D. Ford
Senator Ben Kieckhefer
Senator Mark A. Manendo for Senator Moises (Mo) Denis
Senator Patricia (Pat) Spearman for Senator Kelvin D. Atkinson
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblyman John Hambrick
Assemblyman Ira Hansen
Assemblywoman Marilyn Kirkpatrick
Assemblyman Lynn D. Stewart

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Rick Combs, Director
Paul V. Townsend, Legislative Auditor, Audit Division
Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division
Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division
Brenda J. Erdoes, Legislative Counsel, Legal Division
Susan E. Scholley, Interim Research Director, Research Division
Janet Coons, Secretary for Minutes, Research Division
Debbie Gleason, Secretary for Minutes, Research Division
Sylvia A. Wiese, Executive Assistant, Administrative Division

Chair Roberson 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 are on the Legislative Commission's webpage at <http://www.leg.state.nv.us/Interim/78th2015/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.

PUBLIC COMMENT

Chair Roberson called for public comment.

Mike Kosor, a resident of Las Vegas, Nevada, and an advisor to a number of committees of the National Timeshare Owners Association, provided written testimony ([Exhibit C](#)) regarding the failure of the Real Estate Division (RED), Department of Business and Industry (DBI), to adopt regulations pursuant to *Nevada Revised Statutes* (NRS) 119A.652 regarding the procedures for inspecting files of transactions, records of trusts, and relevant accounts of all project brokers and developers of time shares. In Mr. Kosor's assessment, there was no oversight to ensure developers comply with Conditions, Covenants and Restrictions; sell only authorized units; properly track and maintain property deeds; and not abuse timeshare user rights in their exchange and rental operations. He opined that the lack of regulations and enforcement has created an environment ripe for fraud. Mr. Kosor described RED's response to his filed complaint as deficient and dismissive and was told by RED that the Administrator had discretion in such matters.

In response to his complaint filed with the Office of the Attorney General, the Office concurred with Mr. Kosor that RED did not have regulations for inspections. Through several public records requests, he learned over the last three years RED had not conducted random or scheduled external inspections of timeshare developers or associations. Real Estate Division informed Mr. Kosor that timeshare inspections were conducted by the Special Projects Section of RED; however, no procedures were in place nor was there dedicated legal support for reviewing complex association agreements and exchange trust documents. He said the AG informed RED of its noncompliance of NRS 119A.652; however, no further action was taken, and he has not received responses to his letters from Legislators or Executive Branch constitutional officers.

Mr. Kosor said the time-share industry lobby, led by the American Resort Development Association, likely had no interest in seeing the development of an inspection program. Without an owner constituency, since most time-share owners live outside of Nevada, and because of an ineffective inspection process, he did not expect change. In closing, Mr. Kosor requested the following of the Commission:

- An audit be directed of RED's responsibilities as they relate to time-share operations;
- A review of RED's processing of formal complaints; and
- Address the efficacy of RED's role as the consumer protection agency of timeshares.

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

APPROVAL OF MINUTES OF THE DECEMBER 22, 2014; JANUARY 16, 2015; AND JUNE 1, 2015, MEETINGS—SENATOR MICHAEL ROBERSON, CHAIR

VICE CHAIR SETTELMAYER MOVED APPROVAL OF THE MINUTES OF THE DECEMBER 22, 2014; JANUARY 16, 2015; AND JUNE 1, 2015, MEETINGS OF THE LEGISLATIVE COMMISSION.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED.

LEGISLATIVE COMMISSION POLICY—

A. Review of Administrative Regulations—Brenda J. Erdoes, Legislative Counsel, Legal Division, LCB (A list of the regulations may be viewed here: http://www.leg.state.nv.us/Register/IndexesRegsReviewed/LCMtg_List_2015_June25.pdf.)

Referring to the list of State agency regulations to be reviewed by the Legislative Commission ([Exhibit D](#)), the Commission members asked Chair Roberson to hold the following regulations for discussion: R049-13; R085-13; R124-13; R022-14; R089-14; R113-14; and R005-15.

VICE CHAIR SETTELMAYER MOVED APPROVAL OF R152-13; R001-14; R002-14; R014-14; R057-14; R133-14; and R134-14.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 049-13

A REGULATION relating to community managers; prohibiting a management agreement from providing for the compensation of a community manager or his or her employer based on the fines imposed against or collected from units' owners or tenants or guests of units' owners; and providing other matters properly relating thereto ([Exhibit E](#)).

Referring to the Informational Statement for R049-13 ([Exhibit E](#)), Assemblyman Hansen asked: (1) whether the \$1 million liability insurance coverage was required for all homeowners' associations (HOA) or whether it could be adjusted according to the size of the HOA; (2) whether an exemption was available to smaller HOAs; and (3) what were the potential costs, especially for the smaller HOAs.

Joseph Decker (J.D.), Administrator, RED, DBI, said the regulation carried over language currently in statute, and the \$1 million minimum liability was the statutory requirement for all HOAs. He clarified the liability insurance was for the licensed community manager and not the HOA; therefore, it would not affect the HOAs.

ASSEMBLYMAN HANSEN MOVED APPROVAL OF R049-13.

VICE CHAIR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 085-13

A REGULATION relating to the operation of vending facilities on public property by persons who are blind or visually impaired; revising provisions relating to retirement income benefits; revising provisions relating to the reimbursement of health care costs; and providing other matters properly relating thereto ([Exhibit F](#)).

Referring to Sections 1 and 2 of R085-13, Assemblywoman Kirkpatrick asked who would receive the retirement benefit.

Melaine Mason, Deputy Administrator, Bureau of Services to Persons Who Are Blind or Visually Impaired and Bureau of Vocational Rehabilitation (BSBVI), Rehabilitation Division, Department of Employment, Training and Rehabilitation, (DETR), explained the program was self-funded and every location was attached to a licensed operator. The operator and partner agree on the commission structure, and the partner runs the facility that is assigned to the operator. Ms. Mason stated the net proceed, or "set-aside," is based on the commissions as identified in *Nevada Administrative Code* (NAC) 426.230, and a percentage is paid into the fund to support the program. The licensed operator is the one who receives retirement benefits and health care cost reimbursements, not the partners.

Assemblywoman Kirkpatrick asked whether the licensees received health insurance through other programs.

Ms. Mason answered that health care reimbursement begins with federal regulation with the Randolph-Sheppard Act, 20 U.S.C. § 107 (RSA). The State adopted a “mini” RSA, or State regulations, to allow the program to operate in State, local, and municipality locations. The operators may request reimbursement up to the amount of their health care costs, but the Division does not provide insurance, only reimbursement of medical expenses.

Richard Saperstein, Chair, Nevada Committee of Blind Vendors (NCBV), explained the money used for health care reimbursements and retirement distribution comes from the set-aside fund. The money is generated monthly from the profits of blind vendors working at their locations. A portion is put into the set-aside fund and used to cover costs of the program by replacing equipment, paying for the administration of the BSBVI, opening new locations, and health reimbursement and retirement funding to the blind vendors. It is not General Fund or State money; rather, it is money directly from the vendors. The fund has been monitored through the years, continues to increase, and maintains a much higher balance than in previous years. Federal regulations established that a State licensing agency, in this case BSBVI, is only allowed to collect the money the program needs to fund itself.

Mr. Saperstein continued that the NCBV, a federally mandated organization, with approval of the BSBVI, has decided to use some of the funds for retirement and medical reimbursement of the blind vendors. The maximum is \$7,000 for retirement and \$12,500 for medical reimbursement. He stated that rather than retaining a set maximum allowed for the annual reimbursement of medical expenses and retirement, a number could be ascertained by the NCBV and the BSBVI on a biennial basis to use for the program’s budget and include that amount for an accurate figure for distribution to the blind for the following two years.

Referring to subsection 3 of Section 2 of the regulation, Assemblywoman Kirkpatrick asked Mr. Saperstein to explain the NCBV’s expectation of the LCB’s responsibility and role regarding reimbursement for health care costs not paid by the third-party insurer with respect to the Caucus Deli.

Ms. Mason pointed out the request came after the biennial budget had been approved; therefore, work programs that identify the amounts in the 2018-2019 budget would be presented to the Interim Finance Committee.

Responding to Senator Kieckhefer’s question regarding the set-aside account, Ms. Mason stated between \$4.1 and \$4.2 million has accrued and, on average, the balance increases \$189,000 per year. She noted that for a period it was growing

approximately \$300,000 per year but had decreased due to the closing of the Naval Air Station Fallon. She also noted that with the NCBV's increase in trainees and the anticipation of opening more locations, they expected the balance would continue to grow.

Senator Kieckhefer asked if the balance continues to grow, was there a reason not to reduce the amount being set aside.

Ms. Mason stated the Division discussed that option with the operators, who chose not to reduce the percentage of the set-aside. She elaborated that the funds were being used to improve the locations and in hopes the program could flourish.

Mr. Saperstein reiterated that the NCVB and the blind vendors considered reducing the set-aside rate, but they chose to proceed in this manner because it was easier to manage. Should there be a financial crisis, he said it would be easier to move backwards with the amount of money distributed for retirement and medical reimbursement expenses and respond quicker in balancing monies based on financial issues that may arise. Over the last twenty years, Mr. Saperstein said he has rewritten the set-aside schedule twice, and each time it was implemented, it gave a little more profit to the blind, stressing that the fund continues to increase. He said the NCVB would like an easier vehicle for redistributing the excess funds to the blind vendors, potentially providing a decent retirement. Mr. Saperstein stated the NCVB is asking the State licensing agency to use the retirement funds for issuing an Individual Retirement Account to the blind vendors, which would mitigate concerns that the money might be used unwisely.

Senator Kieckhefer surmised there was no guarantee the amount would be consistent going forward, and there was no liability for the State or DETR to maintain a certain level of retirement benefit, which could dramatically fluctuate.

Ms. Mason confirmed Senator Kieckhefer's remarks while emphasizing that a great deal of research had been conducted, noting the program exists throughout the country and is based upon available funds; therefore, the amount would be brought forth biennially. She cautioned that if the set-aside amount were reduced, it would affect the individuals who are contributing the most to the set-aside fund. The proposed regulation would benefit all vendors by receiving a set retirement distribution instead of reducing the set-aside percentage. Ms. Mason stated the main concern of the operators was to ensure all vendors were substantially benefitting versus a potential disparity in benefits based on income.

In response to Vice Chair Settlemeyer's question regarding how many participants were in the blind vendors' set-aside fund and the number of locations, Ms. Mason replied there was 15 members with 29 locations. Some of the locations are vending machines, referred to as "unassigned vending," that generate approximately \$120,000 per year and are serviced by a vending company.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF R85-13.

SENATOR FORD SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 124-13

A REGULATION relating to fire protection; establishing procedures for the conduct of administrative hearings by the State Fire Marshal Division of the Department of Public Safety and appeals therefrom; establishing procedures for the issuance of administrative citations and orders for administrative fines and corrective actions; establishing procedures for review of actions by the Division; establishing procedures for requesting declaratory orders and advisory opinions from the Division; revising provisions relating to grounds for disciplinary action by the State Fire Marshal and the State Board of Fire Services; revising procedures relating to investigations and hearings thereon conducted by the State Fire Marshal and investigators of the Division; providing for the imposition of administrative fines; and providing other matters properly relating thereto ([Exhibit G](#)).

Assemblyman Hansen suggested the fines appeared to be excessive. He asked what timelines were used by the State Fire Marshal Division (SFMD), Department of Public Safety (DPS), when issuing each offense.

Peter J. Mulvihill, P.E., Chief, SFMD, DPS, stated the SFMD does not amass fines one on top of another; rather, the SFMD educates businesses about enforcement and encourages them to correct any problems. Only after exhausting those efforts is enforcement used, noting those situations are minimal. He stated if the same occurs within a 24-month period, the second occurrence would constitute a second violation and, according to regulation, the clock starts over at 24 months. Chief Mulvihill added that a citation issued five or ten years earlier is not considered a consecutive offense when issuing a citation.

In response to Assemblyman Hansen's question, Chief Mulvihill said the money generated from the fines goes into the General Fund. He explained the SFMD wants to avoid becoming a revenue-generating agency that required funds generated from fines to cover its expenditures.

Assemblyman Hansen referenced an e-mailed letter from Tad Halcomb ([Exhibit H](#)), Mining Division Manager, American Fire Equipment Sales and Service Corporation, Reno, Nevada, regarding the changes in the SFMD's responsibility and proposed fines. According to Mr. Halcomb's letter, an agency with the ability to cite standards, assess fines, or abate citations left room for individual interpretation. The burden of proof rests with his company, which ultimately increases the cost for doing business in Nevada. Assemblyman Hansen asked Chief Mulvihill how

the SFMD planned to keep individual interpretations to a minimum by enforcement agents.

Chief Mulvihill explained the adoption of or changes to regulations, standards, and codes went through the legislative process of public workshops and hearings. He stressed that another key component of the regulation was the due process for a person cited and that corrective action was an option, as opposed to a fine. He added that formal opinions and interpretations are determined by the SFMD; consequently, inspectors cannot create new interpretations. Chief Mulvihill said when a business has an issue with an inspector or an officer, it can take its concerns to a supervisor or the SFMD. The SFMD will provide a formal interpretation, which is posted on its website for transparency.

Assemblyman Hansen concluded the SFMD had reasonable checks and balances to minimize the potential of subjective interpretation and that sufficient layers existed to address concerns before citations were issued.

Chief Mulvihill summarized the steps taken before issuing a citation, which included providing corrective instruction, probation, or licensure suspension. If there is a disagreement with the administrative hearing officer's report, the SFMD must review and concur with the report. In conclusion, Chief Mulvihill said the next level of appeal was the State Board of Fire Services, SFMD, DPS, which could uphold or change the decision.

ASSEMBLYMAN HANSEN MOVED APPROVAL OF R124-13.

VICE CHAIR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 089-14

A REGULATION relating to taxation; revising provisions governing agreements between the Department of Taxation and taxpayers for the payment of taxes, interest and penalties in installments; and providing other matters properly relating thereto ([Exhibit I](#)).

Referring to Section 1 of R089-14, Assemblywoman Kirkpatrick asked how taxpayer installments were tracked over a 12-month period.

George Hritz, Management Analyst, Department of Taxation (Taxation), explained that installments were tracked electronically through Taxation's internal system. When liability exceeds a certain amount, a revenue officer immediately follows up with the taxpayer to establish a payment plan, and if a formal plan is necessary, R089-14 is the procedure followed.

Expressing concern, Assemblywoman Kirkpatrick referred to 2005 when there were hundreds of millions of dollars in uncollected taxes from twenty years prior with minimal likelihood of being collected. She cautioned against situations where installment participants with extensions could file bankruptcy, leave the State, and not generate the expected revenue. She asked for: (1) the definition of "good cause" when allowing for the extension; and (2) the reason for extending the installment period.

Mr. Hritz acknowledged that forfeited installment agreements occurred due to various unforeseen circumstances. He said taxpayers' financial assessments are taken into consideration by Taxation when drafting an installment agreement. He noted plans that were less than 24 months did not require the approval of the Nevada Tax Commission (NTC), Taxation. Mr. Hritz pointed out that plans beyond 24 months were required to be brought to the NTC for approval, and R089-14 allowed Taxation to enact the current practice of extending the installment period from 24 to 36 months. He explained the reason for the regulation was to implement the payment plan immediately rather than waiting for approval of the NTC.

Responding to Assemblywoman Kirkpatrick's question regarding how fiscal staff will know how much debt is outstanding and how it is incorporated into the budget, Mr. Hritz stated the information was being tracked and the extension of installment plans from 24 to 36 months would not change the process.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL
OF R089-14.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 113-14

A REGULATION relating to hunting; revising the requirements for the Department of Wildlife to issue a tag to hunt a species of wildlife after the Department has issued tags for a season to hunt that species of wildlife; and providing other matters properly relating thereto ([Exhibit J](#)).

Responding to Assemblyman Hansen's question regarding whether the new bonus point awarded to an applicant for an unsuccessful attempt at a remaining tag could be used in a subsequent drawing for a species other than the one applied for originally, Jack Robb, Deputy Director, Nevada's Department of Wildlife (NDOW), answered multiple weapon classes could be applied for in one draw, and bonus points could be applied unilaterally as they are not confined to a specific weapon class.

Conversation ensued between Assemblyman Hansen and Mr. Robb. Assemblyman Hansen was concerned the more well-to-do applicants would earn additional bonus points for numerous successful and unsuccessful attempts at remaining tags, which would make a considerable difference in areas that are drawn by creating an advantage when applying for the more desirable tags.

Assemblyman Hansen noted Section 3 of the regulation and questioned whether more than one bonus point could be earned.

Mr. Robb contended the program was not intended to give away bonus points; rather, it was an attempt to sell all remaining tags after the first and second draws and to encourage more participation. He added that only one bonus point could be earned per season.

Assemblywoman Kirkpatrick noted there were approximately 800 archery tags remaining for the current season and suggested the tags be used to build and encourage youth sports. She asked: (1) what was NDOW doing to ensure more youth were involved in archery; and (2) what was NDOW's plan to enforce the one bonus point per season.

Mr. Robb assured Assemblywoman Kirkpatrick that great strides had been made by NDOW to acknowledge the number of youth applications before the draw begins, and it makes it a point to ensure youth are involved. He stated NDOW is diligent in ensuring youth are the ones applying for tags and not the parents. Mr. Robb said there were approximately 340 tags designated for youth remaining at the end of the first draw. He indicated that NDOW's attempts to involve youth, which included notification by e-mail and additional mailers to the youth's family informing them of the opportunities available.

ASSEMBLYMAN HANSEN MOVED APPROVAL OF R113-14.

VICE CHAIR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 005-15

A REGULATION relating to energy; revising the discounted electric rates that an electric utility is required to charge to eligible participants in the Economic Development Electric Rate Rider Program; and providing other matters properly relating thereto ([Exhibit K](#)).

Referring to No. 7(b) on page 3 of the Informational Statement, Assemblyman Hansen asked what the public's estimated cost was for subsidizing the discounted electric rate offered to participants of the Economic Development Electric Rate Rider Program (Program).

Donald J. Lomoljo, Utilities Hearings Officer, Public Utilities Commission of Nevada, clarified the discount did not apply to the entire bill; rather, it only applied to the fuel and purchase power component of the bill with a cap of 50 megawatts. He said in comparison to the entire load of the electrical utility, the amount was negligible, but offered an estimated monthly impact to residential ratepayers to be less than 1 cent. However, Mr. Lomoljo said it depended on the number of megawatts participating in the Program and rates currently in effect. He stated he would follow up with Assemblyman Hansen and provide him with a specific dollar amount.

Assemblywoman Kirkpatrick referred to Assembly Bill 1 (Chapter 3, *Statutes of Nevada 2014, 28th Special Session*), which revised provisions governing the Program. She noted testimony from NV Energy and others provided specifics regarding abatement costs to the public for subsidizing the Program. Assemblywoman Kirkpatrick recalled that over the course of the abatement, the estimated cost would be approximately \$12 per household for the following eight years, and the intent was to keep the public's cost low by starting with 25 megawatts in the north and 25 in the south. She said there was also discussion of raising it to 100 megawatts due to Tesla Motors, Inc. (Tesla) moving to Nevada.

VICE CHAIR SETTELMAYER MOVED APPROVAL OF R005-15.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 022-14

A REGULATION relating to facilities for the care of adults during the day; requiring a facility for the care of adults during the day to provide the maximum number of clients allowed to occupy the facility at one time in an application for a license and notify the Division of Public and Behavioral Health of the Department of Health and Human Services of any change to that number; requiring a facility for the care of adults during the day to pay a fee for an application for a license or renewal of a license; requiring a facility for the care of adults during the day to keep a separate personnel file for each employee of the facility that must include certain documentation concerning tuberculosis screening; and providing other matters properly relating thereto ([Exhibit L](#)).

Assemblyman Hansen commented on the consistently odd dollar amount of fines for adult day care facilities and asked whether the money collected from them would be used to reduce licensing costs.

Kyle Devine, Chief, Bureau of Health Care Quality and Compliance (HCQC), Division of Public and Behavioral Health (DPBH), Department of Health and Human Services (DHHS), stated HCQC could consider using the funds to lower licensing costs. He further explained that penalty funds were placed in a separate account traditionally used for assisting facilities with emergencies, education, relocating clients when facilities are closing, and for any other purpose for operating under Chapter 449 of NRS, "Medical Facilities and Other Related Entities."

Responding to Assemblyman Hansen's request for a yearly average of fines collected, Paul Shubert, Health Facilities Inspection Manager, HCQC, DPBH, DHHS, testified that fines for adult day care facilities ranged from \$200 to \$1,000, and DPBH collected on average \$500 per year.

Assemblyman Stewart commented on the significant licensing fee differences between facilities with up to 50 clients and those with more than 50 clients. He asked whether the increases could be changed to gradual rates.

Mr. Devine explained the rates were based upon a standard hourly rate and the average number of hours it takes to license and survey a facility, noting it takes 11 hours for a facility with up to 50 clients and 18 hours for a facility with more than 50 clients.

SENATOR KIECKHEFER MOVED APPROVAL OF R022-14.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED.

B. Approval of Transfer of Appropriated Sums Among the Legislative Commission, the Various Divisions of the Legislative Counsel Bureau, and Interim Legislative Operations—Rick Combs, Director, LCB.

Mr. Combs explained that when closing out the fiscal year (FY), he asks the Commission for authority to transfer sums among the budgets, if necessary because of a shortfall, for any purpose in an internally operated account.

SENATOR KIECKHEFER MOVED APPROVAL OF TRANSFER OF APPROPRIATED SUMS AMONG THE LEGISLATIVE COMMISSION, THE VARIOUS DIVISIONS OF THE LEGISLATIVE COUNSEL BUREAU, AND INTERIM LEGISLATIVE OPERATIONS.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED.

- C. Amendments to Rules and Policies of the Legislative Counsel Bureau, Travel Policy for Legislators Attending Meetings of National Organizations—Rick Combs, Director, LCB ([Exhibit M](#)).

Mr. Combs reiterated that legislative reimbursement for out-of-state travel had been suspended during the last three legislative sessions, and the resolution extends the policy throughout the 2015–2017 Biennium, which is consistent with the manner in which the budget for the Legislative Commission was closed.

VICE CHAIR SETTELMAYER MOVED APPROVAL OF THE AMENDMENTS TO RULES AND POLICIES OF THE LEGISLATIVE COUNSEL BUREAU, TRAVEL POLICY FOR LEGISLATORS ATTENDING MEETINGS OF NATIONAL ORGANIZATIONS.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED.

- D. Amendments to Rules and Policies of the Legislative Counsel Bureau Concerning Employees of the Legislative Counsel Bureau—Rick Combs, Director, LCB ([Exhibit N](#)).

Mr. Combs explained the resolution repeals Rule No. 25.2 of the Rules and Policies of the LCB. He said longevity pay had been suspended during the economic recession, and during the 2015 Session, the Governor recommended and the Legislature approved eliminating the longevity program. He pointed out the Legislature approved Cost of Living Adjustments (COLA) for State employees. Mr. Combs continued that the resolution would repeal the longevity payment program for LCB employees in the same manner it was terminated for Executive Branch employees. As a reminder, he noted that LCB staff would receive the 1 and 2 percent COLAs in the upcoming biennium.

SENATOR KIECKHEFER MOVED APPROVAL OF THE AMENDMENTS TO RULES AND POLICES OF THE LEGISLATIVE COUNSEL BUREAU CONCERNING EMPLOYEES OF THE LEGISLATIVE COUNSEL BUREAU.

ASSEMBLYWOMAN KIRKPATRICK SECONDED

THE MOTION CARRIED.

LEGISLATIVE AUDITOR: Summary of Audit Reports Presented to the Audit Subcommittee—Paul V. Townsend, Legislative Auditor, Audit Division, LCB

Paul V. Townsend, Legislative Auditor, Audit Division, LCB, referred to his letter ([Exhibit O](#)) to the Commission recommending the members accept an audit report and presented a summary of the report ([Exhibit P](#)).

Division of Health Care Financing and Policy (DHCFP), DHHS

Mr. Townsend explained that although DHCFP had strengthened its oversight of Medicaid payments since its last audit, there still were areas where more improvements were needed. He referred to highlights of the summary and recommended the Commission accept the report.

Referring to a dental provider who was estimated to have been overpaid by \$285,000 during FY 2012-2013, as an example of Medicaid fraud in the summary report ([Exhibit P](#)), Assemblyman Stewart asked whether the dentist had been removed from the list of providers eligible for Medicaid payments.

Laurie Squartsoff, Administrator, DHCFP, DHHS, responded that the provider identified in the audit has moved outside of Nevada. She stated the provider has been removed from DHCFP's list of providers, no payments have been made since June 2014, and the Medicaid Integrity Contractor (Contractor), Centers for Medicare and Medicaid Services, United States Department of Health and Human Services (USDHHS), notified the state where the provider now resides. Regarding prosecution of the provider, Ms. Squartsoff stated the Contractor intends to request an Office of Inspector General (OIG), USDHHS, exclusion based on the credible allegation of fraud findings. The case has been forwarded by the Contractor to the OIG. She said she would provide follow-up information at the next Legislative Commission meeting.

Assemblyman Hansen asked what DHCFP's procedures were to recoup payments, mitigate recurrence of fraud and overpayments, and what prosecutorial steps are taken against providers who submit fraudulent claims.

Ms. Squartsoff explained the agency would have a response to the audit by July 29, 2015. In the meantime, a Surveillance and Utilization Review (SUR) team

looked at claims history and payment utilization that identifies providers with suspicious or unusual billing habits. She said the SUR team initially approaches providers with educational intervention and, depending on the circumstances, identifies and recovers overpayments according to methods provided by the State.

Responding to Assemblyman Stewart's question of when the last time the Real Estate Division was audited and how often the audits occurred, Mr. Townsend stated the last audit was released in November 2009, and the next audit would be within the next one and one-half years.

VICE CHAIR SETTELMAYER MOVED APPROVAL TO ACCEPT THE REPORT FROM THE LEGISLATIVE AUDITOR .

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED.

PROGRESS REPORTS AND APPOINTMENTS

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

1. Nevada Silver Haired Legislative Forum (NRS 427A.330)

Mr. Combs referred to the June 22, 2015, memorandum from Mary Shope, Coordinator, Nevada Silver Haired Legislative Forum, Administrative Division, LCB, ([Exhibit O](#)), regarding the appointment of three members to Senate District Nos. 1, 5, and 21.

SENATOR KIECKHEFER MOVED APPROVAL OF THE APPOINTMENT OF WINSTON J. LAWSON, SENATE DISTRICT NO. 1; VICKI L. CAMERON, SENATE DISTRICT NO. 5; AND FRAN ALMARAZ, SENATE DISTRICT NO. 21 TO THE NEVADA SILVER HAIRED LEGISLATIVE FORUM.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED.

2. Board of Directors for Corporation for Public Benefit for Nevada Youth Legislature (NRS 385.581) ([Exhibit R](#))

Mr. Combs indicated that the Commission should consider the biennial appointment of the seven members of the Board of Directors for Corporation for Public Benefit for Nevada Youth Legislature pursuant to the requirements of NRS 385.581 ([Exhibit R](#)).

Mr. Combs stated that five of the current seven members have expressed an interest in reappointment and Senator Becky Harris and Assemblywoman Amber Joiner have expressed an interest in serving on the Board.

VICE CHAIR SETTELMAYER MOVED APPROVAL OF THE APPOINTMENT OF SENATOR BECKY HARRIS AND ASSEMBLYWOMAN AMBER JOINER AND THE REAPPOINTMENT OF ASSEMBLYMAN LYNN D. STEWART, FORMER SENATOR VALERIE WIENER, ALEX BYBEE, VICTORIA CARREON, AND ZHAN OKUDA-LIM TO THE BOARD OF DIRECTORS FOR CORPORATION FOR PUBLIC BENEFIT FOR NEVADA YOUTH LEGISLATURE.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED.

3. National Conference of Commissioners on Uniform State Laws (NRS 219.020)—Emergency Appointment

Mr. Combs explained the statute regarding the National Conference of Commissioners on Uniform State Laws (Conference) requires that at any time there should be four legislators, who are attorneys, appointed to serve Commissioners from Nevada. At this time, there is one vacancy to be filled.

SENATOR KIECKHEFER MOVED APPROVAL OF THE APPOINTMENT OF ASSEMBLYMAN ERVEN T. NELSON TO THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION CARRIED.

B. Appointment of Chair and Vice Chair for the Commission on Special License Plates (NRS 482.367004)

Mr. Combs explained the reason for appointing a chair and vice chair to the Commission on Special License Plates (CSLP) at this time, rather than waiting until the next Legislative Commission's meeting when members are typically appointed, was to provide LCB staff with legislative contacts when communicating with the Department of Motor Vehicles (DMV). He indicated that the appointment of Senator Scott T. Hammond as vice chair and Assemblyman Jim Wheeler as

chair would be consistent with the past practice of appointing the chairs of the Senate and Assembly Committees on Transportation to those roles ([Exhibit S](#)).

VICE CHAIR SETTELMAYER MOVED APPROVAL OF THE APPOINTMENT OF ASSEMBLYMAN JIM WHEELER AS CHAIR AND SENATOR SCOTT T. HAMMOND AS VICE CHAIR OF THE COMMISSION ON SPECIAL LICENSE PLATES.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

Prior to a vote, Assemblywoman Kirkpatrick asked whether appointing a chair and vice chair at this time sets a precedent for future appointments and expressed concern that it could get confusing.

Mr. Combs opined that appointing a chair and vice chair at any time after session and prior to the interim should not create a problem and reiterated the appointments of chair and vice chair presently were to provide LCB staff with legislative leadership when communicating with the DMV.

Vice Chair Settelmeyer stated Chapter 482 of NRS, "Motor Vehicles and Trailers: Licensing, Registration, Sales and Leases," required the appointments of the chair and vice chair be made by July 1.

Senator Manendo pointed out that the CSLP was the only committee where members were not compensated.

Senator Settelmeyer raised the point that NRS states members of the CSLP were to serve without salary or compensation.

Senator Manendo acknowledged his familiarity with the law and mentioned the idea of compensation had been brought before the Senate Committee on Transportation during the 2015 Session. He expressed the law was unfair to members who were appointed to serve the public.

Mr. Combs said he was unsure whether bills had been passed to change Chapter 482 of NRS and he would follow up with Senator Manendo.

THE PREVIOUS MOTION BY VICE CHAIR SETTELMAYER AND SECONDED BY ASSEMBLYWOMAN KIRKPATRICK PASSED.

C. Approval of Appointment of the Research Director (NRS 218F.100)—Rick Combs, Director, LCB.

Mr. Combs acknowledged a provision in the law authorizing him as the LCB Director to appoint the chiefs of the various divisions of the LCB with approval

of the Commission. He stated he was pleased to announce that he had selected Susan E. Scholley, Chief Principal Research Analyst, Research Division, LCB, as his recommendation for the next Research Director. Mr. Combs outlined Ms. Scholley's professional experience and qualifications and recommended the approval of her appointment.

Assemblyman Stewart echoed Mr. Combs' accolades of Ms. Scholley.

ASSEMBLYMAN STEWART MOVED APPROVAL OF THE APPOINTMENT OF SUSAN E. SCHOLLEY AS RESEARCH DIRECTOR.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED.

INFORMATIONAL ITEMS

- A. Summary of Quarterly Reports on Disciplinary Action from the Licensing Boards and State Agencies
- B. Miscellaneous Reports or Correspondence from State Agencies and Others:
 - 1. Tesla Gigafactory Quarterly Activity Report, 4th Quarter 2014, Pursuant to NRS 360.975(2)
 - 2. Tesla Gigafactory Quarterly Activity Report, 1st Quarter 2015, Pursuant to NRS 360.975(2)

Steve D. Hill, Executive Director, Nevada Governor's Office of Economic Development (GOED), provided a summary of the Tesla Gigafactory (Project) Quarterly Activity Report, 1st Quarter 2015 ([Exhibit T](#)), as required by subsection 2 of NRS 360.975. He stated Tesla had contracted Grant Thornton LLP as its GOED-approved auditor. Mr. Hill explained that this report was unaudited; however, the next project-to-date report would be audited and include extensive ancillary information. He reported there are 744 construction workers on the site, 76 percent of whom are Nevada residents. He continued that permanent employee hiring has been minimal and through the end of the first quarter, Tesla hired 12 applicants, most of whom were not from Nevada and had since become permanent residents. Mr. Hill pointed out that Tesla and Panasonic Energy Corporation of North America (Panasonic) released a number of ads for permanent employment. In the first quarter of 2015, approximately \$80 million had been invested, which brought the total investment in the Project from October 17, 2014, through the end of the first quarter to \$143.2 million, not including an investment prior to October 17, 2014.

Mr. Hill indicated that GOED had executed contracts with Tesla and Storey County and thus contracting with the respective entities was complete. He informed the

Commission the project was progressing at an unexpected accelerated rate that exceeded what had been publicly expressed in September. Mr. Hill recognized the high volume of media coverage the project was receiving. Referring to the photograph of the building at the construction site ([Exhibit U](#)), the building was at 14 percent completion of Phase I; upon completion, it would total approximately 900,000 square feet of "total footprint." It was predominantly two stories with 1.8 million square feet of manufacturing space, and it would be nearly seven times larger once fully constructed. He shared that Elon Musk, Chief Executive Officer, Tesla, had commented that investors were considering expansion of the 5.8 million square foot building to approximately 10 million square feet making it the largest building in the world.

Mr. Hill remarked that construction would subside after the building was constructed and machinery was moved into the building to begin manufacturing the batteries. He explained there was a 4-to-1 ratio of the cost of the machinery to the cost of the building. The original proposal was approximately \$5 billion for the entire facility, of which approximately \$1 billion was for construction. Once machinery was installed, the investment would increase significantly and quickly.

Tesla Motors, Inc. conjectured battery production would begin by the second quarter of 2016. He said the car models would dictate ramping up the level of activity for the factory. With the anticipation of certain model vehicles being released, factory activity would correspondingly increase through 2020.

Continuing, Mr. Hill said Tesla projected selling approximately 55,000 vehicles in 2015. In addition, Tesla announced it was open for business for the stationary energy storage and the response had been surprising and relatively enormous. The demand has driven the conversation to potentially increase the size of the factory and to continue moving forward.

Assemblywoman Kirkpatrick expressed appreciation of transparency by making the reports available to the public and encouraged the same for future practice. She asked when the first set of tax credits would occur.

Mr. Hill answered that the process for the first transferable tax credits would occur after the June audit and would probably be in the \$175 to \$200 million range. Because there were very few permanent employees, there was virtually no significance in comparison to the total. He added that if Tesla opted for an additional full audit after December of each year, GOED would be willing to review the audit every six months. Mr. Hill concurred with Assemblywoman Kirkpatrick's assessment that every six to nine months, GOED could anticipate potentially issuing a tax credit to Tesla, which would coincide with the fiscal calendar.

In response to Assemblywoman Bustamante Adams' request for more information regarding Tesla's workforce expectations at the Governor's Conference on Business, Mr. Hill articulated that conversations continued with Tesla at the community college and university level, and the company had previously worked with K-12 education on the topic. Mr. Hill stated Tesla and other companies established the skills and education that would be required in various fields in a continuous learning cycle, beginning in middle school through a doctoral degree. He conveyed Tesla's excitement about the strategy and was working with GOED for further definition.

Mr. Hill conveyed that Tesla and Panasonic were working on specific job descriptions, skill requirements, and the number of employees needed. He stressed that Tesla and Panasonic were exceedingly impressed with the outreach from Nevada and they were optimistic about Nevada being able to supply a significant portion of their workforce directly through the education system. Mr. Hill noted employment would soon increase, and over a four- to five-year period, GOED anticipated adding 6,000 employees, underscoring the importance of Nevada's progress in that area.

Responding to Senator Ford's question whether Tesla had given GOED an estimate of its investment through June of 2016 and its anticipated investment through December, Mr. Hill said he believed the ratios were relatively predictive. He conveyed that GOED asked Tesla during the 2015 Session whether it expected to earn the \$90 million budgeted for the transferable tax credits within that two-year period. He stated Tesla affirmed it would earn the set of transferable tax credits that would equate to approximately \$2 billion of investment and about 1,200 full-time employees.

Assemblyman Stewart asked Mr. Hill whether work had resumed that involved a crane operator-owner from southern Nevada who worked on the project for several weeks and had to return to southern Nevada after work was halted in that part of the project. Additionally, he asked whether GOED had an estimated number of southern Nevada construction companies involved in the project.

Addressing the comment regarding the crane operator-owner, Mr. Hill stated construction schedules fluctuate, and different trades are required as sections of the project are completed, adding everything was on schedule. He stated his awareness of the situation referred to by Assemblyman Stewart and that the owner had worked the appropriate time needed on the site; he assured the Commission the company was compensated for its mobile expenses and work provided. Mr. Hill reiterated the building construction was relatively complete, and different trades would be brought in to work once machinery arrived. He commented GOED was a facilitator in introducing Nevada companies to Tesla; and beyond that, it was Tesla's responsibility to work with outside companies, when necessary, noting there were several southern Nevada companies involved in the project.

3. 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:
 - a. City of Henderson
 - b. City of North Las Vegas
 - c. Las Vegas Metropolitan Police Department
4. Department of Health and Human Services and Department of Business and Industry, Report Concerning the Annual Evaluation of Programs of Energy Assistance, Pursuant to NRS 702.280(2)(c)

PUBLIC COMMENT

Chair Roberson called for public comment.

Mona Lisa Samuelson, resident of Las Vegas, Nevada, unpaid community advocate and medical marijuana patient, reminded the Commission that the medical marijuana patient community (Community) was not a criminal element; rather, its members were the sick and dying and in need of the Commission's help. Ms. Samuelson's concern was that although most medical marijuana patients were law-abiding citizens, they were in peril due to current laws. She suggested the Community was being ignored and discredited, citing a recent occurrence where members could not compel Legislators to acknowledge the Community's final meeting minutes for legislation. She respectfully asked the Commission for suggestions of what the Community could do to have its concerns addressed and to gain support.

Chair Roberson asked Ms. Samuelson what specific type of support the Community was seeking. He stated legislative measures were passed during the 2015 Session that addressed various issues related to medical marijuana.

Ms. Samuelson responded the Community worked on several bills, but only Senate Bill 447 (Chapter 506, *Statutes of Nevada 2015*), which was supported by law enforcement, was enacted. She recognized the law was very beneficial to the Community and established legal limits for the manufacturing and possession of medical marijuana extract by medical marijuana patients, which helped them avoid being unintentionally charged with a felony by possessing more than the legal limit. However, Ms. Samuelson pointed out there still were legal limits for possession of concentrated cannabis by patients, which she thought should be revised since it is often used for cooking. The Community's concern is what happens if members are searched by law enforcement, although they may be in compliance with legal limits. At minimum, they are at risk of the concentrate being seized and destroyed, having to obtain legal counsel, and paying substantially for hazardous materials cleanup.

She reiterated a committee representing medical marijuana patients brought forth several concerns during the 2015 Session, yet, they were dismissed and ignored.

Cindy Brown, resident of Las Vegas, Nevada, unpaid community advocate and medical marijuana patient, stressed that one of the most important issues the Community faces is driving with blood levels over the legal limit for medical marijuana. She stated she did not smoke marijuana, did not like being intoxicated by it, and only took medication to sleep. However, morning test results (725 nanograms) revealed she was over the legal limit to operate an automobile, and if detained by law enforcement, she could be arrested. Further, if she were in an accident that was clearly the other driver's fault, she would be held responsible due to an elevated nanogram count. Ms. Brown implied the 725 nanogram count was an unscientific and arbitrary level that was determined without consulting the medical marijuana patient community, and she questioned that methodology. Ms. Brown expressed the Community's frustration with not being heard, and their efforts were not being acknowledged. Adding, she thought legislators did not want to address cannabis, and legislative committee meeting notices were sent too late to prepare for and attend the meetings. She acknowledged the passage of SB 276 (Chapter 495, *Statutes of Nevada 2015*) as beneficial.

Chair Roberson shared with Ms. Brown that during the 2013-2014 Interim, the Advisory Commission on the Administration of Justice's Subcommittee met regarding the use of medical marijuana. He said there would be new membership and a new chair for that Commission, and she could anticipate different levels of action. Chair Roberson encouraged Ms. Brown to utilize that forum to express the Community's concerns and to propose legislation for the next session.

Chair Roberson asked for additional public comment; however, no testimony was presented.

Chair Roberson stated he anticipated the next Legislative Commission meeting to be held in August when appointments to interim committees and to the Legislative Commission's Subcommittee to Review Regulations would be made. He suggested members consider what committee assignments they would seek during the interim.

There being no further business to come before the Commission, Chair Roberson adjourned the meeting at 4:32 p.m.

Respectfully submitted,

Debbie Gleason, Secretary for Minutes
Legislative Commission

APPROVED BY:

Senator Michael Roberson, Chair
Legislative Commission

LIST OF EXHIBITS

[Exhibit A](#) is the "Meeting Notice and Agenda," dated June 25, 2015, provided by Sylvia A. Wiese, Executive Assistant, Administrative Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is the attendance sign-in sheets dated June 25, 2015, from Carson City, Nevada, and Las Vegas, Nevada.

[Exhibit C](#) is the written testimony of Mike Kosor, resident of Las Vegas, Nevada, and Advisor, National Timeshare Owners Association, Las Vegas, Nevada, regarding the failure of the Real Estate Division, Department of Business and Industry, to comply with *Nevada Revised Statutes* (NRS) 119A.652, dated June 25, 2015.

[Exhibit D](#) is a list of State agency regulations to be reviewed by the Legislative Commission, dated June 25, 2015, furnished by the Legal Division, LCB.

[Exhibit E](#) is the Adopted Regulation of the Commission for Common-Interest Communities and Condominium Hotels, LCB File No. R049-13, effective June 26, 2015, furnished by the Legal Division, LCB.

[Exhibit F](#) is the Adopted Regulation of the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, LCB File No. R085-13, effective June 26, 2015, furnished by the Legal Division, LCB.

[Exhibit G](#) is the Adopted Regulation of the State Board of Fire Services, LCB File No. R124-13, effective June 26, 2015, furnished by the Legal Division, LCB.

[Exhibit H](#) is an e-mailed letter dated March 16, 2015, to Denesa Johnson, Administrative Assistant, Nevada State Fire Marshal Division, from Tad Halcomb, Mining Division Manager, American Fire Equipment Sales and Service Corporation, Reno, Nevada, regarding revision of the State Fire Marshal Division's regulations to comply with the requirements of subsection 4 of NRS 477.240 (Assembly Bill 424 [Chapter 460, *Statutes of Nevada 2013*]) and subsection 6 of NRS 477.080 (Senate Bill 439 [Chapter 438, *Statutes of Nevada 2011*]).

[Exhibit I](#) is the Adopted Regulation of the Nevada Tax Commission, LCB File No. R089-14, effective June 26, 2015, furnished by the Legal Division, LCB.

[Exhibit J](#) is the Adopted Regulation of the Board of Wildlife Commissioners, LCB File No. R113-14, effective June 26, 2015, furnished by the Legal Division, LCB.

[Exhibit K](#) is the Adopted Regulation of the Public Utilities Commission of Nevada, LCB File No. R005-15, effective June 26, 2015, furnished by the Legal Division, LCB.

[Exhibit L](#) is the Adopted Regulation of the State Board of Health, File No. R022-14, effective June 26, 2015, furnished by the Legal Division, LCB.

[Exhibit M](#) is a document titled "Amendments to Rules and Policies of the Legislative Counsel Bureau, Travel Policy for Legislators Attending Meetings of National Organizations," effective June 25, 2015, furnished by Rick Combs, Director, LCB.

[Exhibit N](#) is a document titled "Amendments to Rules and Policies of the Legislative Counsel Bureau Concerning Employees of the Legislative Counsel Bureau," effective June 25, 2015, furnished by Rick Combs, Director, LCB.

[Exhibit O](#) is a letter dated June 5, 2015, to members of the Legislative Commission, from by Paul V. Townsend, Legislative Auditor, Audit Division, LCB, regarding an audit report of the Division of Health Care Financing and Policy, Department of Health and Human Services,

[Exhibit P](#) is a document containing the highlights of the Legislative Auditor report on the Division of Health Care Financing and Policy, issued on May 4, 2015, Report No. LA16-02, furnished by Paul V. Townsend, Legislative Auditor, Audit Division, LCB.

[Exhibit Q](#) is a memorandum dated June 22, 2015, to Rick Combs, Director, LCB, from Mary Shope, Coordinator, Nevada Silver Haired Legislative Forum (NSHLF), Administrative Division, LCB, regarding appointments to the NSHLF.

[Exhibit R](#) is a document titled "Appointment to the Board of Directors for Corporation for Public Benefit for Nevada Youth Legislature (NRS 385.581)," and applications furnished by Rick Combs, Director, LCB.

[Exhibit S](#) is a document titled "Appointment of Chair and Vice Chair for the Commission on Special License Plates (NRS 482.367004)," furnished by Rick Combs, Director, LCB.

[Exhibit T](#) is the *Tesla Gigafactory Quarterly Activity Report (Q1 2015)*, furnished by Brad Mamer, Director of Business Development, Nevada Governor's Office of Economic Development.

[Exhibit U](#) is a photograph of the Tesla Motors, Inc. Gigafactory construction site, furnished by Brad Mamer, Director of Business Development, Nevada Governor's Office of Economic Development.

<p>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.</p>
