

**MINUTES OF THE 2023-2024 INTERIM
LEGISLATIVE COMMISSION**

August 21, 2023

The meeting of the Legislative Commission was called to order by Chair Cannizzaro at 3:25 p.m. at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada, and via videoconference at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada. The meeting was adjourned at 5:48 p.m.

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

COMMISSION MEMBERS PRESENT IN LAS VEGAS:

Senator Nicole Cannizzaro, Senatorial District No. 6; Chair
Senator Dallas Harris, Senatorial District No. 11; Vice Chair
Assemblywoman Shea Backus, Assembly District No. 37
Assemblyman Cameron (C.H.) Miller, Assembly District No. 7

COMMISSION MEMBERS PRESENT IN CARSON CITY:

Assemblywoman Alexis Hansen, Assembly District No. 32
Senator Skip Daly, Senatorial District No. 13
Senator Ira Hansen, Senatorial District No. 14

COMMISSION MEMBERS PRESENT VIA VIDEOCONFERENCE:

Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34 (Alternate for
Assemblyman Steve Yeager)
Assemblyman Rich DeLong, Assembly District No. 26
Assemblywoman Sandra Jauregui, Assembly District No. 41
Senator Lisa Krasner, Senatorial District No. 16
Senator Jeff Stone, Senatorial District No. 20

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Brenda Erdoes, Director
Roger Wilkerson, Deputy Director
Bryan Fernley, Legislative Counsel, Legal Division
Asher Killian, Chief Deputy Legislative Counsel, Legal Division
Nicolas Anthony, Research Director, Research Division
Sarah Coffman, Assembly Fiscal Analyst, Fiscal Analysis Division
Wayne Thorley, Senate Fiscal Analyst, Fiscal Analysis Division

Broadcast and Production Services Staff, Administrative Division

Angela Hartzler, Secretary, Legal Division

Jordan Haas, Secretary, Legal Division

OTHERS PRESENT:

Benjamin Challinor, Nevada Director of Public Policy, Alzheimer's Association

Martin Hefner, Management Analyst, Research and Project Management Division,
Department of Motor Vehicles

Victoria Carreon, Administrator, Division of Industrial Relations, Department of Business
and Industry

Brennan Paterson, Chief Administrative Officer, Mechanical Compliance Section,
Division of Industrial Relations, Department of Business and Industry

Cody Phinney, Administrator, Division of Public and Behavioral Health, Department of
Health and Human Services

Tina Leopard, Manager, Bureau of Health Care Quality and Compliance, Division of
Public and Behavioral Health, Department of Health and Human Services

Nikki Mead, Office of Vital Records, Division of Public and Behavioral Health, Department
of Health and Human Services

Debbie Charlton, Office of Vital Records, Division of Public and Behavioral Health,
Department of Health and Human Services

Melissa Peek-Bullock, State Epidemiologist, Division of Public and Behavioral Health,
Department of Health and Human Services

Tory Johnson, Health Program Manager, Nevada HIV Prevention and Surveillance
Program, Division of Public and Behavioral Health, Department of Health and
Human Services

Tyler Saunders, Management Analyst, Research and Project Management Division,
Department of Motor Vehicles

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

Good afternoon and welcome to the third meeting of the Legislative Commission. I want to apologize to everyone; we've been working through some technical difficulties. We've got a number of members who are joining us virtually, and then we are working on the video feed between here in Grant Sawyer in Las Vegas and the Legislative Building up in Carson City. We are going to play this Committee hearing a little bit by ear, make sure that people can hear us and participate to the extent that we've got everyone connected, but please bear with us because we are just having some technical difficulties that may or may not be related to the recent storms.

We're going to go ahead and get started. We will begin today with the roll call. We have this afternoon four members attending at the Grant Sawyer Building here in Las Vegas, three members in Carson City and three members attending virtually, so I will turn it over to—and actually, we have a few more than three, I apologize, attending virtually. Will you please mark Senator Stone present? I believe he is connected with us and can hear and

see us. We just can't see him on the screen here in Las Vegas, but I believe that we have a connection with him, so he is present. Please mark him present. We have a quorum for this afternoon's meeting.

I want to go over a couple of housekeeping items before we get to the business on our agenda. As a quick reminder, I would like to ask that anyone who is here to testify, be it in Carson City or here in Vegas or joining us virtually, that you please state and spell your name for the record before testifying. If anyone here would like to receive a copy of the Commission's agendas, minutes or reports, you may be added to the mailing list by following the links on the Legislature's website or by providing information to our staff. Contact information for staff is also listed on the Legislature's website. In addition, we will be accepting written comments for anybody who wishes to email those or mail those to us either before, during or after today's meeting. The information regarding where to send written comments is also on the website and listed on the agenda.

We are going to move into the first item on our agenda. Excuse me, not the first item, opening remarks is the first, so we'll go to the second item, which is public comment. For public comment, as a brief reminder, we are going to accept public comment from individuals in person present here in the Grant Sawyer Building, then we will go down to the Legislative Building in Carson City and then we will take public comment from anyone wishing to provide public comment via phone. If you prefer to wait to speak until later in the meeting, we will have a second round of public comment at the end of the meeting before we adjourn. Please remember that comments will be limited to not more than two minutes per person. If there are any people in our audience here in Las Vegas who wish to provide public comment at this time, you can start to fill these seats here at the dais. Likewise in Carson City, if you can fill those seats at the table. We will—as just a reminder for anyone who does wish to speak, we're going to ask you to identify yourself for the record each time that you speak and to have you, if you are here in person, ensure to sign in on the clipboard by the door before you leave, if you have not already. So with that, we don't have anyone here in Las Vegas who is approaching the table to give public comment, so we will move to Carson City. I don't have a clear video feed, so if one of the members down—excuse me, I guess up in Carson City can tell us if there's anyone at the table there to give public comment, we will take public comment from Carson City.

Senator Skip Daly (Senatorial District No. 13):

Yes, Madam Chair. There's one person at the dais.

Chair Cannizzaro:

Fantastic, and we can hear you in Carson City while we're here in Vegas, we just are having a little bit of trouble with the video feed, so we'll ask the individual in Carson City if you will please hit that microphone button, state and spell your name for the record and then we have two minutes for public comment.

Benjamin Challinor (Nevada Director of Public Policy, Alzheimer's Association):

Thank you, Chair Cannizzaro. Good afternoon. I am the Nevada Director for Public Policy for the Alzheimer's Association, and I'll be quick and brief. I'm here in support of regulation R043-22 in regards to training for Alzheimer's and other related dementia within our residential facilities. Since our founding, the Association has been a leader on outlining recommendations on care and support for those living with Alzheimer's and related dementia. The Association also publishes dementia care practice recommendations which are evidence based and people centered. The training outlined in R043-22 closely follows these recommendations. For this reason, we are supporting this regulation to ensure that we are providing the best quality care for Nevadans living with Alzheimer's within residential facilities. Thank you for your time and consideration, and for whatever reason, I am available for any questions. Thank you.

Chair Cannizzaro:

Thank you, Mr. Challinor, and please make sure that you have signed in, if you have not already. Is there anyone else in Carson City? We have video feed now, I think, and I don't see anybody else, so we will move to the phones for public comment. If there is anyone wishing to give public comment via phone, we will turn that over to BPS (Broadcast and Production Services) and we will begin with anyone wishing to give public comment via our phones.

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

The public line is open and working, but there are no callers to participate at this time.

Chair Cannizzaro:

Okay, great, then we will go ahead. Thank you, BPS, for checking our phone lines. I know we've been a little behind getting started with the meeting, so if there again is anyone who was not able to join us for public comment who wishes to give public comment at the end of the meeting, we will have a second period of public comment before we adjourn today.

That will conclude item II on our agenda. That will bring us to item III, which is the approval of the minutes. Members of the Committee, you have either before you or were provided electronically and are available on the legislative website the draft minutes for the June 1, 2023 Legislative Commission meeting ([Agenda Item III](#)). These minutes again are available on the Legislature's website. I will ask at this point in time if there is any discussion on any of the minutes that are before the Committee. If there is anyone in Carson City, please just hit that microphone because we are still just dealing with some difficulties on the video feed, and likewise, anyone joining us virtually, if you have any

discussion on the minutes we'll give you a moment to chime in. Okay, I am not hearing any discussion—would accept a motion to approve the minutes of the Legislative Commission meeting held on June 1 of 2023. I have a motion from Senator Harris and a second from—is there any discussion on the motion? I see none. So, rather than do a roll call vote, I will ask for—go a little bit faster and should help also hopefully with some of the being able to hear each other. We should be able to do that.

SENATOR HARRIS MOVED TO APPROVE THE DRAFT MINUTES OF THE MEETING HELD ON JUNE 1, 2023.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

The motion carries unanimously and the minutes for the June 1, 2023 Legislative Commission meeting are approved. We will now move on to agenda item IV before you, which is our court-mandated status report regarding the Nevada Department of Motor Vehicles (DMV) technology fee refund project. We should have joining us, and I think he may be in Carson City, Sean Sever, the Deputy Administrator of the Department of Motor Vehicles. You should have, members of the Committee, a copy of that report and it should have been provided to you as well (Agenda Item IV). That report is dated July 31, 2023. It is also posted on the website and again has been provided previously to all of our members or is in the packet in front of you. This is an informational item so it doesn't require any action today, but I will ask for Mr. Sever to join us, and if someone in Carson City could let us know if we have Mr. Sever with us, and then I will open it up for any questions from any members of the Commission once he has given his brief overview.

Martin Hefner (Management Analyst, Research and Project Management Division, Department of Motor Vehicles):

Madam Chair, good afternoon, and members of the Committee. My name is Martin Hefner with the Department of Motor Vehicles. Sean Sever is not available today, however I do have a statement from him that I'll go ahead and update the Committee on. If there are any more detailed questions at the end of my testimony that I am unable to answer, I will go ahead and take those questions back and we will get those answers to you individually

as soon as we can. So again, thank you, Chair and Commission members. Thank you for the chance to update you on our tech fee refund report, which I am happy to report is now complete. Through July 31, 2023, the DMV has distributed more than \$1.97 million of the \$6 million in refunds available. The DMV issued 61,005 refund checks to businesses on February 22, 2022 for a total of almost \$2.2 million. As of July 31, 44,903 of those refunds have cleared for more than \$1.6 million, or 74 percent. More than \$3.8 million in cash refunds were made available to the public in our offices on April 4, 2022. As of July 31, 125,170 of those refunds have been issued for more than \$359,000, or 9.42 percent. Throughout this project, many customers were not interested in receiving their refund and have told us to keep it, which is not reflected in these stats. The DMV conducted a \$15,000 advertising campaign, received a lot of media coverage and has done continuous social media posts to remind customers to get their refunds, which are no longer available. All funds remaining will now revert to the State Highway Fund pursuant to section 4.7 of Senate Bill 457 of the 2021 Legislative Session. Thank you for your time today. Those are my prepared remarks. I will be happy to take any questions.

Chair Cannizzaro:

Great, and thank you, Mr. Hefner. I apologize for not being able to see that you are not Mr. Sever at the table in Carson City. We'll start up here. Any members have any questions for Mr. Hefner? I am not seeing any. If there's anyone in Carson City who has questions, feel free to go ahead and jump in because we can't see that video quite yet.

Senator Daly:

No questions in Carson.

Chair Cannizzaro:

Great, thank you, Senator. Anyone joining us virtually who may have questions, feel free to go ahead and jump on in. I'm not hearing anyone. Okay. With that, we thank you, Mr. Hefner, for being here with us today and providing that update. Appreciate you taking the time. Again, this is an informational item so we do not have any action to take on this item. That will close out item IV. Again, thank you, Mr. Hefner, for joining us today.

That will take us to item V on our agenda, which is the administrative regulations. We have joining with us Chief Deputy Legislative Counsel Asher Killian, who is with us at the dais today in Carson City to assist us with this item. Members of the Commission, you will note that there are two categories of proposed regulations for consideration under item V today. The first category has 11 regulations that were submitted for approval pursuant to NRS (Nevada Revised Statutes) 233B.067, and the second category has one regulation that was deferred at a previous meeting and is submitted pursuant to NRS 233B.0675.

These regulations are all contained in the notebook provided to the members (Agenda Item V). They are posted on the Legislature's website under the tab for this meeting, which you can find by hitting the "View Events" button in the upper right-hand corner of the Legislature's website homepage.

Today we are going to consider both categories of regulations together. At this time, I will go through—I have some regulations that were asked by members to be pulled, so I will list those, and if there's any additional regulations that members wish to have pulled, please feel free to let me know, and we'll do the same procedure that we've been implementing. We'll start here in Las Vegas, we'll go to Carson City and then we'll move over to those joining us virtually. If there are regulations that you wish to have pulled as a member of the Commission, please let me know and we will take them out for separate consideration. We then will move to approve the remaining regulations with the Commission that have not been pulled, and those of you who are here—that have regulations that are being pulled for further discussion, we're going to enjoy some more time together. The ones I have that have been—R034-21 from the Division of Industrial Relations of the Department of Business and Industry, R043—R081-22 for the Department of Motor Vehicles and R148-22 for the State Board of Health. We'll start here in Las Vegas. Any additional regulations to be pulled by members of the Commission? I'm not seeing any. Carson City, will you let us know if there are any additional regulations that members of the Commission wish to have pulled for further discussion? Not hearing anyone jump in. We'll move to those joining us virtually.

Assemblyman Rich DeLong (Assembly District No. 26):

Senator Cannizzaro, most of what you said with regards to the regulations that were being held was unintelligible. Would you please repeat them?

Chair Cannizzaro:

Oh, yes, we'll make sure that everybody can hear us. I'll go through the list again. We have being pulled for further consideration regulation R034-21. That regulation is before us from the Division of Industrial Relations of the Department of Business and Industry. R043-22 for the State Board of Health, R081-22 for the Department of Motor Vehicles and R148-22 for the State Board of Health. Was that a little better, Assemblyman?

Assemblyman DeLong:

Yes, thank you. That was—helped.

Chair Cannizzaro:

Perfect. Anyone else joining us virtually have additional regulations you'd like pulled for further consideration?

Assemblyman DeLong:

Senator Krasner, you're on mute.

Senator Lisa Krasner (Senatorial District No. 16):

Oh, hello. Thank you, Chair Cannizzaro. I would like to pull—in addition to R148-22, I would like to pull—please.

Chair Cannizzaro:

Thank you, Senator Krasner. Can you say that one more time?

Senator Krasner:

Yes. In addition to pulling R148-22, I would also like to pull R111-22. Thank you.

Chair Cannizzaro:

Okay, great. We have R111-22, also for the State Board of Health.

Senator Krasner:

Thank you.

Chair Cannizzaro:

I'm not hearing anyone else who's joining us virtually chime in. Okay. So, with that, I would accept a motion to approve the remaining regulations that have not been identified for further discussion: R032-21, R063-21, R107-22, R108-22, R160-22 and R198-22 and R134-20. Do I have a motion? So moved by Assemblywoman Backus, a second from Senator Harris. Any discussion on the motion? I am not seeing any here in Las Vegas. I'm not hearing anything from our folks in Carson or online.

ASSEMBLYWOMAN BACKUS MOVED TO APPROVE REGULATIONS R032-21, R063-21, R107-22, R108-22, R160-22, R198-22 AND R134-20.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

All right, the motion carries unanimously. Those regulations just identified have been approved. We will now move on to our regulations that have been identified for further discussion. For those of you who are joining us for those regulations that were just approved, you are free to go. We will begin by going in order with R0—from the Division of Industrial Relations of the Department of Business and Industry (Agenda Item V). Please have a seat. Members, this was a request from Senator Daly with some additional questions on this particular regulation, so we will begin with Senator Daly. Senator, if you could go ahead and I'll turn the floor over to you to ask your questions. We have several representatives here in Las Vegas, and then we'll see if there are any additional questions or comments from members of the Commission. Senator Daly, when you're ready.

Senator Daly:

Thank you, Madam Chair, and I do have two or three questions, so hopefully we can get some answers. The first question is in section 4(15), same question would be in section 22(3). I just want to be clear where you're deleting the reference to adopted publications adopted by reference that says the state can review them for appropriate implementation in Nevada. You're proposing to delete that language, or is there alternative language that still gives you that authority? It seemed conflicting to me because I don't know why we wouldn't want to review those publications to make sure they're appropriate for implementation in the state and then opt out of parts of it if it's not. So are you guys proposing to delete that and just accept them regardless, or is there another method by which you'll be able to review those publications for appropriate application in Nevada?

Looks like it's frozen.

Chair Cannizzaro:

Okay, now my microphone is working. Sorry, I think we're having—again, I appreciate everyone bearing with us. Ms. Carreon, if you can see—no. Okay, so we're having just a little bit of a difficulty with the microphones, so give us just a moment. We're going to be in just a brief recess so that we can try to address that, and then we'll turn it back over to you to answer Senator Daly's question.

I am going to call the meeting back to order, and I think we can hear each other. We're having some difficulty with the microphones, so we are going to be manually working with our awesome staff to get those microphones working. We are in the middle of considering regulations. We are still on regulation number R034-21 for the Division of Industrial Relations of the Department of Business and Industry. Senator Daly, you had asked a question. I don't know, Ms. Carreon, if you remember the question. She's shaking her head yes, so what I'm going to do is I'm going to turn it over to you to answer Senator Daly's question. Again, Senator Daly, I know you had a couple of questions on this regulation, so we'll let you have the floor and let our folks here answer those questions to the best of their ability, and then we will see if anybody else has additional questions. Senator Daly, when you're ready.

Senator Daly:

Did you want me to ask the question again, or do they recall?

Victoria Carreon (Administrator, Division of Industrial Relations, Department of Business and Industry):

I'm the Administrator of the Division of Industrial Relations. Thank you for your patience, Madam Chair. So, in answer to the question—Senator Daly had a question about the auto-adoption provisions that were in the current reg that adopted publications by reference automatically and just had a hearing, a 30-day notice for a hearing, and then if we wanted to just—if there were any objections, then the regulation wouldn't be adopted, otherwise that publication would be adopted automatically. So, the question was why are we taking that out, and what is the provision for adopting those publications by reference in the future? The reason for taking that out was to have just a more thorough process any time one of these new publications comes online, because we found that it's important to have all the stakeholders thoroughly review what the implications of any new publications that are going to be adopted by reference are, and so instead of just having a single hearing, we thought going through the entire regulation process would be a better process to ensure that we understood all of the impacts of any publications being adopted by reference.

Senator Daly:

Thank you, I appreciate that. During the break while we were—I did get a chance to talk with Legal a little bit about that, and that’s what they explained. So whenever the current publication changes, you would have to go through the entire regulation process to adopt that new publication, so if that’s—that would change the new question. Whenever you come back with that regulation, we’d say, “Hey, did you go through the full review?” But if you went through the regulatory process, that probably is the answer.

The second question should be fairly simple, and I don’t want to take up too much time here, but right now, I think in section 5(3)(b) it says that you must review an application for exemption within 5 days, and you’re deleting the 5 days, so any—was there a problem with the 5 days, and what is the time frame now? We don’t want people to have things languish when they need to have an answer when they’re asking for the exemption.

Brennan Paterson (Chief Administrative Officer, Mechanical Compliance Section, Division of Industrial Relations, Department of Business and Industry):

I’m the Chief Administrative Officer of the Mechanical Compliance Section of the Division of Industrial Relations. That portion is—we’d like to pull out has to do with exemptions which were requested for boiler and pressure vessel projects of extreme detail, especially in rural areas. The necessary time for people to review an exemption for safety purposes included some travel time, and unfortunately, with a 5-day exemption deadline, we were not always able to meet that just kind of within physical realities.

Senator Daly:

Thank you. I just wanted to have further clarification—still the intent and why we ask the question to get it on the record on how you’re going to implement and administer the regulations. You’re going to do it as quickly as physically possible. If you can meet the 5 days, you’re going to; you’re not required. But like I said, we don’t want to say yeah, we don’t have to do it with any time frame, and next thing you know it’s 30 more days out and people are trying to get an answer to their exemption application. But you’re on the record saying as soon as you can physically do it, you’re going to do it. The 5 days was not feasible in certain circumstances.

Mr. Paterson:

Yes, that is correct. Our intent is to always get exemption requests looked at and thoroughly evaluated for public safety as soon as is physically possible.

Senator Daly:

Thank you, and then the third question is in section 25(9), and I just want to also get some clarification—I've got to scroll down to that—you guys make reference to existing administrative code 455C.510 which talks about giving a limited permit. So in the existing regulation, which you guys reference to in section 25, it says that you can give it a limited permit in existing during construction, and then in the proposed language in the regulation it says that you can give a limited exemption and it can only be operated by an elevator constructor or an apprentice during the construction of the elevator. I just wanted to make sure we were talking about apples and apples and not two different things, because whenever you're prescribing—and I don't have an issue prescribing the assignment of work during the construction of the elevator. I think that's appropriate, but if you—so maybe the question is, do you issue limited permits at any other times? Let's say the elevator is completely finished but the building is not ready to be occupied yet, but they want to operate the elevator for other construction purposes, etc. Do you issue a limited permit or only during the construction of the elevator, because if we're making an assignment of who runs the—an assignment of work in regulation other than during the construction of the elevator, there might be an issue with some of the other trades.

Mr. Paterson:

You are correct, sir. This provision only applies to when the elevator itself is actually being constructed. We do issue limited permits for use of the elevator during the time the elevator is still being built, it's not ready for its initial operating permit, and that's to allow the movement of personnel and materials up and down a building during its construction phase prior to the completion of the elevator. Once the elevator has been completed and it's passed all of its initial testing, it's actually issued an operating permit, a full operating permit, and the Division has—there's no requirement for any operator of any kind at that time beyond what the building owner would wish to have.

Senator Daly:

And I appreciate that on the record, and I think there might have been some crossing of issues because I know another provision in your regulation talks about some other trades, and you talked about that. So the elevator constructor, the contractor, might need in some—to hire an iron-working firm to do some of the in-the-shaft construction of the elevator, same thing with electricians, maybe some other crafts, and I think this regulation allows those crafts to be hired as subs under the supervision of an elevator constructor but be able to get in the hoistway without all the rest of the credentials an elevator constructor would have. Is that the correct interpretation of what you're trying to do? And I agree with that, I just want to make sure that's on the record.

Mr. Paterson:

Yes, that is correct. The intention there is to ensure that other trades, steelworkers, drywallers, etc., can access elevator hoistways and pits as necessary without having to be licensed as elevator mechanics themselves in order to increase efficiency and safety on the job site.

Senator Daly:

But they do have to be under supervision of the licensed elevator constructor?

Mr. Paterson:

Yes, sir. No person may access or work in those places unless they are accompanied by and overseen by an elevator mechanic.

Senator Daly:

Final question is in section 26 where it talks about the 6-month permit for personnel hoists, and I'm not sure if that's new language or if it's just being moved from another area. So, how much—question: I'm curious, how much does that permit cost every time you've got to get it in 6 months? Seems to me these personnel hoists are going to be for elderly people going up stairs and various things, if that's what we're talking about, and then is there any type of exemption to help out senior citizens on the cost of the permit or those types of things, because we don't want people to not get the inspection because it costs them too much money and they can't afford it. We want to make sure they're in good working order. A little explanation there is all I was looking for. That's my final question, Madam Chair.

Mr. Paterson:

This provision refers to personnel hoists which are rack and pinion style devices, which are typically only used on a temporary basis on construction sites, and what this clarification of the regulation does is it limits the operating permit to 6 months for one of those units when it has become permanently installed. We have very few of those in the state. They are at a couple of power plants and some zipline locations in Las Vegas. The 6 months is determined based on the technical advice of the manufacturers of those products who require certain testing at 6-month intervals in order to maintain their safety. This does not apply to any regular elevator that any private person would own, does not apply to anything in somebody's home, but again, only for very special use cases for permanently installed personnel hoists.

Senator Daly:

Thank you.

Chair Cannizzaro:

Thank you, Senator Daly. Are there additional questions? I'm not seeing any in Las Vegas. Any additional questions in Carson City?

Senator Ira Hansen (Senatorial District No. 14):

Yes, there is.

Chair Cannizzaro:

Not hearing any—oh, sorry, go ahead.

Senator Hansen:

My apologies for not getting back to you quicker. A couple of questions, one on the increase in pricing. This'll be for whoever's sitting up there. In section 4(1), rules for construction of power boilers, from \$500 to \$540, is that just an inflation adjustment? When was the last time these numbers were bumped up?

Ms. Carreon:

The prices that you're seeing in section 4, that's the cost of the publications that are being adopted by reference. The state doesn't control the cost of those publications; they are controlled by the publishers of those publications, so we are merely updating the current prices of those publications. Thank you.

Senator Hansen:

I got it. I was confused. I'm curious as to why do people have to—is there some law that requires people, contractors like myself, for example, purchasing these? Do they have to go through you guys to actually do the purchase? Why can't they just go on Amazon and buy them, or something like that?

Ms. Carreon:

People can purchase them directly from the publishers. I believe usually you can't really get them from Amazon. Usually you have to go directly through the publishers that provide these publications.

Senator Hansen:

Okay. I'm just kind of wondering why it's actually an NAC (Nevada Administrative Code) that you have to give a price for a book that you can buy. But anyway, that's off the topic. Last quick question, under 455C.064, potable water heater, there was an individual, Amanda Moss, who asked a question. There are currently exemptions for single-resident water heaters. Has that been affected in any way by the changes in these regs that are before us today?

Ms. Carreon:

There are no changes to residential water heaters in any permit requirements. Those are not regulated by the state; those are regulated at the local jurisdiction level. Thank you.

Senator Hansen:

Okay, and the last question, 455C.114, just looking at it, for exemptions to boilers, awhile back—I don't know, it's been 8 years or so—there was a bit of a controversy because potable water heaters that exceeded, I think it was 299,000 BTUs (British Thermal Units), even though they weren't really technically boilers, were being lumped in as boilers and had to get boiler types of safety devices and so forth. Has that been included in those exemptions? I know it's not directly part of this regulation, but I'm just curious whether or not that is still a controversial thing or whether or not that has actually been resolved through NAC.

Mr. Paterson:

That is currently resolved within the NAC. All water heaters which are under 199,000 BTUs, under 210 degrees Fahrenheit, etc., are exempted from regulation by the Division of Industrial Relations.

Senator Hansen:

Good, so that takes care of virtually all like that. We had the situation at Mendive Middle School. We had put in three big commercial water heaters. They were defined as boilers, and man, it caused a huge problem because we had to get the factory people to come in

there and add some things to them, but that has been resolved since that time. Thank you very much. I think, Madam Chair, that is all of my questions. Thank you very much.

Chair Cannizzaro:

We're doing microphones by hand today. Thank you, Senator Hansen. Anyone else in Carson City wishing to ask any questions? I'm not hearing anyone jump in. We'll go to those joining us virtually. Any of our Commission members joining virtually who have questions on this regulation? Assemblyman DeLong, please go ahead. Assemblyman, did you have a question for the Department on this? You might be muted, because we can't hear you here. We still can't hear you, if you're trying to ask a question. Assemblyman DeLong, we can see that you're highlighted on the screen, but we can't hear you. We're going to be in just one brief recess to—and I apologize for anyone who's joining us today and thank you for your patience while we work to address this issue, but we'll be in just a brief recess to make sure that we can connect with the Assemblyman for his questions.

Assemblyman DeLong:

My comments relate to a number of the commenters during the workshop were referencing the 1-year compliance period under section 14 and the fact that in their view that was too short for them to be able to comply with the regulations—on the record—the Division address those comments.

Chair Cannizzaro:

Okay, we are back in session here with the Legislative Commission. Assemblyman DeLong, I know you were just asking a question, so we're going to turn it back over to you to ask your question and we'll go from there. If you could repeat the question?

Assemblyman DeLong:

I'd be glad to. In reviewing a number of the comments from the workshop, several individuals commented about the 1-year compliance period under section 14 and the fact that that appeared to be infeasible to that and were looking for something more along the lines of—on the record how the Division's addressed those.

Ms. Carreon:

Thank you, Assemblyman, for that question. That was addressed in the regulation by providing additional time for compliance with the A17.3 requirements for basic safety, and so at the very end of the regulation, you'll see that it has the effective dates and it says

section 23 of this regulation becomes effective on December 31, 2025 and section 24 of this regulation becomes effective December 31, 2027. Additional time was provided based on the comments that we did receive during the workshop. Thank you.

Assemblyman DeLong:

Thank you. I don't have any more questions on this regulation.

Chair Cannizzaro:

Great. Anyone else joining us virtually who has questions? I'm not seeing anyone jump in. If by chance I have missed you, feel free to go ahead and chime in, but we are going to move on. R034-21 is the regulation that we are considering. I did forget to mention to say that. I think we've answered all of the questions, unless there are any other lingering questions, and I've sort of given everyone a moment to jump in to make sure that we haven't missed anybody. I'm not hearing any, so with that, I would be willing to accept a motion to adopt the regulation. So moved by Assemblywoman Backus, a second by Senator Harris, and I think that was Senator Daly trying to chime in too, but we'll move on to discussion on the motion. Any discussion on the motion? I'm not seeing any in Las Vegas. We'll go to Carson City, any discussion on the motion? I'm not hearing any. Anyone joining us virtually, any discussion on this motion? All right, seeing none.

ASSEMBLYWOMAN BACKUS MOVED TO APPROVE REGULATION R034-21.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

The regulation is adopted. Thank you so much, and thank you for working with us as we are getting through this meeting. We will now move on to the next regulation that was requested to be pulled. It is R043-22 for the State Board of Health (Agenda Item V), and what I will do is we'll start with that regulation, and then we have two more for the State Board of Health, so we'll take those next and then we'll move on to the Department of Motor Vehicles, but we'll start with R043-22. I believe we should have some representatives for the State Board of Health with us in Carson City. This regulation was

requested to be pulled by Senator Daly, so I will turn it over to Senator Daly to ask his questions and then we will, in the same way that we have with the previous regulation, check to see if there are other members that have questions, but we'll start with you, Senator Daly.

Senator Daly:

Thank you, Madam Chair, and I'm not sure I actually pulled this one, but I do have a question. First question is in section 12(4). I believe the Division is allowing people to apply—is get approval without application. How long does that last, and how does that reconcile with the requirement of people that do have to put an application in to get a review every 2 years? It says you have to review the application every 2 years, but if you never had to put an application in, how are you going to administer that?

Cody Phinney (Administrator, Division of Public and Behavioral Health, Department of Health and Human Services):

Good afternoon. Cody Phinney, Administrator of the Division of Public and Behavioral Health, and we have on video Tina Leopard from the Bureau of Behavioral Health Care Quality and Compliance to assist with this as well today. Thank you very much for the question. It's an excellent question. I'm going to turn that directly over to Tina and have her answer that for you.

Tina Leopard (Manager, Bureau of Health Care Quality and Compliance, Division of Public and Behavioral Health, Department of Health and Human Services):

Tina Leopard, Manager of the Bureau of Health Care Quality and Compliance. Regarding the nationally recognized—it still would go through the process. They'd still have to apply as a course coordinator and then as instructors using that curriculum, so it's just the vetting process of the curriculum. If it's nationally approved, it would be automatically approved as far as the curriculum of those rather than having to look through individually developed curriculum to make sure it meets the standards within the regulation.

Senator Daly:

So there will be a 2-year review—

Ms. Leopard:

And that renewal will be the 2 years. I apologize.

Senator Daly:

It'll still be reviewed every 2 years regardless, even though it's approved without the application?

Ms. Leopard:

They do still have to apply and do the application. They would just indicate the curriculum they're using would be that nationally recognized curriculum, and they would have to renew that every 2 years.

Senator Daly:

But I think the language that's in the regulation says that they can be approved without application. It's in section 12(4).

Asher Killian (Chief Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau):

Madam Chair, if it would help, this is Asher Killian, Chief Deputy Legislative Counsel. I can help address that issue.

Chair Cannizzaro:

Mr. Killian, if you can hear us—losing some of the feed between here and Carson City, so you seem to be going in and out, but if you can try to answer that and we'll see if we can hear you.

Mr. Killian:

Thank you, Madam Chair. The specific provision being referred to in section 12(4) allows for a course to be approved without an application, but in subsection 7, the approval itself expires 2 years after the date that the approval was granted and then a re-application is required for the approval to be renewed. This particular kind of nationally recognized course can be initially approved without an application, but the course would expire 2 years after the approval was granted and then a re-application would be required for any renewal of the approval.

Senator Daly:

Thank you for that. That's what I just needed to have explained and get on the record. Thank you.

Chair Cannizzaro:

Okay. Any additional questions from members of the Commission? I am not seeing any in Las Vegas. Any other questions in Carson City? Not hearing any. We will move to those joining us virtually. Any members of the Commission have any questions on this regulation?

Senator Daly:

Looks like Senator Stone has his hand up.

Chair Cannizzaro:

Okay, Senator Stone. For those of you joining us virtually, we just don't have great video feed on this end. Thank you, Senator Daly, but Senator Stone, please feel free to go ahead. If you're joining us virtually, when we come to you for questions just feel free to jump in because we can hear you fine, we just can't see the video too well on this end. Senator Stone, please.

Senator Jeff Stone (Senatorial District No. 20):

You're probably lucky you can't see my image too much, but thank you, Madam Chair. Happy summer to all of you and to our staff. In reading some of the comments on this particular item, some of the smaller providers are saying that this is going to be very costly and burdensome for them and is going to raise their costs of caregiving and increase their insurance. Can you kind of respond to the impacts to the limited number of providers we have in the State of Nevada for this?

Ms. Phinney:

Thank you very much. The overall purpose of this regulation is to allow this population to be served. It doesn't require any individual provider to serve this population, but we are concerned about the implications that that could have for individual providers and want to be mindful of that and be as flexible as possible for them. I'm going to ask Ms. Leopard to add any specific changes that were made related to the comments that we received.

Ms. Leopard:

The training that we're posting on the website will be—there's free options, there's curriculum options that facilities can incorporate, and administrator supervisory staff could use that training to provide the training. Another provision is actually reducing that threshold for requirement of an Alzheimer's endorsement. Currently, the regulations

indicate that if the resident has a diagnosis of Alzheimer's or dementia, they have to have an Alzheimer's dementia endorsement at the facility. This reduces that threshold and just indicating that individuals that are at a certain requirement of needing the supervisory care requirement to be in a locked facility and have a lower staffing of one to six. Those individuals would then have to get the endorsement versus anyone that has a dementia or Alzheimer's diagnosis.

Senator Stone:

Thank you. No more questions.

Chair Cannizzaro:

Okay. Anyone else joining us virtually who has questions on this regulation? Okay. A motion at this time to adopt? So moved by Assemblywoman Backus, second by Senator Harris. Any discussion on the motion? I'm not seeing any here in Las Vegas. Any discussion in Carson City? I am not hearing any. Any discussion from those joining us virtually? I am not hearing any discussion.

ASSEMBLYWOMAN BACKUS MOVED TO APPROVE REGULATION R043-22.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Regulations R043-22 is adopted. We will move on to the next regulation for the State Board of Health so that they can stay with us for a moment. It's R111-22 (Agenda Item V). This was a request from Senator Krasner, so we will turn it over to you, Senator Krasner, to go ahead and ask your questions and then we will do as we've done with the previous regulations and check if anyone else has questions on this regulation. Senator Krasner, when you're ready.

Senator Krasner:

Thank you, Chair Cannizzaro. I don't have any questions. I do have comments, so I'll hold those until the end. Thank you.

Chair Cannizzaro:

Okay, so no questions for the Board of Health. Anyone else have questions? I don't have any in Las Vegas. Any questions in Carson City?

Assemblywoman Alexis Hansen (Assembly District No. 32):

I do, Senator Cannizzaro.

Chair Cannizzaro:

Yes, Assemblywoman.

Assemblywoman Hansen:

Thank you. Was just curious if you could give us an understanding—had feedback that it's, regarding the death certificate, going from 48 hours to 24, what that reasoning was. It's going to be especially hard in the rural areas. My apologies, I didn't reference—I thought somebody else was going to grab that and then they didn't, so I can go to the direct reference if you need.

Nikki Mead (Office of Vital Records, Division of Public and Behavioral Health, Department of Health and Human Services):

That time frame is not a new time frame, it's just a clarification on what was already happening.

Assemblywoman Hansen:

So to make sure that I'm understanding, the feedback I had gotten—a concern from actually Senator Titus who couldn't be here to call in, was that—because she has to do these at times. It currently is 48 hours? You're clarifying 24 to 48? We're not changing to 24?

Debbie Charlton (Office of Vital Records, Division of Public and Behavioral Health, Department of Health and Human Services):

Hi, this is Debbie Charlton, a supervisor with the Office of Vital Records. This is just to have it correlate with the rest of law that was already written, so it's a clarification on the law to coincide with what's already there.

Assemblywoman Hansen:

Okay, thank you.

Senator Krasner:

I'm sorry, now I do have a question.

Chair Cannizzaro:

Okay, we'll come to you in just a moment. Let's finish up in Carson City, if there's any other questions from members in Carson City? I'm not hearing any, and so we will move then—Senator Krasner, please go ahead.

Senator Krasner:

Thank you, Chair Cannizzaro. In section 5 of reg R111-22—multiple times except otherwise—physician or advanced practice registered nurse who pronounces a death certificate has to complete the death certificate, and it said 48 hours in red, that's crossed out, it now says 24, then you go down to section—it says it again, 48 hours, it's crossed out, it says 24, it says it again two lines down—a death certificate within 48, it's crossed out, it says 24, sub 3, again, 48 crossed out, it says 24. So yeah, that was my concern too that the physician or registered advance practice nurse would not have time to prepare the death certificate—hours instead of 48. Are you saying—phase? I'm just wondering why it's there five times, or five times five.

Ms. Mead:

That's simply when the record needs to be started. It doesn't have to be completed. It needs to be started within the 24 hours.

Senator Krasner:

So it is being changed then from 48 to 24?

Ms. Mead:

No, ma'am, it's not a change. It's the same as it's been.

Senator Krasner:

Why does it say 48 in red and it's crossed out and then say 24 then? And again, I'm in section 5.

Ms. Phinney:

Senator Krasner, thank you. Can you provide—I'm having a terrible time hearing you. Could you say—section 5?

Senator Krasner:

Yeah, so it's section 5. I don't know if you can see it—and then it says 48. It's crossed out and it says 24 and it's done four different times, 48 then it says 24, 48 crossed out, 24, 48 crossed out, 24, 48 crossed out, four different times.

Ms. Phinney:

Yes, ma'am, that is correct. It appears we are changing it from 48 to 24 hours. I apologize for the confusion.

Senator Krasner:

Okay, yeah. Thank you. For those reasons I'll be voting no on R111-22.

Chair Cannizzaro:

Senator Krasner, your last comment was just a little broken up. Could you repeat? I don't know if it was a question or a comment.

Senator Krasner:

No, I just said that's what I thought, that it is being in fact changed in four different areas there from 48 hours to 24, and I don't think that's enough time for the physician or the advanced practice registered nurse to complete the death certificate, and so for those reasons, I'll be voting no. Thank you.

Chair Cannizzaro:

Okay, thank you.

Ms. Phinney:

If I may, Senator Cannizzaro?

Chair Cannizzaro:

Yes, Ms. Phinney, please.

Ms. Phinney:

I do want to restate, that is the required time to begin the process of the death certificate, not necessarily to complete it, is the expectation, but we would be happy to make further clarifications if that would be helpful to this Committee.

Chair Cannizzaro:

And Ms. Phinney, if you could, while we're just on this topic, because I know Senator Krasner, I think, was trying to ask why there had been the change in four separate parts in section 5. To me—and I don't know if Mr. Killian wanted to also weigh in. To me, the way I read it is that that sort of conforms with the requested change to the 24 hours for each of these particular circumstances. It seems to just be a uniform change throughout that provision of the Administrative Code.

Mr. Killian:

Thank you, Madam Chair. Yes, that change is made consistently from 48 to 24 hours throughout these relevant sections of the Administrative Code.

Chair Cannizzaro:

Okay. Thank you, Mr. Killian, and the way that I'm hearing the testimony today, Ms. Phinney, is that this is a change to require that the death certificate be begun within that 24-hour period, not necessarily that it be completed within that 24-hour period, which would give sufficient time for them to actually complete the death certificate, but would give parameters for them to begin processing that within that 24 hours.

Ms. Phinney:

Senator Cannizzaro, thank you very much for the opportunity to clarify. Yes, in order—in compliance with NRS 440.490 that requires the completion of the record within 72 hours, we request—we're asking that they consistently be started within 24 hours.

Chair Cannizzaro:

Okay, great. Thank you, Ms. Phinney. Any additional questions from members of the Commission? I'm not seeing any in Las Vegas. Anything else from those joining us in Carson City or virtually?

Assemblyman DeLong:

Yes, I have a comment.

Chair Cannizzaro:

Please, go ahead.

Assemblyman DeLong:

Because of the language in section 1 regarding multiple genders beyond two, I am going to be voting no on this regulation.

Chair Cannizzaro:

Okay. Thank you, Assemblyman. Any additional questions for the Board of Health? I am not seeing any. I would accept a motion at this point in time from members of the Commission to adopt the regulation. So moved by Assemblywoman Backus. I have a second from Senator Harris. We will open it up for discussion on the motion. I would note that we did hear some discussion from Senator Krasner and Assemblyman DeLong that they would both be no's on this particular regulation for the reasons that they stated. Any discussion here in Las Vegas? I am not seeing any. Any discussion in Carson City?

Assemblywoman Hansen:

I do, Senator Cannizzaro.

Chair Cannizzaro:

Assemblywoman, please.

Assemblywoman Hansen:

I'm going to be a no. It still concerns over the period of time—I'm not sure if I'm understanding it as I read it versus what's been explained. I still think there's been a tightening up of that time frame, and based on feedback from some health professionals, I am going to be a no. Thank you.

Chair Cannizzaro:

Okay. Thank you, Assemblywoman. Additional discussion in Carson City? I'm not seeing any. Any additional discussion virtually? I'm not seeing any.

ASSEMBLYWOMAN BACKUS MOVED TO APPROVE REGULATION R111-22.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED (SENATORS HANSEN, KRASNER AND STONE, ASSEMBLYMAN DELONG AND ASSEMBLYWOMAN HANSEN VOTED NO).

Chair Cannizzaro:

The regulation is adopted. Thank you. We will move on to the last regulation for the State Board of Health. It is R148-22 (Agenda Item V). This was a regulation that was requested to be pulled by Senator Daly, so we will turn it over to you, Senator Daly, to begin with your questions when you are ready.

Senator Daly:

Thank you, Madam Chair. Which one are we on?

Chair Cannizzaro:

We are on R148-22.

Senator Daly:

Because I had questions on 81 as well, I thought you had pulled.

Chair Cannizzaro:

I do have that one. We were going to go through all the State Board of Health regulations first and then the Department of Motor Vehicles, so we pulled that one out of order.

Senator Daly:

No worries, thank you. Thank you. I just wanted to make sure I was following along here. So my question on this one when I read it over and over, and I got a call from a couple people concerned about overreach and all that stuff. I think what you're trying to do is if there's a public health concern, you want to be able to address it and implement the appropriate level of safeguards for the public. You can't go back into a school, hospital, daycare, etc., etc., but the language that I kept reading over and over—unless somebody can claim an ADA (Americans with Disabilities Act) exemption, so maybe you can just shed some light on me for that, because it seems to me if it's a public health issue, you can't just say, "Nah, okay, I know I'm contagious, I know I got this, but you can't discriminate against me under the American Disability Act, so I'm going in anyway." Is there a court case or something that establishes that? Why is that language there? I'm uncomfortable with the language to put it in there to allow a person to be zealous like that and just say, "I don't care about the rest of the public. I have this right and I'm doing what I want." I just think it's a problem that the language there—and I don't know if there's a court case driving it or if I'm reading it wrong. I need to know the rest of the story, because it seems to me all you have to do under the Americans with Disabilities Act in the employment area is make a reasonable accommodation, and it doesn't seem to me that it would be a reasonable accommodation at all to allow a contagious person contrary to public health to be able to say, "I'm going in." I just don't understand why the language is even there or how a person could claim an exemption over public health concerns and think that that's a reasonable accommodation. What am I missing?

Melissa Peek-Bullock (State Epidemiologist, Division of Public and Behavioral Health, Department of Health and Human Services):

Thank you. I am the Nevada State Epidemiologist with the Division of Public and Behavioral Health. Thank you for your question. It's an excellent question. That language was added related to the requirement in NRS 441A.180, and that language was added stemming from SB (Senate Bill) 275, so that language was added into NAC 441A to reflect those changes. What that process would be in terms of doing that ADA claim, I cannot speak to that, but I'd be happy to look into that and get that information for you.

Senator Daly:

Well, I'm hoping you will, because it doesn't make sense to me, and if you can forward me the statute that you looked at, I'll try to look that up. But to me, the way this reads—and especially in the environment we're in and for all of this stuff, and nobody trusts the government and "I'm not sick" and this, and "You can't infringe on my rights," blah, blah, blah. When there's a public health issue, we need to have some uniform set of rules that people have to abide by for the greater good, right? If there's a reasonable accommodation that can be made for this person to be done, and sometimes there isn't, and I think it would be in conflict potentially with an employer's obligations under OSHA (Occupational Safety and Health Administration), for instance, to provide a safe work environment for his workers, knowing that there's some other person that may cause a health issue in that environment. I'm not sure what the other statute is you referenced says. I can't believe that that would have been the intent of that legislation, but if it was, maybe it needs to be reviewed on that. But I'm uncomfortable with that language being in there. I think it just creates an opportunity for selfish people to be selfish and doesn't seem like there'll be a hell of a lot we can do about it.

Ms. Peek-Bullock:

Thank you, and I will definitely get the NRS statute over to you to review. I will just say on the record that we work very hard on a case-by-case basis with any folks that are going to be excluded from childcare, schoolwork to ensure that we do that amicably and that their needs are met so that they can stay home and keep the public safe, so we work very hard to do that.

Senator Daly:

That was my only question, Madam Chair, and I'm still uncomfortable with that language.

Chair Cannizzaro:

I didn't know—and I don't mean to throw anyone into the question-and-answer period, but I don't know if Mr. Killian had anything to add on that with respect to—I know your question initially, Senator, sort of revolved around ADA implications and whether the regulation was sort of matching those standards. I didn't know—and if you don't, Mr. Killian, then that's fine too.

Mr. Killian:

Thank you, Madam Chair. It was SB 275 from the 2021 Session that amended NRS 441A.180 to add language in subsection 2, paragraphs (a) and (b) that limit a health

authority from warning a person against engaging in an occupation or accessing a place of public accommodation if that refusal would violate the Americans with Disabilities Act. As an attorney rather than a public health professional, I can't really speculate as to what conditions would allow for that and what those restrictions would look like, but this change to NAC is a result of that change to NRS by SB 275 in 2021.

Chair Cannizzaro:

So as I am understanding it then, the language that appears in this particular regulation simply mirrors what was passed in that piece of legislation from the 2021 Legislative Session.

Mr. Killian:

Thank you, Madam Chair. That's correct.

Chair Cannizzaro:

Additional questions from members of the Commission? I don't see any here in Las Vegas. I do see Senator Krasner's hand up, so we'll go to you, and then if there's anyone else in Carson City, we'll go there. Senator Krasner, when you're ready.

Senator Krasner:

Thank you, Chair Cannizzaro. First of all, I do have a comment that I'll make at the end—several sections of this regulation. However, this doesn't just touch on one bill—192 from the 2021 Legislative Session. My question is, why in section 28 are we now not going to be giving a victim of sexual assault—notified by the Health Department. The person—raped them is known to have HIV (human immunodeficiency virus). Previously they were, and additionally it is mandated in section 20 that the Health Department is obligated to disclose to any first responder if they are given a needle—semen and blood—from somebody who is known to have HIV. Why are we not doing that for people that have been sexually assaulted—sexual assault. I'm just wondering why.

Ms. Peek-Bullock:

Thank you for the question. I'm joined online today by our health program manager for our HIV program, Tory Johnson, so I'm going to allow him to answer those.

Tory Johnson (Health Program Manager, Nevada HIV Prevention and Surveillance Program, Division of Public and Behavioral Health, Department of Health and Human Services):

I could not hear the question. It was very garbled.

Chair Cannizzaro:

Senator Krasner, if you could go ahead and please ask the question again.

Senator Krasner:

And I do understand there's a lag. So if you look at section 28 of the regulation that we are—R148-22, you'll see that in red and crossed out it no longer says that a person who is a victim of a sexual assault will be notified by the Department of Health if the person that raped them is known to be somebody who is infected with HIV, whereas it is mandated in section 20 that a first responder is notified by the Department of Public Health if they come in contact with a needle stick, semen, blood, feces from someone who is known to have HIV. Why are we taking victims of sexual assault out is my question, please.

Mr. Johnson:

Thank you. That would be the direct—from Senate Bill 275 from 2021. Yeah, that was a direct correlation from that. That was to be—someone with HIV, so that was the purpose of having these regulations updated to reflect that.

Senator Krasner:

Thank you.

Chair Cannizzaro:

Senator Stone, I think I see your hand up.

Senator Stone:

Yeah, just really quickly to follow up. Thank you, Madam Chair. Follow up on Senator Krasner's question. Don't victims have the right to know that their attacker had AIDS (acquired immunodeficiency syndrome), especially within the first 72 hours as we have a medication called PEP (post-exposure prophylaxis) and PrEP (pre-exposure prophylaxis) in particular that can abate the transmission of the AIDS virus if we can get to that victim

within 72 hours. Are we putting that patient in jeopardy by not contacting them within 72 hours of letting them know?

Mr. Johnson:

Yes, I am not able to speak to that because that was what was put forward in Senate Bill 275 from 2021, and from the public comment and from the health districts and others that were involved in this, that was not an issue that was raised. We do have information around PrEP and PEP out there. There are—I am missing the—there is a separate body for victims, victim rights, for information that they can get that information from, but again, this was a direct correlation of what was presented in Senate Bill 275 from 2021.

Senator Stone:

And I appreciate that. I just think that the legislation, albeit passed, is flawed and is putting victims in jeopardy of being sentenced with a million dollars' worth of medication for the rest of their lives when we have the opportunity, had the law allowed it, to notify the victim, to get them on PrEP to make sure that we can abate the chances of them getting the AIDS virus. We're—as elected officials with the health and safety of our residents. I think this is a breach of our duty with a piece of legislation that might not have been supported, at least if I were there at that time. So for those reasons, I'm going to probably be voting no on this. Thank you.

Chair Cannizzaro:

Thank you, Senator Stone. Additional questions from members either in Carson City or joining us virtually? I'm not hearing any. Give me just one moment on this particular one. There we go. Okay, so I think on—and I appreciate everyone's conversation and the questions on this, because I do think there have been—they have raised legitimate concerns with respect to, I think, Senator Daly's original points regarding some of the OSHA implications and then also with some of the implications that this may have for victims of sexual assault. I think at this point what I am inclined to do because of those continued concerns is to defer this regulation from consideration on the Commission in hopes that we may be able to get some additional clarification or that we may see this back before us at another hearing with some additional provisions that will address the concerns that have been raised by the members here today. So we will not, members of the Commission, be taking a vote on this regulation today. We'll be deferring this to another agenda for later action if we can see about getting some of those concerns addressed within the language of this regulation. I want to thank everyone at the State Board of Health for their diligent work on this and then hoping that we will be able to at least continue this conversation, because I do think there is definitely some good policy behind this bill and sort of updating some of our current laws regarding communicable

diseases. But obviously, there's still some additional questions and concerns that need to be addressed.

That will bring us, members of the Commission, to our final regulation for consideration today. That is regulation R081-22 for the Department of Motor Vehicles (Agenda Item V), and we will invite—I see folks joining us in Carson City from the Department of Motor Vehicles. We will begin with Senator Daly, who requested for this particular regulation to be pulled for additional consideration. Senator Daly, when you are ready, you can begin and ask your questions, and then we'll go around and see if anybody else has additional questions.

Senator Daly:

Thank you, Madam Chair, and my question has to do with section 9. Part of what the Legislative Commission is required to do or supposed to do in review of regulations is to make sure that the agency is within the legislative authority. I know at the beginning of the bill you cite the regulatory authority in NRS, I believe it's 482B.150, and that authority is, in my view, fairly prescriptive. Usually you just say an agency can adopt regulations to carry out the statute, so it's very broad. If you look at 482B.150, it's very specific, prescriptive. I mean, there's like six sections of a bill that only has nine sections total—I mean the statute, the chapter, only has nine sections. It's very short. I'm not seeing where—to make things confidential, any information you receive from these agencies, not just proprietary or trade secrets, etc., you say you consider all of it to be confidential, and I don't believe that authority is granted in your authority to adopt regulations. I did talk with legal counsel a little bit while we were in between a few things and said there's an argument to be made under federal law that anything they put in on the testing could be trade secrets, etc., but I don't care what the federal law says. You can make that argument if someone puts in an information request for a public records request. You can cite that federal regulation all you like, but I don't believe the state and DMV in particular under the authority granted legislatively has the right to make anything confidential by regulation. There's a process for that in Nevada. You come to the Legislature and you make that request and you ask to make that particular information confidential. It gets added to the list of the other stuff that's confidential. People come into a hearing in front of a committee and they make the argument on why it should be or shouldn't be, and if everything should be or not. I just don't see how you can make it a blanket deal. I think that section exceeds the regulatory authority granted by the Legislature in the statute listed, 482B.150. Please, I'd like to hear your response. Legal told me that there is an argument that it could be a trade secret under federal law, so they made the inference and the jump, but that isn't the way we do it, and it's not the way I would have things be made confidential in the State of Nevada.

Mr. Hefner:

Thank you. Again, Martin Hefner representing the Department of Motor Vehicles. With me at the table here is Tyler Saunders, also with our Research and Project Management Division. He can speak to the particulars of that particular section. In general, I'd just like to say that first that the purpose of this proposed new chapter was to put in place regulations that would govern the newly developed technology of alternative electronic transportation systems (AETS) as contained in chapter 482B of the Nevada Revised Statutes. So, this new technology, while similar to the concept of autonomous vehicles, differs from those in that AETS technology can be a different kind of remotely—different types of technologies, which is in fact new. Tyler, if you have anything to add regarding that particular section on the confidentiality, that would be great.

Tyler Saunders (Management Analyst, Research and Project Management Division, Department of Motor Vehicles):

Thank you, Senator, for your question. Tyler Saunders with the Nevada DMV. In regards to section 9 with the confidentiality, this section does mimic NRS chapter 482A. We tried to keep it the same as the autonomous vehicle side. This side is, as Martin here mentioned, the AETS, alternative electronic transportation systems. We're just basically mimicking the same chapter, going along with some of that similar language. We don't have a specific reason as to why we are keeping it confidential other than it was in that chapter and just kind of mimicking it to keep it across the board as the same. We also don't want to give certain information out pertaining to autonomous vehicle companies as they're in kind of a competition with each other. A lot of them try to come to us, gaining information about the other ones, and then try and release information to the public. Thank you.

Senator Daly:

Thank you, and I knew that would be the answer. I didn't know about the other regulation and various things. I don't know if I was here when that one was reviewed or not, and I understand. I don't like it, and I understand that certain portions of the information you receive may be proprietary trade secrets, those types of things, should be protected. Not disputing that, I'm just saying that you weren't given the authority specifically under the statute. Maybe there's a stretch that can get you there under the federal law. LCB (Legislative Counsel Bureau) tries to not write laws that exceed your authority or would be in conflict with those types of things, so they apparently felt comfortable with it. I think all information that you might receive is a little broad. I can go ahead and let this regulation go through. I just hope everyone will be a little more careful about it. Maybe there's something we can do from the legislative side to clarify some of these things on when things can be made confidential or what type of things without having to come through

the legislative process, because there—if you look at, what is it, 239, I think it's 010, there's like 180, might be over 200 now, sections of law that make things confidential. Everybody had to come to the Legislature, ask for that exemption and justify the exemption, why things are not open, and I think that process should be followed for the public's sake. Documents kept in the normal course of business by government agencies, there should be transparency, and if we can make things confidential very broadly like this in a regulation, I think that circumvents some of the confidence people would want to have on transparency of government. Again, not sure I'll hold yours up. I think there's reasonable arguments for some of this information, and if it mimics a regulation that's already there, maybe it just needs to be looked at more broadly in legislation. Thank you. That was it for me, Madam Chair. Thank you.

Chair Cannizzaro:

There we go. Thank you, Senator Daly, and I didn't know—I know Mr. Fernley had previously taken a look at this particular section and I didn't know if there's anything else, Mr. Fernley, that you would like to add.

Bryan Fernley (Legislative Counsel, Legal Division, Legislative Counsel Bureau):

Thank you. The LCB did review the regulations for conformity with statutory authority, and in our view, there are exceptions to the Public Records Law recognized by the Nevada Supreme Court when there is a public interest in keeping records confidential. The Nevada Supreme Court will generally hold that those records can be kept confidential, and in this case the records would relate to the testing and operation of autonomous vehicles, and we felt there was a reasonable argument there that those types of records relating to testing and operation of autonomous electronic vehicles would contain trade secrets and that many of those records would be able to be kept confidential under Nevada Supreme Court case law, so that was the legal basis for the drafting of the regulation.

Chair Cannizzaro:

Thank you, Mr. Fernley, and I appreciate further discussion on that. At least insofar as I am reading this, section 9, it does pertain to the testing or operation of those vehicles, and from my perspective, while I think we should be careful about what information is made confidential, I think allowing for disclosure sort of testing or operation of electronic autonomous vehicles I think could create some dangerous situations as well from a public safety perspective, and so I feel very confident in this particular section, especially because there are exceptions to that that would require the Department to disclose that information if they were granted consent by the person who had submitted it or if there was an order to do so by a court, and so that to me, I think, gives some assurances that

it's not as though this information couldn't be obtained under the proper circumstances. I think overall, weighing those interests, making sure that we're not disclosing a bunch of that information for the testing and operation of those vehicles which could allow for some more nefarious conduct seems to me, at least in my perspective, on balance to make some sense, so I'm comfortable with the regulation, especially because it mirrors that. I think to Senator Daly's point, to the extent that this may be something that uniformly needs to be looked at by the Legislature, would be done in a legislative session. I just wanted to voice my own comments on that one. Any other questions on this particular regulation from members of the Commission? I am not seeing or hearing any. I would accept then a motion to approve this regulation R081-22. So moved by Assemblywoman Backus. I have a second from Senator Harris. Any discussion on the motion? I am not seeing any.

ASSEMBLYWOMAN BACKUS MOVED TO APPROVE REGULATION R081-22.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

That regulation is adopted. Members of the Commission, that does conclude item V on our agenda. Thank you, everyone, who has joined us today for our review of the regulations, and I do appreciate the Commission's detailed questions and digging into some of these regulatory changes.

We will go to the next item on our agenda, which is item VI. That is the appointment of members to committees and similar entities. Members, at your desk you will have two different documents for item VI, one for item VI-A and one for item VI-B. Under item VI-A is the appointment of the members to the Board of Directors for the corporation for public benefit that administers the Nevada Youth Legislature. You should have a list of the persons proposed for appointment or reappointment to that Board on your desks (Agenda Item VI-A). If anyone on the Commission has any questions, I would take any questions from members of the Commission on item VI-A for the members to the Nevada Youth Legislature Board of Directors. I am not seeing any questions from members of the Commission. Is there a motion to approve this list of individuals for the Board of Directors for the Nevada Youth Legislature? So moved by Assemblywoman Backus. I have a second from Senator Harris. Any discussion on the motion? Seeing none.

ASSEMBLYWOMAN BACKUS MOVED TO APPROVE THE APPOINTMENT OF MEMBERS TO THE BOARD OF DIRECTORS FOR THE CORPORATION FOR PUBLIC BENEFIT THAT ADMINISTERS THE NEVADA YOUTH LEGISLATURE.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Those individuals listed on that sheet for item VI-A for reappointment and appointment are adopted. Moving on to item VI-B is the appointment of members to the Nevada Silver Haired Forum. Members, again you should have a list of those persons proposed for appointment to the Forum on your desk under item VI-B (Agenda Item VI-B). Any discussion on this particular item? I am not seeing any. I would accept a motion to approve the members for the appointments to the Nevada Silver Haired Legislative Forum under item VI-B. So moved by Assemblywoman Backus. I have a second from Senator Harris. Any discussion on the motion? Seeing none.

ASSEMBLYWOMAN BACKUS MOVED TO APPROVE THE APPOINTMENT OF MEMBERS TO THE NEVADA SILVER HAISED LEGISLATIVE FORUM.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Those individuals listed on our sheets will be appointed to the Nevada Silver Haired Forum. We will move on to the next item on our agenda, which is item VII. It is the approval of appointment of Legislative Counsel of the Legislative Counsel Bureau, and I am going to turn this over to our Director, Brenda Erdoes, who will present this item to the members of the Commission. Ms. Erdoes, when you're ready.

Brenda Erdoes (Director, Legislative Counsel Bureau):

Thank you, Madam Chair. As you said, item VII is the appointment of a new Legislative Counsel. NRS 218F.100 requires the LCB Director to appoint a new Legislative Counsel with the approval of the Legislative Commission. In your meeting materials you should have the resume of Asher Killian (Agenda Item VII). I recommend Asher Killian to this Commission to be appointed as the new Legislative Counsel. In addition to an excellent all-around legal brain there, he is also extraordinarily tech-savvy, which I think will help us into the future.

Chair Cannizzaro:

Thank you, Ms. Erdoes, and I would just sort of echo that I've worked on many pieces of legislation with Mr. Killian and have observed him in committee and have found him to be quite exceptional and very smart, I think capable of taking on this job, and that's just my own opinion. Is there a motion to approve the appointment of Mr. Killian? There's a motion made by Senator Krasner to approve the appointment of Mr. Killian as our Legislative Counsel. Do I have a second—from Assemblywoman Backus. Any discussion on that motion? All right, seeing none.

SENATOR KRASNER MOVED TO APPROVE THE APPOINTMENT OF ASHER KILLIAN AS LEGISLATIVE COUNSEL.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Congratulations to Asher on your appointment—Mr. Killian, sorry—on your appointment to serve as our new Legislative Counsel. We very much are looking forward to working with you, and a huge, of course, thank you to Mr. Fernley, who has served us very well and who I've also enjoyed working with. So while we're excited to welcome Mr. Killian, thank you, Mr. Fernley, for all of your hard work. That will solidify our appointment of the new Legislative Counsel. So congratulations, Mr. Killian. Yes, and congratulations on—I think we were in the tail end—I don't know if it was like 3 or 2 days of session, but truly just a phenomenal feat for having a baby and being with us through until the very, very

end, and hopefully your little one is growing and you're getting to enjoy some time together.

We will move on to item VIII, which is our last section of public comment. For those of you who are joining us virtually, we will be taking testimony in public comment. We don't have anybody here in Las Vegas. We will start with Carson City. As a brief reminder for those of you who are giving public comment, we do limit public comment to two minutes per person. We will of course always accept additional comments in writing. You can submit those to our staff, and there are details on that on the Legislature's website. Please remember again to identify yourself and spell your name for the record so that we have a record of who has joined us here today. If you are here in person in Carson City and you have not signed the sign-in sheet, please make sure that you do so that we have your correct name and spelling available to us. We will start with Carson City. I don't see anybody having taken those seats while I have given the brief overview of public comment, so we will move then to the phones. BPS, if we have anybody who is joining us for the second round of public comment, we would welcome their comment at this time, and I'll turn it over to you.

Broadcast and Production Services Staff:

The public line is open and working, but there are no callers at this time.

Chair Cannizzaro:

Okay. We have no callers. I don't see anybody in person wishing to give public comment. I want to give a huge thank you—and we will close item VIII. That brings us to item IX, which is adjournment. I first wanted to just say a huge thank you to all of our staff. I know we've been working through technical difficulties today. Thank you to everyone for bearing with us as we move through that. But we really do appreciate all of our folks who keep us up and running and have gotten everything figured out on our end. We appreciate everything you do for us and getting us through to the end of this meeting. So, seeing no further business to come before the Legislative Commission, this meeting is adjourned. Thank you, everybody.

RESPECTFULLY SUBMITTED:

Jordan Haas, Secretary

APPROVED BY:

Senator Nicole Cannizzaro, Chair

Date: _____

Agenda Item	Witness/Agency	Description
Agenda Item III	Jordan Haas, Commission Secretary	Draft Minutes of the Meeting Held on June 1, 2023
Agenda Item IV	Martin Hefner, Department of Motor Vehicles	Technology Fee Refund Status Report
Agenda Item V	Asher Killian, Chief Deputy Legislative Counsel	Administrative Regulations for Review
Agenda Item VI-A	Brenda Erdoes, Director	Appointments to the Board of Directors for the Corporation for Public Benefit that Administers the Nevada Youth Legislature
Agenda Item VI-B	Brenda Erdoes, Director	Appointments to the Nevada Silver Haired Legislative Forum
Agenda Item VII	Brenda Erdoes, Director	Resume of Asher Killian