MINUTES OF THE 2019-2020 INTERIM
LEGISLATIVE COMMISSION

April 14, 2021

The meeting of the Legislative Commission was called to order by Chair Cannizzaro at 11:07 a.m. Pursuant to Sections 2 to 9, inclusive, of chapter 2, Statutes of Nevada 2020, 32nd Special Session, at pages 9-11, the meeting took place via webconference and did not have a physical location.

All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Nicole Cannizzaro, Senatorial District No. 6; Chair
Senator Julia Ratti, Senatorial District No. 13; Vice Chair
Senator Moises Denis, Senatorial District No. 2
Senator Scott Hammond, Senatorial District No. 18
Senator Joseph Hardy, Senatorial District No. 12
Senator James Settelmeyer, Senatorial District No. 17
Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27
Assemblywoman Maggie Carlton, Assembly District No. 14
Assemblywoman Lisa Krasner, Assembly District No. 26
Assemblywoman Rochelle Nguyen, Assembly District No. 10 (Alternate for Assemblyman Jason Frierson)
Assemblyman Jim Wheeler, Assembly District No. 39
Assemblyman Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

Brenda Erdoes, Director, Legislative Counsel Bureau
Dan Crossman, Legislative Auditor, Audit Division, Legislative Counsel Bureau
Roger Wilkerson, Chief, Administrative Division, Legislative Counsel Bureau
Broadcast and Production Services Staff, Administrative Division, Legislative Counsel Bureau
Angela Hartzler, Secretary, Legal Division, Legislative Counsel Bureau
Jordan Haas, Secretary, Legal Division, Legislative Counsel Bureau

OTHERS PRESENT:

Chris Daly, Nevada State Education Association
Jan Giles, President, Education Support Employees Association
Lisa Sherych, Administrator, Division of Public and Behavioral Health of the Department of Health and Human Services

Elisa Cafferata, Director, Department of Employment, Training and Rehabilitation
Jeff Frischmann, Department of Employment, Training and Rehabilitation
Troy Jordan, Senior Legal Counsel, Employment Security Division, Department of Employment, Training and Rehabilitation
Brad Keating, Clark County School District
Ross Armstrong, Administrator, Division of Child and Family Services, Department of Health and Human Services
Molly Blanchette, Division of Child and Family Services, Department of Health and Human Services
David Newton, Commissioner, Nevada Transportation Authority

Senator Nicole Cannizzaro (Senatorial District No. 6; Chair):

Good morning, everyone, and welcome to this virtual meeting of the Legislative Commission. Just a couple of housekeeping items before we get started. As a reminder for anyone who is calling in or who will be joining us to testify to make sure to state and spell your name for the record before you testify. Again, if anyone would like to receive a copy of the Committee's agendas, items, minutes or reports, you may be added to our mailing list by following the links on the website of the Nevada Legislature or by providing information to our staff so they can get that information to you. Contact information for staff is also listed on the website. In addition, we of course accept written comments, which may be emailed or mailed before, during or after the meeting. The information where to send those written comments is also on the website and is listed on today's agenda for this meeting.

We are going to move to item II on our agenda, which is our public comment period. If you have called in and you would like to speak during this part of the meeting, you will be notified by our Broadcast and Production Services (BPS) when you've been connected and it is your turn to speak. Please remember that comments will be limited to not more than two minutes per person, so if you're going over that two minutes I'm going to jump in and ask you to go ahead and wrap it up. You are of course always welcome to submit additional comments in writing and they will be added to the record for this meeting. If you prefer to wait and speak until later, there is a second period of public comment at the end of the meeting. At this point in time, I am going to turn this over to our staff at Broadcast and Production Services to queue up anyone calling in to speak. If you are waiting to call in for public comment, please pay attention and a member of the BPS staff will inform you when it is your turn.

Chris Daly (Nevada State Education Association):

Chris Daly, Nevada State Education Association (NSEA), the voice of Nevada educators for over 120 years (Agenda Item II A). NSEA represents educators across the State of Nevada, including most education support professionals, or ESPs, who provide vital services to the children in Nevada's public education system. ESPs perform a wide range of essential work, including nutrition services, instructional assistance, school secretaries,

maintenance and operations, and student transportation. On March 26, Governor Sisolak approved the Nevada Department of Employment, Training and Rehabilitation's (DETR) proposed emergency regulations allowing for unemployment benefits to be available to 9-, 10- and 11-month education support professionals this summer. With the COVID-19 pandemic, job opportunities last summer were severely limited and many ESPs struggled to make ends meet. This summer may also have limited second job opportunities due to the COVID-19 crisis, and that could have meant another summer with no income for thousands of Nevada educators. This emergency regulation will be a tremendous help, and NSEA thanks Governor Sisolak, DETR and everyone who was involved in its creation and implementation. Thank you very much.

Jan Giles (President, Education Support Employees Association):

I'd just like to give you a few ideas of why this bill is so important—executive order—is so important for ESPs, whose service worker salary is $11.59 an hour. Specialized program teacher assistants who will help these students in the classroom, even diapering 22-year-olds that are special needs, they make $11.59. Campus security monitors that help keep the hallways secure for students to pass earn $13.53 an hour. These employees only work 9 months out of the year, and this salary doesn't give them the opportunity to save, plus with the last summer where they weren't able to find employment, they're still playing catchup on all of their bills. This year, to be able to qualify for unemployment is so important so that we don't have our employees either on the streets, homeless, evicted. It's very important that it is—and we urge you to support this bill. Thank you.

Broadcast and Production Services Staff (Administrative Division, Legislative Counsel Bureau):

With that, Chair Cannizzaro, there are no more callers to provide public comment at this time.

Chair Cannizzaro:

Thank you. We will move on then to item III on our agenda, which is approval of the minutes held on December 28, 2020 (Agenda Item III A-1) and January 19, 2021 (Agenda Item III A-2). I would note that all members of the Commission have received a copy of those minutes, and so I will open it up to members of the Commission if there is any discussion on the item. I'm not seeing any.

SENATOR HARDY MOVED TO APPROVE THE MINUTES OF THE MEETINGS HELD ON DECEMBER 28, 2020 AND JANUARY 19, 2020.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Cannizzaro:

That brings us to item IV on our agenda, the Legislative Commission policy. We'll begin with sub-item IV-A, which is a request by the Division of Public and Behavioral Health of the Department of Health and Human Services to continue a regulation not adopted within 2 years after submission to the Legislative Counsel (Agenda Item IV-A). I believe that we should be joined today by Lisa Sherych, the Administrator of the Division of Public and Behavioral Health, who will join us virtually to present the request to the Legislative Commission to consider R181-18, which was adopted more than 2 years after it was submitted.

Lisa Sherych (Administrator, Division of Public and Behavioral Health of the Department of Health and Human Services):

I'm here today to request to continue regulation R181-18 as it was not adopted within the 2-year requirement, which should have been August 6, 2020. Rather, it was adopted on January 6, 2021, 5 months after the required timeframe. This regulation was filed and received in its final form from the Legislative Counsel Bureau on August 6, 2018. Unfortunately, no further action was taken during the 2019 Legislature. The process for promulgation of this regulation was reestablished in February 2020. However, additional delays occurred due to the COVID-19 pandemic, developing infrastructure on the clinical services side of the Division of Public and Behavioral Health to promulgate regulations as well time spent communicating with and identifying the appropriate stakeholders who are involved in the certification of criminal competency examiners. The public workshop was properly noticed and held November 18, 2020 with no objections expressed to the regulation. A subsequent notice for the public hearing for the Division Administrator to approve the regulation was properly noticed December 3, 2020 and held January 6, 2021 with similar unanimous support by attendees.

I would like to thank you for your consideration in this extension requested, and either Dr. Neighbors, who is our Statewide Forensic Director and should be on a Zoom link, or myself will be happy to answer any questions the Commission may have.

Chair Cannizzaro:

Thank you, Ms. Sherych. We'll move to members of the Commission who may have questions on this item. I am not seeing any. Seeing no questions from the Commission, thank you, Ms. Sherych. I will now turn it over to the members for a motion to approve or deny the regulation.

SENATOR DENIS MOVED TO APPROVE REGULATION R181-18.

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Cannizzaro:

Thank you again, Ms. Sherych, for being here with us. That will bring us to item IV-B on our agenda, and I know we have some questions from members of the Commission on this one. This is a review of an emergency regulation submitted by the Department of Employment, Training and Rehabilitation pursuant to section 3 of Senate Bill 3 of the 32nd Special Session of the Nevada Legislature (Agenda Item IV-B). This emergency regulation before us today I believe is going to be first discussed by Elisa Cafferata, who we have from the Department of Employment, Training and Rehabilitation as their Director, who will be joining us virtually to submit the request, and so we'll turn it over to you, Ms. Cafferata, to go ahead and walk us through the request and the regulation, and then we'll turn it over to members of the Commission for any questions.

Elisa Cafferata (Director, Department of Employment, Training and Rehabilitation):

Actually, I am going to delegate to Jeff Frischmann who is consulting with us as a subject matter expert to walk you through the regulation, and then we'll all be happy to answer any questions.

Jeff Frischmann (Department of Employment, Training and Rehabilitation):

I am with the Department of Employment, Training and Rehabilitation, here on behalf of the Employment Security Division. I'm here to introduce emergency regulation E005-21. The proposed regulation seeks a temporary change in Nevada Administrative Code (NAC) Chapter 612. It defines the term educational support professional and modifies provisions consistent with federal law to allow education support professionals to receive unemployment compensation between academic terms. This change would be temporary and apply only for the summer break in 2021. The emergency regulation is a product of negotiations with the Nevada State Education Association (NSEA) regarding SB (Senate Bill) 75, which has currently passed out of the Senate Committee on Commerce and Labor and is awaiting a floor vote. During the summer of 2020, many educational support staff who would normally take jobs during the summer between academic terms to make ends meet were unable to find work but were also barred by statute from obtaining unemployment benefits because of prohibitions in NRS (Nevada Revised Statutes) 612.432 and NRS 612.434. The regulation simply removes the prohibition of educational

support employees from receiving benefits during the summer of 2021 while between academic terms if they otherwise qualify for benefits. All other requirements to obtain unemployment benefits remain in place for these possible claims. These families may still have lingering effects in finding work this summer because of the COVID-19 pandemic and have in many cases drained their savings and investments as a result of the economic downturn last summer. This regulation was drafted in conjunction with the NSEA and the Governor's Office and is believed to be the appropriate solution if educational support staff are unable to find work this summer. The Committee should note that the US Department of Labor allows for such a prohibition to be lifted for educational support staff but not for professional instructional staff such as teachers, substitute teachers or administrators. The Committee should further note that all school districts may be affected by increased claims and are reimbursable for pay-as-you-go employers. Based on the Coronavirus Response and Relief Supplemental Appropriations Act of 2021, federal funds are available through September 2021 to provide up to 75 percent relief of all charges to any employer affected by claims resulting from this regulation. We would be happy to answer any questions.

Chair Cannizzaro:

Thank you so much. I will begin with going to Senator Settelmeyer, who had asked for some additional discussion on this, so Senator Settelmeyer, when you are ready you can go ahead and proceed.

Senator James Settelmeyer (Senatorial District No. 17):

Thank you, Madam Chair. I appreciate that. This—indicated stems from Senate Bill 75 where this amendment was attached. The body as a whole for some reason chose not to proceed with that amendment, and so I'm concerned about that, but I need to get some things on the record because back when SB 75—we were discussing that this potentially would take like Douglas County $1 million out of the school district, $1.6 million for Lyon County, Clark County potentially $30 million out of the school district budget. Now, I appreciate the fact that 75 percent of that probably would be covered by federal funds, but then the school district still has to come up with that 25 percent, which means we're potentially taking money out of the classroom and out of the ability for teachers to get reimbursement or funds from that pot of funds, so that troubles me, but the thing that I really need to get on the record and figure out is, you were just indicating that this won't apply to teachers because they're under the other group, doesn't apply to subs and it doesn't apply to administrative professionals, but does this then still cover the temporary—service people? What about the temporary substitutes, the temporary clerical workers, things of that nature? If they're deemed temporary rather than permanent, would they be able to access these funds? So, if you had a temporary administrative professional, are they then able to get this?

Mr. Frischmann:

I'm going to defer to Troy Jordan, who's our Senior Legal Counsel for the Employment Security Division.

Troy Jordan (Senior Legal Counsel, Employment Security Division, Department of Employment, Training and Rehabilitation):

We believe it would cover them, because the only prohibition from the Department of Labor if they're otherwise qualified is for what they've defined as professional staff, which is instructional staff such as teachers, administrators, such as principals, superintendents and the like, so we don't think there would be any prohibition of them under this regulation applying if the need arose.

Senator Settelmeyer:

Thank you, I appreciate that. That actually makes me far more concerned, because the estimates that were given to us within SB 75 on those fiscal notes, $30 million, were based on a different set of criteria. This potentially then could actually double if not triple that number, which would significantly impact the school districts, because again, they're self-funded, so that 25 percent has to come out of their budget. Anyway, thank you. Thank you, Madam Chair. I'll let somebody else ask.

Assemblywoman Maggie Carlton (Assembly District No. 14):

Thank you, Madam Chair, very much. I was trying to wrap my head around the 75 percent also, so I'm trying—I think I'd like Mr. Frischmann—and thank you, Mr. Frischmann, for coming back and assisting DETR. We're very glad that you're there. It was my understanding—I thought that this was just going to—that they would just draw down the federal portion and that the employer would be absolved of their portion. So, is that not true?

Mr. Frischmann:

That's not true. You are correct. Basically, the amount of benefits that would be received, the school districts would be relieved of 75 percent of that, and as we said, the other 25 percent the school districts would be responsible for paying.

Assemblywoman Carlton:

What would the normal ratio be, if we did this normally?

Mr. Frischmann:

—amount of benefits that would be paid, the school district would be responsible for 100 percent reimbursement of the benefits that were paid out, under normal circumstances.

Assemblywoman Carlton:

Thank you. So, as to the federal dollars will pick up 75 percent, so if we had done this in another way, the school districts could have been responsible for 100 percent, but by doing it this way they're only responsible for 25 percent.

Mr. Frischmann:

That is accurate.

Assemblywoman Carlton:

Okay. Since I'm not aware of any Senate bills since they've not left their house and we're all kind of focused on what's going on in our own house, Madam Chair, I guess my next questions would be more to some of the numbers that I've heard and where they come from and have those numbers actually been vetted. I'm not sure if that's for DETR or if that's for the numbers that Senator Settelmeyer was referring to. I have not seen those numbers so I don't know where they came from, and I'm not sure if they've been thoroughly vetted or if they're just estimates.

Mr. Frischmann:

During the initial discussions, there were some figures that were brought forward from various school districts. I have no idea if they were vetted. I have no idea of their accuracy. These were some of the numbers that were put out during the initial discussions on this.

Ms. Cafferata:

If I might, Madam Chair, I would add a couple of clarifications. The prohibition from the Department of Labor for allowing teachers to collect unemployment has always been in place, so the calculations we were given early never—have not changed in terms of who was covered, so I think those would be the outside maximum potential costs. The other thing that has occurred since this SB 75 was originally heard is that the school districts have been fleshing out their proposals for summer school. I don't know if the school districts are on the line and could testify in terms of who would be covered, but the updates we've gotten from Clark County is they believe they would bring back all of their staff to cover summer school activities, and so they feel there would be very few weeks that education support personnel would qualify and very few people who would qualify. To Assemblywoman Carlton's point, I think a lot of things have changed and you would want a little bit more clarification on what these costs might actually be for the school districts.

Assemblywoman Carlton:

Thank you very much, Madam Chair. If we could get that clarification? We've all been in this building a while, we all know what fiscal notes are like and we always have to dive into those fiscal notes, but having the folks on the ground who are actually going to have to deal with this, especially with the summer school component built in, it would be great to have them be able to share what they think the numbers might look like.

Chair Cannizzaro:

I'm just checking to see if we have anyone here who can answer that at this point, but we will work on that. Additionally, I do believe that Senator Settelmeyer had mentioned some of the numbers that were brought up during the initial hearing on SB 75, which had a bit of a different language component to it than what is in this emergency regulation, and that there had been some discussion of those numbers during that particular hearing. I don't know, Senator Settelmeyer, if you wanted to elaborate on those numbers and where those had come from.

Senator Settelmeyer:

Thank you, Madam Chair. I would suggest—would Mr. Keating be allowed to call in and comment as to some of the fiscal numbers that were brought out, particularly for Clark County? I can't attest to all the counties. I'm looking at the initial data that was given to us in SB 75 which indicated the fiscal note for 12 of the 17 counties was attached to that bill, so that's the data that I am utilizing for this discussion. But continuing on, I'm having counties that are contacting me saying there's a fiscal note. Would it be possible for Mr. Keating to be called up out of the queue if he called in in order to address some of this discussion?

Chair Cannizzaro:

I have no objection to getting a little bit more information. It sounds like the Committee would like that information, so we're trying to make sure we can get those folks in to answer if we can, so the Committee's brief indulgence while we sort through some of that. I know we have a couple of other questions also pending, so we will go to Assemblyman Wheeler and then I have Senator Hardy. So Assemblyman Wheeler, if you want to go ahead with questions and we'll come back to this discussion as we get a bit more information.

Assemblyman Jim Wheeler (Assembly District No. 39):

Thank you, Madam Chair. I appreciate it. I know that during the summer months sometimes the administrative staff also cuts back, and I'm wondering if they are eligible through this administrative staff, or is that like would be normal unemployment, not anything special here?

Mr. Frischmann:

If I understand your question, by your term administrative staff if you're meaning like office staff in the different schools, yes, they would be eligible for this summer only with this regulation.

Assemblyman Wheeler:

Okay, thank you. Were they included in the calculations on the administrative side?

Mr. Frischmann:

If you're meaning the calculations from the school districts, that would be a better question for them. I don't know the answer to that.

Assemblyman Wheeler:

Okay, thank you very much.

Senator Joseph Hardy (Senatorial District No. 12):

Thank you, Madam Chair. Obviously we're interested in summer school having not been able to have our students in schools during the school year by and large, and so the mix between summer school and what a normal contract would be—and there's questions I have about that. When we look at unemployment in a year that's not wrought with the COVID virus pandemic, are teachers on unemployment through the summer or is that a difference between a 9-month contract and a 12-month contract, and therefore is this 12-month contract, is that what we're talking about for the support staff as well as the teachers, or are these teachers and support staff that have been on a 9-month contract and therefore they're doing an unemployment that's unique and different, and how does the 9-month and 12-month contract take place? Then on the same token if I can get my other question in, do we have a commitment from the people who are going to be on unemployment that they will be there in the fall, and if they're taking unemployment do they have something in that contract that requires them to come back in the fall and teach? Those are my questions.

Mr. Jordan:

In normal times, Senator Hardy, none of these people are eligible for unemployment because they're considered what the Department of Labor says is between terms between school years, meaning that none of them would be eligible for unemployment save and except if they got laid off from a second job that they were working full time or had enough wages in to qualify independent of the education wages that they were getting during the normal school year. As far as when you say in normal times outside of the pandemic, none of these people would be on unemployment because they would be

barred on the between-terms provision that says you're not actually unemployed, you're between academic terms. The brain child of the regulation, so to speak, and the amendment originally were proffered by the NSEA to SB 75 was many of these education support staff professionals who the state can in their discretion allow to have unemployment between academic terms suffered financially during the pandemic because they weren't able to find those second jobs, and they also last summer could not receive unemployment because no statute had been changed, no regulation had been proffered. I hope that answers your question. If you have follow-up, I'm happy to answer that.

Senator Hardy:

So were the teachers and support staff put in the position where they're not actually getting unemployment from the school salary but from their other job salary? Is that what you're saying?

Mr. Jordan:

Correct.

Senator Hardy:

And so if they were on unemployment through the school year, normally they wouldn't be on unemployment through the summer because they were all—let me ask it this way. Were they made whole during the school year with salary or was it a percentage of the salary they normally would have made?

Mr. Jordan:

I'm not completely sure what you mean by made whole. Unemployment rarely will make a person fully whole for any wages lost. It is not a wage replacement, it is a set level of benefits someone could obtain. With that said, if they were working during the pandemic up until the end of the 2020 school year, so let's call it May or June of 2020, they would not have received unemployment from the end of that school year until the beginning of the 2021 school year, or I should say fall of 2020 school year starting. None of these people, whether they be teachers or support staff, would have gotten that, so the only way they could have been on unemployment that summer would have been had they had a second job that they were laid off from at that time.

Senator Hardy:

So the theory then would be we were looking at unemployment through the summer in order to help the employee, the teacher and/or the support staff, to make up for what they normally would have made if they had been working by keeping them on unemployment through the summer with the school district, is that correct?

Mr. Jordan:

That's the idea, with the caveat that the Department of Labor does not allow us to extend the program to teachers and other instructional staff such as principals or superintendents.

Senator Hardy:

So the support staff is the one that is critical. The other part of the question is do we have a commitment for them to come back when the school starts, summer school and fall?

Mr. Jordan:

The whole trigger mechanism to make them ineligible for unemployment under the current statute, the current law, is that letter of intent for them to return in the fall from the school district. What this regulation would do is open the door that they could get unemployment if they're otherwise qualified, even though they've got the reasonable assurance to come back. If they then fail to come back, it changes the formula, and there are so many moving parts I don't know that I could get into specific examples, but with that said, the entire between-terms concept is that they have reasonable assurances that they would be returning for the next school year. This just simply lifts the prohibition that if necessary the support staff individuals could get unemployment if they otherwise qualified, whereas right now they just are ineligible.

Senator Hardy:

And would they then be eligible for unemployment through the summer, for instance, and even be able to collect it if they lucked out and got a better job doing something else somewhere else and were fully employed?

Mr. Frischmann:

Typically when someone is collecting unemployment becomes employed, typically their earnings are such that they would be not eligible to collect unemployment because of those earnings, so if they found a better job as you suggest, they would more than likely not be eligible for benefits because of their earnings.

Senator Hardy:

All right, thank you. I appreciate it.

Assemblywoman Teresa Benitez-Thompson (Assembly District No. 27):

Thank you for the question, Madam Chair. I appreciate it. On the term in here that's being used, educational support personnel, I think I see a couple of different things in NRS right

now. I see education personnel and support personnel, but the only definitions I think I can find over our education chapters are where an employee is defined, paraprofessional is defined and staff person is defined, but I don't know. Do we have somewhere a reference for educational support personnel?

Mr. Jordan:

To answer your question, the answer was no, and this definition was crafted in conjunction with the Governor's Office and the NSEA to get it as close as we could to affect the affected people this regulation is trying to encompass. It was not a defined term that we were aware of, and this was the crafting that came out based on the—per the NSEA as approved by the Governor's Office.

Chair Cannizzaro:

I do believe we may have Mr. Keating from the Clark County School District who might be able to answer a few questions regarding the numbers that we had discussed.

Brad Keating (Clark County School District):

Thank you, Madam Chair, members of the Committee. Brad Keating representing the Clark County School District (CCSD). I'm not sure what questions the Committee may have, but I did want to address—Assemblywoman Carlton asked about the fiscal note that had been provided from the school district. Based on the original bill and how it was written on the Senate side and who qualified, it accounted for 8,500 support professionals in totality, and the number we had factored was $30 million. That was an average number. As all of you on the Committee are much more knowledgeable on this, there are a number of outside factors that determine the cost of each employee, and then based on the benefits earned from other employers for that employee within their base period, each employee is treated individually. We took the average number between the high and the low cost and were able to get just over $30 million. The high, just to note for the Committee, was $68 million if all responsibility was placed on the Clark County School District. The only thing I wanted to note for the Committee was, if this regulation moves forward and at the 25 percent, that would look at CCSD paying a total of approximately $7.5 million in unemployment benefits to support professionals. The only thing I wanted to state for the Committee was the difference, and I'm hoping DETR can verify this information, but when we had submitted, we submitted the support professionals that we believed qualified. What it sounds like today is there's the potential of licensed substitutes who have a dual non-licensed employment, so those are individuals that qualify as SPTAs (student physical therapist assistant), could be an SPTA sub, a certified temporary tutor, a paraprofessional, a temporary employee. There's 4,300 of those in the Clark County School District. There's an additional 3,500 temporary employees as well as 100 11-month police, so we're not sure about any of those factors, but we're at $7.5 million currently prior to any of these approximately 6,000 people that may qualify under what DETR had mentioned earlier about anybody outside of this sub pool, substitute teaching

pool. I have the unemployment team, the gurus for the Clark County School District, sitting here, so if the Committee has any other questions we are happy to answer them.

Chair Cannizzaro:

Mr. Keating, I just wanted to clarify because you mentioned that there had been a fiscal note on the bill, and I wanted to just clarify if you're referring to the amendment that had been proposed and some quick calculations that the school district had done, or you're referring to a former fiscal note, because I think—information on a fiscal note.

Mr. Keating:

I appreciate you bringing that up. That was like you—we had worked with fiscal at LCB (Legislative Counsel Bureau). Since the amendment had not been formally adopted originally, we could not have the fiscal notes from the school districts added, and then that amendment, nothing moved forward. Each school district had created a fiscal note, but you are correct, they were not added into the system because when originally asked on fiscal notes that that proposed amendment was not there. Thank you for that.

Assemblywoman Benitez-Thompson:

Thank you so much. If I could circle back to the question I had asked. I guess the better question for the record then is that education support personnel meant to capture everyone who's otherwise defined in statute, so staff—employee or a paraprofessional, just excluding teachers, but otherwise we should hold—the other three definitions of how we count people as kind of being under the roof of the school, if you will.

Mr. Jordan:

I'm having a bit of a hard time. You broke up a little bit. I wanted to make sure I understood your question.

Assemblywoman Benitez-Thompson:

I appreciate that. I was saying for the legislative record, should we generally hold in our head that this definition of education support personnel as it's being crafted for this regulation is meant to include everyone that we see otherwise defined in statute, staff person, employee or paraprofessional, but just removing the licensed teachers out? Is that how we should envision this definition working?

Mr. Jordan:

I think that that might be a little broad, because it does have a few—the licenses—prohibition, but if the Department of Labor considers them professional staff, they would still be prohibited. It's likely that that is as close to we can get as a black and white

definition in a very gray area, but it is likely that that is very close. The initial discussion spoke of people like bus drivers, cooks in the lunch rooms, people of that nature that were unable to find jobs over the summer. That was the intent of the bill. The definition was crafted to try to encompass all of those types of support workers but at the same time not be too overly broad to get into other things. I know that there's going to be some gray areas as there are with every regulation or statute, but we tried to make it as encompassing for those types of support professionals that we were talking about at the time and did not want to lay out individual positions because we didn't want anyone to get left out that might be covered that were support professionals.

Assemblywoman Benitez-Thompson:

So this is meant to be liberally interpreted?

Mr. Jordan:

Yes, that's correct.

Assemblywoman Carlton:

Thank you very much, Madam Chair, and I'm hoping Mr. Keating is still on the line because earlier we had heard some conversations about summer school, and we know there's a lot of discussion about that right now, and I believe it was alluded to that if we did summer school a lot of these folks would still stay employed, so that would even be another component of trying to figure out what these actual numbers look like. So, Mr. Keating, do you have any information on that currently?

Mr. Keating:

You are correct. If the employees participate in a summer school program like you said, they would not be eligible. They would be paid their full pay but they wouldn't be eligible to receive unemployment benefits. The Clark County School District is working with the ESEA (Education Support Employees Association) as well as all of our school principals right now. Each school will be hosting a summer school over the summer, but the details of that are being worked out with the principals right now of how long those summer school opportunities will last, as well as the big factor is how many students will choose to participate in that summer school. So, until we have the student participation rate, we can't hire and put the staffing in place.

Assemblywoman Carlton:

So you wouldn't be able to hazard a guess and say that possibly 50 percent of your staff might be coming back when it comes to this? Do we think half the kids will come back? Do you have any idea, gotten any impression from any parents on their interest in summer school?

Mr. Keating:

The only figure that we currently have—we're working to get numbers on support professionals, but our teachers currently, we've been informed through a survey that 60 percent of licensed professionals would agree to come back for a summer school activity.

Assemblywoman Carlton:

Thank you, Mr. Keating. I know we're putting you on the spot on this. There's a lot of unknowns, but we realize how important it is to deal with this issue and have this discussion for those employees to make sure we have all the information. Thank you very much, Madam Chair.

Chair Cannizzaro:

Thank you, Assemblywoman. I guess just to follow up on that, Mr. Keating, as well, the employees as well who may still find summer work, those would be accounted for as individuals who would not qualify for the unemployment, so I guess just to follow up on the Assemblywoman's question, if there may be a chunk of those that are employed through summer school, there may also be another chunk that still finds summer employment and thus would be ineligible for the unemployment as well, if I'm understanding that correctly.

Mr. Jordan:

That's exactly correct. The other point that we were just discussing here we wanted to make is that all other unemployment requirements are still in effect, so if a person turns down work or fails to search for work during that time, they can't just sit home and get the unemployment. They're going to have to be actively searching for work, and they're not going to be able to turn down suitable work. So for example, I'll give you one scenario. If the school district says, "We're opening up summer school full time. We're offering you all your jobs back," and 200 of them say, "We're not coming back," that would invalidate their ability to get unemployment for failure to accept suitable work. The same could be said if they got, as you said, an outside job. They would be working, they would not be unemployed. Also, even if they were only partially employed, there's a possibility if they make—our maximum benefit amount in the State of Nevada is under $500, so if they were making $500 a week at a second job, they would also be what we call in excess earnings, meaning they would earn too much money to receive unemployment.

Chair Cannizzaro:

Thank you. On that, Mr. Keating, just to clarify, the numbers that you're talking about would be based just upon those personnel as defined and wouldn't necessarily account for those who may be employed by summer school or who may still find their typical summer employment?

Mr. Keating:

Madam Chair, thank you very much for the question. You are correct. The employees that we are all figuring right now are those who have not found their options for employment is what the cost would currently be. The issue, and I'm sure everyone is aware of this, is that anyone can file for unemployment, so that makes it difficult and puts a strain on the system here at the Clark County School District and DETR as well. The other issues that may come up so that the Committee is aware so that when you receive questions from constituents is we are, for instance, looking at starting summer school June 1. There would be 3 days between our current school year ending and our summer school beginning. What we are trying to do is work with everybody so that there is not a week gap where all of the support professionals can apply for unemployment for one week as that would put a huge strain on the system, not only here at CCSD but DETR, so we're working through that to try to make sure there's not chunks of time throughout the summer that there would be a huge strain on the system.

Senator Scott Hammond (Senatorial District No. 18):

Thank you very much for the question, Madam Chair. Actually, that last statement brought me to two questions I had, possibly three. One: we know that we're trying to help DETR out and we know that there's a lot of moving parts that we've been trying to shore up over there. This is going to undoubtedly create a surge with numbers of unemployed that we're talking about. After listening to Senator Hardy and Mr. Brad Keating talk about who's eligible and trying to find that definition of who's eligible, we're talking about maybe possibly thousands of people. How do you plan to handle that surge as it comes in, and of course this might be periodic surges, and then secondly, obviously there's going to be some verification that needs to happen, and we saw that happen with the PUA (pandemic unemployment assistance) system with PUA, so how do you now verify that somebody hasn't been offered a contract for the following school year or that they have been offered employment over the summer? There's a lot of moving parts. I guess the last question I have, and this is probably for those who came up with the policy itself, we've got 75 percent of the money coming out of the federal dollars. When we developed the PUA system, it was designed for those who just have never paid into a system. They're independent contractors, and now you have a system where these folks have never—we've never paid them unemployment because it's just not the way that the statute's written. Why was there any consideration to having 100 percent of the money coming out of federal funds instead of burdening the school districts with that 25 percent?

Mr. Frischmann:

As far as the funding piece, it's not that we are allowing the maximum amount of funding, the 75 percent that's allowable through the latest CARES (Coronavirus Aid, Relief and. Economic Security) Act legislation from the federal government. The federal government in essence has said that they are willing to relieve the 75 percent and they will reimburse or pay that into our UI (unemployment insurance) trust fund. I hope that answers that part

of it. As far as the surge, hopefully what we will potentially be able to do is treat it like—and we haven't discussed in depth all of the operational piece. However, if we were to treat it as rapid response, which would mean we could potentially send some representatives out there and help do some handholding, some coaching, and provide help to large groups of individuals that we could have all in the room together, we believe we would be able to help smooth that surge and smooth the application process. You had a third part of that, and that was as far as job refusal. If there was a job refusal, each one of these applications for unemployment, we would be sending notification to the school district and it would be incumbent upon the school district to reply back to those that request and inform us that there had been a job offer made to the individual and a refusal, and then we would handle that appropriately and make the determination whether the job offer was suitable, so that would be incumbent upon the school district to respond to our request for information. I hope I covered all three parts of your questions.

Senator Hammond:

Yes, you did, and I appreciate that. The only thing that worries me again is when you talk about how many folks that will be asking for unemployment at some point. It's a lot of people, and I know that we've had trouble with backlogs in the past. We're only a month or two, maybe less than two months away from all this happening. Is there any indication of where you are right now with your backlog with cases now? How long is it taking folks to get processed and get money right now as we stand with just the regular system going?

Mr. Frischmann:

Currently for the last quarter I believe the number was 63 percent of the people that applied received payment within 21 days of their application. I could fine-tune that a little bit, and I'm almost afraid to do that, but I will go ahead. The latest numbers show that for the month of March that I think it was 81 percent of the applications for benefits were paid within 21 days, so we've made great strides over the last 6 months as far as returning to a more timely payment of new applications initial claims.

Senator Hammond:

What's your backlog right now?

Mr. Frischmann:

The backlog currently stands at—the last numbers I saw, which was about a week ago, the PUA stood at approximately 2,000 backlogged claims. Certainly that is down significantly from where it was 6 months ago, and currently the last numbers I saw were that for the regular UI stood at approximately 47,000. Please let me remind you that without getting into the weeds—that you understand these backlogs and these numbers. I don't want to put out numbers and not have them understood correctly. Out of that 47,000, please understand that we're receiving approximately—the last numbers I saw

were about 7,500, 8,000 claims, initial claims, each week. So, within that 47,000 is contained the last 3 weeks, which would not be untimely, so there's about 24,000 claims in there that are kind of in the churn and would not really be a backlog per se or late, so approximately half of those are naturally in the churn out of that 47,000. Obviously we've made significant progress, particularly since the initial surge of claims a year ago, but we've done a lot of catchup and it is a better story right now. We have been making big progress on that backlog.

Senator Hammond:

Thank you, and thank you, Madam Chair, for the question.

Chair Cannizzaro:

Thank you. Are there additional questions or comments from the Commission? I am not seeing any. I wanted to thank everyone for being here to answer our questions from DETR. We appreciate you, and thank you, Mr. Keating, for joining us to be able to shed some light on those numbers.

ASSEMBLYWOMAN CARLTON MOVED TO APPROVE EMERGENCY REGULATION E005-21.

SENATOR DENIS SECONDED THE MOTION.

Senator Settelmeyer:

Thank you, Madam Chair. I appreciate the very thoughtful discussion and ability to bring other people into it to get more information. I'm still very concerned that we're taking money out of the school districts' budget, and for those reasons I cannot support it. Thank you.

THE MOTION PASSED (ASSEMBLYWOMAN KRASNER, ASSEMBLYMAN WHEELER AND SENATORS HAMMOND, HARDY AND SETTELMEYER VOTED NO).

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Chair Cannizzaro:

Again, I want to thank everyone from DETR for being here to answer our questions. Obviously I know it's been a lot to work through all of the things that we've been dealing with with this pandemic, and definitely appreciate the opportunity to discuss this particular regulation, which I do think is a temporary solution to help those support professionals in our education system who have been extremely adversely impacted by the effects of the pandemic, with the hope that we can start to see some turnaround over the summer and also with opportunities for summer school. I think this is the very least that we can do for those individuals who help keep our kids learning and help to support us in our educational facilities throughout the state, so I just want to thank you for being here to answer our questions, and Mr. Keating as well.

We are going to go ahead and move to item IV-C, which is our review of administrative regulations submitted pursuant to NRS 233B.067 (Agenda Item IV-C). These regulations can be found in your binders for members of the Committee. Copies of all of those regulations are there. I have received a couple of requests for regulations for additional consideration, and as is the usual practice I will ask members at this point if there are any additional regulations that they would like to hold for discussion and then we can take a vote on those that have not been held, and then individually after that we will go through each of the regulations that has been pulled for individual consideration and turn it over to the agency who adopted the regulation to address the questions related to that particular regulation, and we'll take each of those regulations individually. So far I have received a request to hold regulations R110-19 and R122-19, and at this point in time I will ask members of the Commission if there are additional regulations they would like to have pulled for individual consideration. I am not seeing any.

Senator Settelmeyer:

Madam Chair, if you're ready for a motion?

Chair Cannizzaro:

Yes, Senator Settelmeyer, I am, with those two. I don't see any other requests.

> SENATOR SETTELMEYER MOVED TO APPROVE REGULATIONS R181-18, R003-19, R104-19, R039-20, R085-20, R124-20, R137-20, R138-20, R139-20, R143-20, R147-20, R149-20 AND R156-20.
>
> ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

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Chair Cannizzaro:

Those regulations will be adopted. We will now consider the two that have been requested for some individual consideration in turn on their agenda. We'll begin with R110-19 for the Division of Child and Family Services of the Department of Health and Human Services (Agenda Item IV-C), and I will turn it over to Senator Hardy who had a question on this particular regulation, and so Senator Hardy, when you are ready.

Senator Hardy:

Thank you, Madam Chair. I appreciate it. My question was basically on foster families, when it talks about foster families aren't allowed to have any illegal drugs, I wondered how that comports with marijuana, legal in some circumstances in Nevada but illegal in federal law, and then likewise when we start looking at vaccinations of foster families, how if anything we expect COVID immunization to take place in foster families.

Ross Armstrong (Administrator, Division of Child and Family Services, Department of Health and Human Services):

These regulations that are before you today were enacted in compliance with the Family First Prevention Services Act, which required us to align with model standards across the country, so that's the basis for these changes. I also have Molly Blanchette from the Family Programs Office from the Division of Child and Family Services to get into more details. The question about the illegal drugs given the difference between state and federal regulations is an interesting one. The federal government requires states to set up licensure requirements for their foster homes. In Nevada, each of those three jurisdictions is actually the licensing authority with these regulations governing all of those. In terms of illegal drugs in the home, that is I think something we would most likely discover during a visit and not necessarily during an initial licensure process, and so we would take into consideration the state law in that respect. Again, I'd ask Molly to jump in if she has more details about how that works on the ground, and then also there hasn't been really any information about COVID vaccinations, but we did think the regulations needed more clarity about when vaccines should be considered. Molly, feel free to answer maybe perhaps in more detail the questions about the drugs and vaccinations.

Molly Blanchette (Division of Child and Family Services, Department of Health and Human Services):

I would just say that we are dealing with the marijuana on a case-by-case basis similar to how we assess alcohol use in that if people do not have an issue with marijuana then we'll follow the state law.

Senator Hardy:

Thank you. Vaccines?

Ms. Blanchette:

I know what I can say about vaccines when this was written is that we were following the CDC (Centers for Disease Control and Prevention) recommendations so the vaccines that were added in here were at the time of the recommendations coming from the CDC. I'm not sure how COVID will impact this.

Senator Hardy:

I understand the dilemma and will not stand in the way of approving the regulation. Thank you.

Assemblywoman Benitez-Thompson:

Thank you, Madam Chair. I just had a question, if Mr. Armstrong could, for the record. The piece about the home study—and I guess my question is two parts. First, with the—I just didn't know right now if home studies include the item 5(II) regarding the description of any past or current mental health issues. I didn't know if that was in practice and now coming into regulation or vice versa, if it's going to be regulation going into practice. Secondly, how you would imagine that information to be used, like how would we contextualize that within the body of that home study? Is it just for information only and then the licensing agencies can make their own determination about it? I guess how much would you want that to weigh into whether or not someone can proceed forward with licensure?

Mr. Armstrong:

Molly can correct me if I'm wrong in terms of the practice versus regulation, but this is the recommended standard that we're all trying to get to. One thing I think to keep in mind when we're talking about foster homes is that these are homes that are taking care of children who have already gone through an incredibly traumatic event. That is just the removal from their homes alone. What really the process of going through the licensure process for foster homes is to make sure that the family that is acting as an agent essentially of the state is able to meet the needs of those children, so the information about any substance use disorders or mental health issues within the home are to make sure that the family is able to address their own issues before taking on additional children with substantial needs. That would be the context. There's not like a particular mental health issue or substance use issue that would trigger automatic rejection. Throughout the entire licensing process, we just want to make sure that we're placing children in a safe and healthy placement where their needs can be met, which requires those who are caring for them to also make sure that their particular needs are met.

Assemblywoman Benitez-Thompson:

So this isn't necessarily meant to be a section that would be a rule in or rule out, like say when you get your FBI (Federal Bureau of Investigation) background, there's stuff where you hit a hard stop there and you're not going to move forward in the process. This would be more about the licensing agency taking into consideration what they read, hopefully finding if someone is well managing their mental health then they could be qualified. I just want to make sure that no one is interpreting this as a hard stop for families that might—if you have persons who have depression or bipolar and they're well managed, they can be just wonderful placements for some of our children. I just want to make sure that it's not considered as a rule out for licensure, and as long as we have that on the record.

Mr. Armstrong:

Yes, that's correct. It's not a rule out, and in some cases the information from the home study can help the child welfare agency make the best match. Certainly someone with that lived experience, that may be a benefit to have someone who has that lived experience if we have a child who needs someone with that lived experience in the home that can help them wrestle with their own mental health or substance abuse issues. The information—we always in every licensing case take a holistic look at the placement with an eye towards that child's safety and appropriate development.

Senator Moises Denis (Senatorial District No. 2):

Thank you, Madam Chair. I just had a question. I noticed in the information that you submitted that you had a public workshop on September 5, 2019 and there was several of both, I think it was Washoe County Human Services and Clark County Department of—Services. They had some concerns that this regulation might cause delays, but then you subsequently I think met with them and had a couple of working meetings with them. Were you able to work out those issues, because finding foster families is difficult as it is. I'm just wondering if you were able to resolve those issues so that we're not creating a barrier to be able to get families.

Mr. Armstrong:

Throughout the rulemaking process we invite everyone to participate in that process, and yes, there were some comments that these regulations would make it more difficult. There were some other comments that had concerns about the licensing process that aren't necessarily related to the actual regulations that we're adopting, and then there were some comments that it wasn't specific enough or rigid enough to have, that there were concerns about that. Finding that regulation language is always a balancing act. Molly can speak to whether the partners are all in agreement. I think we're all in agreement that we need to continue to work on modifying not necessarily the regulations, those safety requirements that are placed as concerns, but the actual process of getting families, recruiting families, training them throughout the process. Before I toss it over to Molly, we

also have a process for waivers and variances if there's any particular regulation that is holding up someone from getting licensed if it's reasonable to come up to another way that the family can implement safety measures to meet that particular regulation. It doesn't necessarily prevent licensure in that case.

Ms. Blanchette:

Thank you, Senator Denis. I just wanted to say that we were able to mitigate the issues in the language while still sticking with the federal compliance language that we needed to have in there. The final submission to the LCB was statewide agreed upon.

Senator Denis:

Great, so it's not creating a barrier. That was my big concern is if we were going to be creating a barrier for families to be able to participate.

Mr. Armstrong:

Correct. If there's a particular barrier to—again, there's that waiver and variance process that we can pursue if there's a particular regulation that is a hang-up for a family.

Senator Denis:

Great, thank you. Thank you very much. Thank you, Madam Chair.

Assemblywoman Benitez-Thompson:

I just want to say one piece of this that I really appreciate and that I hope is able to help us with the psychotropic medication issue that we're always talking about and I think we struggle to find good answers with is the piece in here where you talk about ensuring that the foster parent or at least one staff member in the foster home understand the directions of the labels on medications. I'm really glad to see this here because I know that we are trying to tackle that issue from lots of different angles, and so I imagine that this question will be asked and that it will force us more to have in a better way some of those conversations with our foster parents when they're getting especially like psychotropic meds, to ask if they really understand the directions on here, and especially staff people in our therapeutic foster homes to really understand and make sure that we are helping to track all of that process well, so I was happy to see that in this regulation.

SENATOR DENIS MOVED TO APPROVE REGULATION R110-19.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Cannizzaro:

We are going to move to the next regulation that was pulled, R122-19 for the Nevada Transportation Authority (NTA) (Agenda Item IV-C). This was a request from Senator Settelmeyer, so I will turn it over to you, Senator, to go ahead and ask your questions.

Senator Settelmeyer:

Thank you, Madam Chair. In looking at the regulation, it looks like we've compartmentalized a lot of this now and some of the rates are going down, some are going up, but what's the aggregate on it, because we don't have a breakdown of how many companies are in each one of these categories. Overall, is it more revenue to the state? Is that necessary due to the fact that we have so many fewer TNCs (transportation network companies) operating that have to regulate themselves by pay so therefore is that why it's an increase, or is it a decrease? What's the reason?

David Newton (Commissioner, Nevada Transportation Authority):

We broke up the tiers because we ended up with very, very large companies and very, very small companies that are currently operating, and the way our regulation is set up under—in this regulation it's set up under NRS 706.8140. The NTA's only allowed to collect what it anticipates spending in a year for enforcement of 706A. In this year, we were just over $2.1 million, and so that's why the tiers are set up the way they are is to capture—we look at what we're going to need in terms of funding, and then we go back and we look at number of rides provided, number of drivers for the individual companies and their gross operating revenues in the state and we try to break it up so that more or less each one is paying its fair share based on its size and number of drivers, because that's what triggers our costs, especially in terms of enforcement and of auditing is the number of drivers and the number of rides provided. We added several sections to this particular regulation so that we weren't penalizing the smaller companies. We tried to give more tiers at the bottom to break up those costs more equitably.

Senator Settelmeyer:

Thank you for that. During that discussion—because again, it seems like it took a lot of work in order to figure all these numbers out and things of that nature, and I appreciate that—was there any discussion of trying to help out industry? We've got average wait times right now of 45 minutes at the airport, and there are regulations you can do to try to

help the industry and help drivers earn more money. Was there any discussion of that or was this just completely focused on micromanaging these numbers?

Mr. Newton:

This particular regulation was focused strictly on the funding part of it. There have been discussions about various options in terms of the surge pricing, but we haven't gotten a clear direction yet from the TNCs as to which direction they would like to go. There was discussion of emergency regulations, there was discussion of temporary regulations. Each has its own pluses and minuses, and I understand there's legislation pending that addresses some of those issues. I'm assuming that comes out of those discussions.

Senator Settelmeyer:

Thank you, Madam Chair. Thank you, sir.

Mr. Newton:

Thank you.

Chair Cannizzaro:

Additional questions from members of the Commission. I am not seeing any.

ASSEMBLYWOMAN NGUYEN MOVED TO APPROVE REGULATION R122-19.

SENATOR DENIS SECONDED THE MOTION.

Senator Settelmeyer:

Thank you, Madam Chair. It bothers me that we found time to micromanage the industry but not actually help the industry, and that's our first goal is to make sure we have money for the government, not to make sure that these drivers had more money, and I find that problematic and I can't support this at this time. Thank you.

Assemblywoman Carlton:

Thank you very much, Madam Chair. When I leave the airport every weekend and I walk across that gangway, I do see all the folks trying to go to their TNCs, and I also see lines and lines and lines of cabs, so I believe the regulatory body is doing its job. They're not micromanaging, they are regulating. It is not their job to assist the industry, it's their job to regulate the industry so there are options in Southern Nevada if people are willing to take them. Thank you.

THE MOTION PASSED (ASSEMBLYWOMAN KRASNER, ASSEMBLYMAN WHEELER AND SENATORS HAMMOND, HARDY AND SETTELMEYER VOTED NO).

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Chair Cannizzaro:

Thank you all for getting us through that particular item on our agenda. We are going to move to the next item on our agenda, item V, which is a reappointment of a member to the Nevada Commission on Ethics. Pursuant to NRS 281A.200, we are going to consider reappointing Amanda Yen to a second term on the Nevada Commission on Ethics. Amanda has served since 2016 in this seat, which is statutorily required to be filled by a licensed attorney. At this point in time, I would ask if any members of the Commission have questions or comments on this particular item. Mr. Fernley has joined us, so we do have him here in case there are questions. I am not seeing any.

ASSEMBLYWOMAN BENITEZ-THOMPSON MOVED TO REAPPOINT AMANDA YEN TO THE COMMISSION ON ETHICS.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Cannizzaro:

We will now move to item VI on our agenda, which is the legislative audit summary of audit reports presented to the Legislative Commission's Audit Subcommittee, and also the summary of 6-month status reports on the implementation of the audit recommendation by the Legislative Auditor as submitted to the Legislative Commission's Audit Subcommittee. We are joined today by Dan Crossman, the Legislative Auditor, who has reports on both items VI-A and VI-B, and so I will turn it over to Mr. Crossman to start off with item VI-A.

Dan Crossman (Legislative Auditor, Audit Division, Legislative Counsel Bureau):

Thank you Madam Chair, members of the Legislative Commission. Under agenda item VI-A today, you will see a letter from Assemblywoman Benitez-Thompson, Vice Chair of

the Audit Subcommittee, indicating that on January 14 of this year a meeting of the Audit Subcommittee of the Legislative Commission was held in which 4 reports were presented and accepted (Agenda Item VI-A). During that meeting we presented a summary of the audits to the Subcommittee, answered questions of the Subcommittee members. Representatives of the agencies were also present who provided remarks and answered questions. Today, in the interest of time, I will briefly go over the key findings from those reports, but please note that the full reports are available on our website where more details can be obtained on our findings and recommendations. We are also available at any time to provide information on our reports.

Turning to the first page is a summary of our audit of the Office of the Nevada Attorney for Injured Workers (NAIW) within the Department of Business and Industry. The purpose of this audit was to determine whether NAIW had adequate controls over information systems, performance measures, sensitive information and case management deadlines. We found the Office did not renew timely its contract for information technology services, which resulted in NAIW having no guarantee that its data was properly being backed up. Additionally, we found user access accounts to critical systems were not periodically reviewed. We also identified various concerns with performance measures reported to the Governor's executive budget. Specifically, certain supporting documentation was not retained. Underlying support did not always agree to the reported figures, supervisory review of the measures was not evident and the policies and procedures were not comprehensive. Lastly, we identified that certain personally identifiable information could be better secured after hours in the offices. We had a total of seven recommendations which we made to the Office which they accepted and are actively implementing those.

On the next page is the summary of our review of governmental and private facilities for children inspections. This report includes the results of 15 inspections, which were also referred to as unannounced site visits in prior reports of children's facilities. We had notable findings in 3 of the 15 facilities we inspected. In each of these three we identified certain health, safety and/or welfare issues and contacted the respective licensing agency to share our concerns. As a result and based on the licensing agencies' actions, one facility was eventually closed and in two other instances corrective plans were developed for those facilities and homes to ensure that the standards of care were being properly met. We also during this period conducted seven surveys of facilities of which we did not have any significant concerns. These were virtual surveys and they did not include a physical observation of the condition of the facilities or homes to determine whether the minimum standards were met, and this was due to the safety restrictions associated with the COVID-19 pandemic. Additional details are included in that report as well on our website.

Turning to the next page is the summary of our audit on the delivery of treatment services for children with autism. This audit was required by SB 174 of the 2019 Session. Our audit objectives were, one, to determine if revenues and expenditures related to autism therapy were sufficient and appropriate; second, to evaluate and review whether children wait for services and if enough providers exist to serve Nevada's population of children with ASD

(Autism Spectrum Disorder); and third, to identify and assess factors that inhibit access to and delivery of autism treatment services. Overall we did find that the funding for Autism Spectrum Disorder, ASD, has been sufficient to cover the children receiving services through Nevada's autism programs since 2015. However, we did find evidence of improper billings and possible fraud within Medicaid claims. Pursuant to NRS 218G.140, we did notify the agency as well as the Governor and legislators and the Attorney General of our concerns in this area. The Division of Health Care Financing and Policy is working on reviewing these cases in question.

Additionally, while funding has been sufficient to cover those applying for autism services, families continue to struggle to obtain treatment and opportunities exist to assist families in obtaining more timely diagnosis of treatment. Assisting families and getting more timely services is critical to improving the outcomes of children with autism. Barriers to treatment are mostly influenced by an insufficient provider base to provide therapy for all the children who may medically require services. We estimate there are only enough providers to serve about two of every three children who would most benefit from applied behavioral analysis, or ABA, services. While many factors influence the number of providers delivering medical services, the reimbursement rate for registered behavior technicians, or RBTs, is significantly lower than what is frequently paid by private insurance in the state. In the report, we indicate that the Legislature may wish to direct Nevada's Medicaid program to increase the RBT reimbursement rate. As you're probably aware, Senate Bill 96 of the current session is proposing such an increase. Finally, improved communication with families will enhance outcomes, ease transitions and result in a more robust delivery of services for families of children with autism. Our recommendations include development and publication of specific guidance for obtaining diagnoses and ABA treatment, gathering provider information to help share with families and assigning case managers as soon as eligibility is determined. We also recommended development of a standardized process for identifying children with the greatest needs for more immediate placement with ABA providers.

Based on our audit and our various findings, we provided 14 recommendations to improve the delivery of autism services. I'm going to categorize those generally. Four recommendations deal with helping ensure that only legitimate Medicaid claims are paid, two focus on improving processes within ATAP's (Autism Treatment Assistance Program) insurance assistance program, six recommendations address improving delivery of services by the ATAP program to directly assist families, one addresses continued work with the Department of Education and Nevada's school districts on Medicaid reimbursement for ABA services and one deals with the accuracy of information submitted to the Legislature. The Aging and Disability Services Division and the Division of Health Care Financing and Policy accepted the recommendations and are actively pursuing ways to implement them. As I previously noted, SB 96 which is sponsored by Senator Ohrenschall and Assemblywoman Carlton and Senator Dondero Loop, proposes an increase to the RBT rate. Additionally, a conceptual amendment passed out of Committee as proposed by Assemblywoman Benitez-Thompson which would make

additional changes to the program that addressed many of the key recommendations that are included in our report.

Last, we included in the packet the report addendum that was issued on the performance audit of the Public Employees' Benefits Program information security and servers. The original report was issued in February of 2020, but certain information security vulnerabilities were discovered in that audit and were not reported on at that time to avoid unnecessarily exposing these weaknesses to the public. Since corrective actions have now been completed to address the vulnerabilities that centered around operating systems and database application software that were not upgraded to current and supported versions, we issued this addendum to the original report. The addendum does contain four additional recommendations to protect the agency from having these types of issues in the future. The agency has accepted all four recommendations and is also working to complete and accomplish those things.

As a reminder, our office is available any time to meet and discuss any of our reports in detail with any member of the Legislature or any of your committees. This concludes my summary of the audit reports that were issued on January 14 of 2021. Madam Chair, the Audit Subcommittee recommends that the Legislative Commission accept these four reports. Thank you.

Chair Cannizzaro:

Thank you. Members of the Commission, any questions on item VI-A? I am not seeing any. Thank you, Mr. Crossman, for walking us through that report. Is there a motion to approve?

> ASSEMBLYWOMAN CARLTON MOVED TO ACCEPT THE SUMMARY OF AUDIT REPORTS AS PRESENTED TO THE LEGISLATIVE COMMISSION'S AUDIT SUBCOMMITTEE.
>
> ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.
>
> THE MOTION PASSED (SENATOR HAMMOND WAS ABSENT FOR THE VOTE).

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Chair Cannizzaro:

Mr. Crossman, if you would, we'll turn it over to you again for item VI-B and let you go ahead and present that item to the Commission.

Mr. Crossman:

Thank you, Chair. By way of review, the 6-month reports are submitted after agencies have completed their corrective action plans, 6 months after that corrective action plan, and the Division of Internal Audits of the Governor's Finance Office works with those agencies to determine the status of the implementation of the recommendations. We review Internal Audits' assessment, and when we feel it's warranted we request additional information from the agencies to make sure we understand the status of those recommendations fully. Under agenda item VI-B you'll see another letter from Assemblywoman Benitez-Thompson, Vice Chair of the Audit Subcommittee, which indicates that 5 6-month reports were reviewed at that January 14, 2021 meeting of the Audit Subcommittee (Agenda Item VI-B). The letter shows the implementation status of the recommendations, noting that 43 of 46 recommendations were partially or fully implemented as reviewed by Internal Audits. On the following page we've also included a schedule that updates the status of the recommendations as of late February of 2021. We continue to track the status of these recommendations with these agencies as they move forward with their corrective action plans. We do not have any significant concerns at this time with the corrective actions being taken and do recognize as was discussed in that meeting of the Audit Subcommittee that due to the concerns during COVID and some of the challenges that agencies faced, a few agencies may take a little bit longer time than they had anticipated to complete their corrective actions. But we, like I said, will continue to monitor the status of these. With that, Madam Chair, the Audit Subcommittee does recommend the Legislative Commission accept these 5 6-month reports. Thank you.

Chair Cannizzaro:

Thank you. Questions from members of the Commission? I am not seeing any.

SENATOR DENIS MOVED TO ACCEPT THE SUMMARY OF 6-MONTH STATUS REPORTS ON THE IMPLEMENTATION OF THE AUDIT RECOMMENDATIONS BY THE LEGISLATIVE AUDITOR AS SUBMITTED TO THE LEGISLATIVE COMMISSION'S AUDIT SUBCOMMITTEE.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED (SENATOR HAMMOND WAS ABSENT FOR THE VOTE).

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Chair Cannizzaro:

Thank you, Mr. Crossman, again for walking us through those reports. We appreciate all of your hard work. We are going to next move to item VII on our agenda. This is our second period of public comment. If there's anyone wishing to provide public comment, please call the number that is indicated on the agenda and you will be informed by our staff at Broadcast and Production Services when you have been connected and it is your turn to speak. Again, comments will be limited to two minutes per person, but of course you may also submit any additional comments that you have in writing to be included in the record. I am going to turn this over now to BPS staff to go ahead and queue up any of those who are waiting to call in to speak and they will inform you when it is your turn to speak.

Broadcast and Production Services Staff:

Chair, the public line is open and working. However, there are no callers at this time.

Chair Cannizzaro:

Thank you very much. That will close out item VII on our agenda and the business before the Legislative Commission today. Thank you all for being here with us, and with that we are adjourned at 12:54 p.m.

RESPECTFULLY SUBMITTED:

_____
Jordan Haas, Secretary

APPROVED BY:

_____
Senator Nicole Cannizzaro, Chair

Date: _____

Agenda Item	Witness/Agency	Description
Agenda Item II A	Chris Daly, Nevada State Education Association	Public Comment
Agenda Item III A-1	Jordan Haas, Commission Secretary	Draft Minutes of the Meeting Held on December 28, 2020
Agenda Item III A-2	Jordan Haas, Commission Secretary	Draft Minutes of the Meeting Held on January 19, 2021
Agenda Item IV-A	Bryan Fernley, Legal Counsel	Administrative Regulations to be Continued
Agenda Item IV-B	Bryan Fernley, Legal Counsel	Emergency Regulations for Review
Agenda Item IV-C	Bryan Fernley, Legal Counsel	Administrative Regulations for Review
Agenda Item VI-A	Daniel Crossman, Legislative Auditor	Summary of Audit Reports
Agenda Item VI-B	Daniel Crossman, Legislative Auditor	Summary of 6-Month Status Reports on the Implementation of the Audit Recommendations