

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

**JUNE 18, 2024**

The meeting of the Legislative Commission was called to order by Chair Cannizzaro at 2:03 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 5:32 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  
Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34 (Alternate for  
Assemblyman Steve Yeager)  
Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1 (Alternate for  
Assemblywoman Sandra Jauregui)

**COMMISSION MEMBERS PRESENT IN CARSON CITY:**

Senator Skip Daly, Senatorial District No. 13  
Assemblywoman Natha Anderson, Assembly District No. 30 (Alternate for Assemblyman  
Howard Watts)  
Assemblyman Rich DeLong, Assembly District No. 26

**COMMISSION MEMBERS PRESENT VIA VIDEOCONFERENCE:**

Senator Ira Hansen, Senatorial District No. 14  
Senator Lisa Krasner, Senatorial District No. 16  
Senator Jeff Stone, Senatorial District No. 20  
Assemblywoman Alexis Hansen, Assembly District No. 32

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

Melisa Aguon, Deputy Director  
Roger Wilkerson, Deputy Director  
Dan Crossman, Legislative Auditor, Audit Division  
Sarah Coffman, Assembly Fiscal Analyst, Fiscal Analysis Division  
Michael Nakamoto, Chief Principal Deputy Fiscal Analyst, Fiscal Analysis Division

Asher Killian, Legislative Counsel, Legal Division  
Heidi Chlarson, Chief Deputy Legislative Counsel, Legal Division  
Jennifer Ruedy, Research Director, Research Division  
Haley Proehl, Senior Policy Analyst, Research Division  
Bonnie Borda Hoffecker, Chief Clerk of the Assembly  
Broadcast and Production Services Staff, Administrative Division  
Angela Hartzler, Secretary, Legal Division  
Jordan Haas, Secretary, Legal Division

**OTHERS PRESENT:**

Kirk Kennedy, Counsel, Fu Zu Ba School of Massage and Reflexology  
Jerry Xu  
Yolanda King, President, Nevada Taxpayers Association  
Paul Moradkhan, Senior Vice President of Government Affairs, Vegas Chamber  
Alejandro Rodriguez, Director of Government Relations, Nevada System of Higher Education  
Nathan O'Hara, Fu Zu Ba School of Massage and Reflexology  
Lindsey Harmon, Planned Parenthood Votes Nevada  
Sarah Glazner, Department of Taxation  
Jasmine Kleiber, Department of Wildlife  
Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry  
Victoria Carreon, Administrator, Division of Industrial Relations, Department of Business and Industry  
Brennan Paterson, Chief, Mechanical Compliance Section, Division of Industrial Relations, Department of Business and Industry  
Erik Jimenez, Chief Policy Deputy, Office of the State Treasurer  
Sandy O'Laughlin, Commissioner, Financial Institutions Division, Department of Business and Industry  
Mary Young, Deputy Commissioner, Financial Institutions Division, Department of Business and Industry  
Ross Armstrong, Executive Director, Commission on Ethics  
Elizabeth Bassett, Commission Counsel, Commission on Ethics  
Elizabeth Barnard, Executive Director, Board of Massage Therapy  
Colleen Platt, Legal Counsel, Board of Massage Therapy  
Mike Sherlock, Executive Director, Peace Officers' Standards and Training Commission  
Celestena Glover, Executive Officer, Public Employees' Benefits Program  
Chelsea Kincheloe, Program Officer III, Division of Outdoor Recreation, State Department of Conservation and Natural Resources

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

Good afternoon and welcome to the third meeting of the Legislative Commission in calendar year 2024. I'm going to apologize because I did wake up with a little bit of a lost voice, so bear with me today.

We do have a quorum present. Before we get going here today, I'm going to go over just a few housekeeping items. I would like to ask everyone who is here to testify, whether you're in person or you'll be joining us via phone, to please state and spell your name for the record before you begin testifying. If anyone here would like to receive a copy of the Commission's agendas, minutes or reports, you may be added to our mailing list by following the links on the Legislature's website or by providing information to our staff who are present here today in both Las Vegas and Carson City. Contact information as well for staff is listed on the Legislature's website. In addition, please keep in mind that we do accept written comments, which may be emailed or mailed before, during or after the meeting. The information regarding where to send written comments is also on the website and listed on the agenda for this meeting as well.

We will go to item II on our agenda, which is our first public comment period. We will be accepting public comment at this time from persons here present in the Grant Sawyer Building. We have three seats up here at the dais. If you would like to give public comment on any of the items we'll be hearing today, now is the time to do that. We will also have another public comment period at the end of the meeting. We'll let you guys fill up these seats here. We also have seats available in Carson City for anyone who is in Carson City and wishes to give public comment. You can go ahead and fill those seats. We'll begin here in Las Vegas, then go to Carson City and then we will move to the telephones. As a reminder for those of you who will be testifying with us today, there will also be a second period of public comment following the end of the meeting after our business, so if you wish to provide public comment at that time, you can certainly join us once we get to that second period of public comment. Please also remember that comments during public comment will be limited to two minutes per person. If you don't finish what you have to say in that two-minute period, I would encourage everyone to submit written comments in full of anything that you weren't able to let us know at the time.

We will go ahead then and begin. As a reminder, please make sure you identify yourself. Make sure that you do sign in on the clipboard so we have contact information in case we have any questions. We will begin here with whoever would like to begin first. Remember, we'll start with two minutes public comment, and once folks here who are at the dais in Las Vegas are finished with their public comment, if there are other folks here in person who wish to give public comment, you can come and fill these seats. Whoever would like to begin—Mr. Kennedy, can you hit that microphone button in front of you?

**Kirk Kennedy (Counsel, Fu Zu Ba School of Massage and Reflexology):**

I'm Nevada counsel for the Fu Zu Ba Massage School and I'm commenting regarding regulation R017-24, which is the regulation for the Nevada Massage Board. I'm here today to make some brief comments that are impacting my client's school and the students and graduates of that school ([Agenda Item II A](#)). Recently, the Nevada Massage Board met on May 9 to consider changes to some of the requirements for applicants to get a massage license. Certainly that's within their right; they have that power to make changes to the Nevada Administrative Code (NAC). The code sections they made changes to are NAC 640C.052, which increased the hours that are required for an

applicant from 550 to 625 hours, and the matter at issue, the NAC provision 640C.050(e). The Massage Board voted to remove the ITEC program, which provides a national exam. An examination requirement is required for all applicants, and the Massage Board voted to remove that program. The effect of that removal was dramatic, because my client's school, and perhaps other massage schools in town as well, have students who have signed up for, paid and enrolled in the ITEC program to successfully complete the program and get their national exam requirements done. ITEC has been approved by the Nevada Massage Board since at least 2018, when the last prior amendment was made to the Nevada Administrative Code. This action in changing or removing ITEC, certainly it's allowed, but the Board apparently did not vote on when that would take effect. They did have an effective date regarding the change to the number of hours for the school. They made that effective June 30, but they failed to vote or deliberate on when they should make the ITEC implementation effective, and this has caused confusion and concern with a lot of existing students and graduates from the school because they have pending applications where, all of a sudden, now the program they paid for may be unacceptable by the Board if this is accepted, if this provision is passed today. What we're asking is very simple; we're just asking the Commission to remand this matter, at least in part, as to have them redeliberate the issue of ITEC.

**Chair Cannizzaro:**

Mr. Kennedy, if you could go ahead and—

**Mr. Kennedy:**

Basically, redeliberate the issue of ITEC and to consider granting a further extension of time to allow for the termination of the program so as not to adversely impact the existing students. Thank you very much.

**Chair Cannizzaro:**

Thank you. Whoever wants to go next?

**Jerry Xu:**

Good afternoon, dear Commission members. I'm here today to address a critical concern regarding the LCB (Legislative Counsel Bureau) file R017-24, which pertains to NAC 640C and regulates massage therapy in the State of Nevada. The adoption language of this file lacks clarity, transparency and due process, particularly concerning the sudden elimination of the ITEC qualification. Despite its specific deadline, it was dismissed as irrelevant by the Board's legal counsel at the end of the last public hearing meeting. Stakeholders were not consulted, their rights were disregarded, and no prior notification or transitional periods were provided. Behind me sit individuals—in the last three rows we have about three dozen students about to be affected from a very underrepresented group who have invested significantly—tens of thousands of dollars, their time and effort to become a licensed massage therapist under Nevada regulations. Some of them

already completed the qualifications; the others are in progress. However, signing this file today could invalidate their qualification, jeopardize their careers and hard-earned progress. Most importantly, it undermines their spirit, the very spirit of self-motivation and dedication that the state should encourage and protect. Dear Commission members, you have the power to act to help these individuals. Taking action means demanding clarity, transparency and due process from the Massage Board; inaction means withholding your signature on the file until these conditions are met. Thank you for your consideration.

**Chair Cannizzaro:**

Great, thank you. Just as a reminder to everyone who is going to testify, please spell your name for the record so that we have the appropriate spelling.

**Yolanda King (President, Nevada Taxpayers Association):**

Hi, good afternoon. I am the President of the Nevada Taxpayers Association. My public comments concern [agenda item IV](#), administrative regulation R150-22 ([Agenda Item II B](#)). For some background information, the existing law allows for religious, charitable and educational organizations to be exempt from paying sales and use taxes. An organization that wishes to claim this exemption must apply to the Department of Taxation for the letter of exemption. If it is determined that that organization qualifies for the exemption, a letter of exemption is issued. Regulation R150-22 makes changes to clarify that the exemption effective date is upon issuance of the exemption letter issued by the Department of Taxation.

At the March 27 workshop, I provided public comments and emailed the Department of Taxation requesting a change to this proposed regulation. I suggested amending the language to state that the exemption approval should be granted upon submitting an application for the exemption to the Department of Taxation. This approach is similar to the IRS (Internal Revenue Service) process. Regulation R150-22 will delay exemption benefits, causing organizations to pay taxes during the processing period. A better approach would be to grant approval upon submittal of the application, with the condition that if taxes are owed, if the exemption is denied, that the taxpayer would be responsible for paying for those taxes during the period. Again, this is an approach that is similar to the IRS exemption process.

When the Tax Commission reviewed the regulation, my comments from that workshop were not included in the impact statement on the small businesses. Additionally, I submitted a formal letter to the Commission requesting to change the regulation. However, because my letter was not submitted within 2 weeks of the May 8 meeting, my letter requesting for an amendment was not included in the backup information for the Tax Commission. I did make public comment at the Nevada Tax Commission with recommendations of an amendment to this regulation. The Department of Taxation did voice their concerns about the amendment, however it was at the Tax Commission meeting. That was my first time hearing of their concerns, as well as the first time that the Tax Commission heard of the concerns for the Nevada Tax Commission.

So given the significant implications of this change, what it will have on the nonprofit organizations, I respectfully request that this regulation not be approved today. Instead, I urge you to remand it back to the Nevada Tax Commission for a more thorough vetting to fully understand and address the concerns of the Nevada Taxpayers Association. This is a crucial issue that requires careful consideration and a fair resolution, and my comments have been included as part of the backup for public comment today and I thank you for your time.

**Paul Moradkhan (Senior Vice President of Government Affairs, Vegas Chamber):**

Good afternoon. Paul Moradkhan, Senior Vice President of Government Affairs for the Vegas Chamber. The Chamber is in support of the state Ballot Question 1 explanation language as it relates to your agenda item V-A which, as you know, proposes to amend the Nevada State Constitution relating to the NSHE (Nevada System of Higher Education) Board of Regents. For full disclosure to the Commission, the Chamber has been supportive of this measure at the state legislative sessions as SJR (Senate Joint Resolution) 7, which received bipartisan support in 2021 and 2023. The Chamber believes that the language as drafted is in a manner that allows voters to have an objective decision with a clear understanding of the intent of the ballot question. The pro and con arguments both are a result of compromise and balance, and the Chamber believes that this will allow the voter to make their decision with the necessary arguments presented in front of you today for your consideration. The language makes clear that the ballot measure is to remove the Regents from the State Constitution and place NSHE Regents in the Nevada Revised Statutes (NRS). As noted in the explanation in front of you, the constitutional amendment does not change the Board from being elected to appointed and voters do not lose the right to vote for the Regents.

Thank you for your time and consideration, and we hope we will have your support to move the language forward today. Thank you, Madam Chair and members of the Committee.

**Alejandro Rodriguez (Director of Government Relations, Nevada System of Higher Education):**

Good afternoon, Chair Cannizzaro, Vice Chair Harris, members of the Legislative Commission. My name is Alejandro Rodriguez, Director of Government Relations for the Nevada System of Higher Education. On behalf of NSHE, we'd like to thank you for the opportunity to provide comments on the original proposed ballot language ([Agenda Item II C](#)). Consistent with NRS 281A.520, my comments and requests for revision are not intended to support or oppose this ballot initiative and should not be construed as such support or opposition. We appreciate the revised version removing certain factual inaccuracies related to transferability between our institutions. We also appreciate an effort to provide more transparency to voters about the Legislature's current oversight ability. We do believe, however, the condensation section requires greater transparency and unbiased language so voters are well informed about the implications of their decision. As noted by some faculty members in public comments, Question 1 explicitly

removes the election of Regents from the Constitution. While Question 1 does not change current statutes and states in the condensation that they will not alter the statutory election process of Regents, this assurance is misleading to voters. The potential for future legislative changes remains a very real possibility, making the statement seem like an argument for passage. We agree with the public comment that the condensation should include a clear statement about how Question 1 would enable future statutory changes by the Legislature.

As previously stated, no matter the outcome in November, we look forward to continuing to work collaboratively with the Legislature to enhance the governance and oversight of public higher education in Nevada. NSHE remains committed to fulfilling its mission of providing quality education and fostering academic excellence across its institutions. Thank you.

**Nathan O'Hara (Fu Zu Ba School of Massage and Reflexology):**

I want to make sure everybody here understands what's at stake today with regard to regulation R017-24, which is on your consent agenda ([Agenda Item II D](#)). For the better part of a decade, the Nevada Massage Board has accepted the ITEC exam as a qualifier for massage licensure. Recently, they decided to start not accepting it anymore. Unfortunately, the Board during that meeting failed to set a cutoff date for pending applicants to have completed that exam in order to use it as part of their licensure application. If you approve R017-24 today in its current form, this will immediately, now and today, stop the Massage Board from processing any applications from a significant number of people who have already completed all of the current massage licensure requirements, including that exam. According to the Director of the Massage Board, once these changes to regulation are approved by the Commission, we will no longer be able to approve applications where the ITEC was taken as the exam. Now these applicants have already completed and passed a very comprehensive qualifying exam process in full compliance with current Nevada regulation 640C.050(e). As written, R017-24 would retroactively, and I think unfairly, nullify their achievement. If you approve this regulation in its current form, your action will cause substantial economic harm to these individuals with no benefit to anyone, really. We're asking that you remove R017-24 from the consent batch of regulations on your agenda and that you ask the Massage Board to revisit this proposed regulation to set a fair cutoff date for applicants to have completed the ITEC exam. Thanks very much. I appreciate your time.

**Chair Cannizzaro:**

Thank you so much. We appreciate it. Is there anyone else here in Las Vegas wishing to give public comment at this time? Seeing no takers, I don't see anyone at the dais in Carson City, so we will move to our phone lines. BPS (Broadcast and Production Services), if you could, if we have callers who are ready to testify, connect them with us. As a reminder, please state and spell your name for the record, and remember that your comments will be limited to two minutes, but we're happy to take any written comments over and above that two-minute period. BPS, I will turn it over to you.

**Lindsey Harmon (Planned Parenthood Votes Nevada):**

Hi, Chair, members of the Committee. My name is Lindsey Harmon, representing Planned Parenthood Votes Nevada here today. We are supportive of the language as drafted for Question 1 pertaining to agenda item V-A and that is it for today. Thank you.

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

Chair, we have no additional callers at this time.

**Chair Cannizzaro:**

Great, thank you, BPS. As a reminder for those of you who are joining us in person or maybe watching us online, we will have a second period of public comment before we adjourn today. With that, we are going to move on to the next item on our agenda, which is [agenda item III](#). It is the approval of minutes. Commission members, you have in your packet and in front of you the draft minutes for the Legislative Commission meeting held on April 18, 2024 ([Agenda Item III](#)). These draft minutes are also available on the Legislature's website. Let me first ask if there is any discussion on these minutes. I am not seeing any discussion. At this time, I would accept a motion to approve the minutes of the Legislative Commission meeting from April 18, 2024. Rather than do roll call votes today, I'll ask to do a voice vote and we'll be able to hopefully manage our folks who are joining us remotely.

VICE CHAIR HARRIS MOVED TO APPROVE THE DRAFT MINUTES OF THE MEETING HELD ON APRIL 18, 2024.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Cannizzaro:**

Hearing no opposition, the minutes will be approved unanimously by this Commission, and that brings us to [agenda item IV](#). This is the review of our administrative regulations ([Agenda Item IV](#)). We are joined today with our Legislative Counsel, Asher Killian, who is sitting next to me here in Las Vegas, and he will be able to assist us with this item. There were originally, members, 42 regulations submitted for consideration under item IV today. Please note that R100-23 and R013-24 are being removed from our agenda. Those regulations were granted early review at our last meeting on April 18 and thus require no

further consideration by this body. The remaining 40 regulations that are on today's agenda were submitted for approval pursuant to NRS 233B.067. These regulations are all contained in the notebooks on your desk, and they also are posted on the Nevada Legislature's website under the tab for this meeting. You can find that tab by hitting the "View Events" button in the upper right-hand corner of the Legislature website homepage. There's also a public copy of the notebooks on the sign-in tables, both here in Las Vegas and up in Carson City.

At this time, I do have several regulations that were requested to be pulled ahead of the meeting by members of the Commission for further consideration. I'm going to read those regulations. Please make note of it on your list, and then I will ask if there are any additional regulations that members of this Commission would like to have pulled for further consideration. The first one that we have is R162-22 for the Board of Wildlife Commissioners. The second one is R199-22 for the Real Estate Commission. We have R025-23 for the Division of Industrial Relations of the Department of Business and Industry, R081-23 for the State Treasurer, R097-23 for the Commissioner of Financial Institutions, R136-23 for the Commission on Ethics, R017-24 for the Board of Massage Therapy, R025-24 for the Peace Officers' Standards and Training Commission, R047-24 for the Board of the Public Employees' Benefits Program, R061-24 for the Administrator of the Division of Outdoor Recreation. That is the end of my list for regulations that have already been requested to be pulled for further discussion.

I'll start here in Las Vegas. Are there any additional regulations members of the Commission would like to have pulled? We are going to add to that R150-22 for the Nevada Tax Commission. We'll go up to Carson City. Are there members of the Commission that would like additional regulations other than the ones I've already listed to be pulled for additional consideration? I'm not hearing anything in Carson City, so we will give you a moment. We'll move to—

**Senator Skip Daly (Senatorial District No. 13):**

One second. I don't have any. Apparently we don't have any. Thank you.

**Senator Jeff Stone (Senatorial District No. 20):**

Madam Chair? Madam Chair, this is Jeff Stone.

**Chair Cannizzaro:**

Senator Stone, please hang on just one second. We're in Carson City still.

**Senator Stone:**

Oh, you bet.

**Senator Daly:**

No additional regulations to be pulled, thank you.

**Chair Cannizzaro:**

Okay, great. Thank you, Senator. All right, we will move to those of our members who are joining us remotely. We will begin with Senator Stone. Additional regulations for consideration?

**Senator Stone:**

Thank you, Madam Chair. It's the first time I've kind of done this remotely, so forgive me. I had my hand raised. I didn't know if I was going to get missed or not. I think I have the numbers right, and I'm not sure if you mentioned—I think you might have mentioned one of them, but just to be sure: R156-22, R093-23, R100-23. Thank you.

**Chair Cannizzaro:**

Senator, I have in addition, you're requesting for R156-22 for the Nevada Tax Commission to be pulled, and I got the last one, R100-23 for the State Board of Pharmacy. You had a third that I missed?

**Senator Stone:**

Yes, please, R093-23. You might have said that one.

**Chair Cannizzaro:**

Senator, we don't have on our list R093-23.

**Senator Stone:**

So forgive me, because I have my own notes here. This is regarding the issue of elevator operability. If you could maybe have staff identify that agenda item number?

**Assemblywoman Alexis Hansen (Assembly District No. 32):**

R025 is what I show, -23.

**Senator Stone:**

Thank you. That's probably it.

**Chair Cannizzaro:**

We already have that one pulled.

**Senator Stone:**

Great, I thought you did. So sorry about that. Thank you, appreciate it.

**Chair Cannizzaro:**

Is there anyone else joining us remotely from the Commission who wishes to have additional regulations pulled? Not seeing any. Okay, then before we begin, I'm going to go through the final list of those regulations that were requested to be pulled for additional consideration, and members of the Commission, if we missed any, please let us know. So, those to be pulled for additional consideration—so if you are here for these agencies, you will have to stay with us a bit longer. We have R150-22 from the Nevada Tax Commission and R156-22 from the Nevada Tax Commission. We have R162-22 for the Board of Wildlife Commissioners, R199-22 for the Real Estate Commission, R025-23 for the Division of Industrial Relations, R081-23 for the State Treasurer, R097-23 for the Commissioner of Financial Institutions, R100-23 for the State Board of Pharmacy. I apologize, R100-23, Senator Stone, I believe that was the third one of your requests, and that one is one of the ones that we already approved for early consideration back on April 18, so that one was pulled from our agenda. We will not be hearing that one today. All right, so the next one we have pulled for additional consideration is R136-23 for the Commission on Ethics, R017-24 for the Board of Massage Therapy, R025-24 for the Peace Officers' Standards and Training Commission, R047-24 for the Board of Public Employees' Benefits Program and R061-24 for the Administrator of the Division of Outdoor Recreation. Anything we missed? I'm not seeing any hands go up or folks letting us know we missed anything.

Okay, then at this time we do have the remaining regulations on our agenda: R058-22, R098-22, R134-22, R141-22, R003-23, R031-23, R032-23, R054-23, R060-23, R077-23, R079-23, R096-23, R098-23, R101-23, R103-23, R105-23, R108-23, R119-23, R121-23, R126-23, R135-23, R014-24, R024-24, R049-24, R051-24, R052-24, R054-24 and R060-24, which are not being pulled for additional consideration. I would accept a motion to approve those regulations.

**Senator Dallas Harris (Senatorial District No. 11; Vice Chair):**

Madam Chair, I would like to move that the regulations as stated by you so beautifully be approved.

**Chair Cannizzaro:**

I have a motion from Senator Harris, I have a second from Senator Stone since he chimed in. Any discussion on the motion? Seeing none.

VICE CHAIR HARRIS MOVED TO APPROVE REGULATIONS R058-22, R098-22, R134-22, R141-22, R003-23, R031-23, R032-23, R054-23, R060-23, R077-23, R079-23, R096-23, R098-23, R101-23, R103-23, R105-23, R108-23, R119-23, R121-23, R126-23, R135-23, R014-24, R024-24, R049-24, R051-24, R052-24, R054-24 and R060-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Cannizzaro:**

Those regulations which were not pulled for additional consideration will be adopted by the Legislative Commission. If you are here for any of those regulations, we will give you the space to head on out. You are done with us for the day. For those of you who were pulled for additional consideration, you're going to hang out for a little bit.

Okay, we are going to begin our follow-up discussion with R150-22 for the Nevada Tax Commission ([Agenda Item IV](#)). We will invite those who are with us from the Tax Commission to join us, and once they are seated, I will turn it over to Assemblywoman Monroe-Moreno for the Tax Commission. I think we have some questions regarding some of the statements that we heard during public comment.

**Assemblywoman Daniele Monroe-Moreno (Assembly District No. 1):**

Thank you, Madam Chair. I was not going to pull this item until we heard the public comment, and I just wanted to get a little bit more explanation in reference to the comments that were made before we actually vote on, approve, or to remand it back for further discussion and why the comments from the presenter was left out.

**Chair Cannizzaro:**

Do we have somebody remote from the Tax Commission or in Carson City?

**Sarah Glazner (Department of Taxation):**

Yes, good afternoon. Can you hear me?

**Chair Cannizzaro:**

We can hear you now.

**Ms. Glazner:**

Thank you. Good afternoon, Chair and Commissioners. My name is Sarah Glazner with the Nevada Department of Taxation. I'm sorry, I'm having difficulties with the video. There we go. Thank you. Can you hear me?

**Assemblywoman Monroe-Moreno:**

Good afternoon. We can hear you. Thank you for joining us. Were you able to hear the comments that were made during public comment about this item on today's agenda, and could you address those comments?

**Ms. Glazner:**

Yes, I can. I'm so sorry. One second, please. I'm sorry. I'm having technical difficulties with the Zoom.

**Assemblywoman Monroe-Moreno:**

We completely understand.

**Ms. Glazner:**

Okay. Ms. King, she did provide public comment for the Nevada Tax Commission. It was not delivered within the two weeks, but we have the same public comment for that during the workshop, and what was explained to the Commissioners is that the RCE exemption—I'm sorry, the religious/charitable/educational exemption—in Nevada is significantly different than the ones for the IRS. The requirements are different, and our form specifically notifies all applicants that the requirements are different. They did present this at the Nevada Tax Commission and the Department's response at the public hearing when the opportunity for discussion and questions were made, and the Commission made a knowing affirmative decision not to adopt those suggestions based on the differences in the exemption in Nevada and the potential negative impacts to the Department.

**Assemblywoman Monroe-Moreno:**

So currently, the exemption—and I'm not sure which camera you're looking into, but we see the side of your head. There you go.

**Ms. Glazner:**

I'm so sorry.

**Assemblywoman Monroe-Moreno:**

That's fine. So currently, the way Nevada's tax exemption is written, it's different from the federal exemption, so is the state receiving monies from those organizations now, tax dollars from those organizations now while they're waiting for their exemption to be approved from the state currently? I just want to make sure that I understand it correctly.

**Ms. Glazner:**

I would say yes, but what there are is the religious/charitable/educational exemptions. They send in their application and it is reviewed and either approved or denied. It's very strict by statute whether to qualify, and whether you qualify for religious has separate criteria, and so does charitable and educational, and all those need to be met. They're not the same as the IRS; the requirements are specific to our statutes. But the IRS does allow the provisional approval, if you will, and the State of Nevada does not, and we can't. It's bound by statute, and so that's why we explained to the Nevada Tax Commission our stance and why we can't continue the way that the Nevada Taxpayers Association would like to, because it's significantly different than the IRS exemption rules and regulations.

**Assemblywoman Monroe-Moreno:**

So just to make sure that I understand you correctly, if we were not to adopt the regulations as presented today, we would be, I wouldn't say in violation, but there would be a difference between what we have currently in statute and the practice that we have been doing, so this would make us more aligned with what our statutes are. Is that correct?

**Ms. Glazner:**

Yes. The only thing that this regulation is changing or updating is that the application, the religious/charitable/educational exemption, is not valid until it's issued and that you can't go backwards for a refund. There were several times where taxpayers would say that they asked for an exemption and then they want it backdated all the way back to when they started but never applied. We wanted to put in the regulation to make it clear that the exemption is not valid until it's approved and they get their exemption letter. What the Nevada Taxpayers Association would like is for it to be provisionally approved when we get the application, before seeing if they qualify or if they're abiding by statutes. The only thing changing in this reg was just to make it clear that it's not retroactive and that your exemption does not start until it's issued by the Department. That's the only thing that we wanted to update on the reg just to make it clear for the statute, so yes.

**Assemblywoman Monroe-Moreno:**

Thank you so much for the clarification. Thank you, Madam Chair.

**Chair Cannizzaro:**

Assemblywoman Backus.

**Assemblywoman Shea Backus (Assembly District No. 37):**

Thank you so much, and I just wanted to clarify and do a follow up to my colleague's questions. So just so I understand it, right now the Department of Tax is not issuing refunds and enforcing the exemption at the date of the letter, so that the changes that are proposed in this regulation aren't changing the practice that the Department of Taxation is doing at this time.

**Ms. Glazner:**

That is correct.

**Assemblywoman Backus:**

Madam Chair, if I may have one last follow up? So is that why, because there's been no change, it hasn't triggered an expense to the businesses because there's really been no change from the way the Division has been operating as of current, and then how it will operate under this new regulation?

**Ms. Glazner:**

Correct.

**Chair Cannizzaro:**

Any additional questions from members of the Commission? I'm not seeing any.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO APPROVE  
REGULATION R150-22.

VICE CHAIR HARRIS SECONDED THE MOTION.

THE MOTION PASSED (SENATORS KRASNER AND STONE VOTED NO).

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**Chair Cannizzaro:**

R150-22 for the Nevada Tax Commission will be approved. Don't go anywhere because we are going to now hear R156-22 from the Nevada Tax Commission ([Agenda Item IV](#)), which I believe was a request from Senator Stone. So, Senator Stone, we'll turn it over to you.

**Senator Stone:**

Thank you, Madam Chair and colleagues. Regarding this regulation, we saw some testimony—I believe I saw online from Tray Abney and from the Restaurant Association that claimed that this is going to be a large burden to small businesses, and I was just curious if staff was able to resolve many of the issues to mitigate some of those burdens to these small businesses that are struggling these days.

**Chair Cannizzaro:**

I think you might be on mute.

**Ms. Glazner:**

So sorry. Can you hear me now?

**Chair Cannizzaro:**

We can hear you now.

**Ms. Glazner:**

Okay, thank you. Sorry, Senator Stone. Yes, we did have a meeting with Tray Abney as well as the Restaurant Association and explained, and even at the workshop, and there was no issue after that. All it's doing is when the NRS was changed back in 2013—I'm sorry, I have my notes right here—the NAC was never updated to align with the NRS, so all we did is just clarify. We just added to the NAC what is in the NRS. That's all we did, and we explained that to them, and they understand now.

**Senator Stone:**

Thank you so much. I appreciate that, and thank you for working with them. With that, Madam Chair, at the appropriate time I'm happy to move the item.

**Chair Cannizzaro:**

Thank you. Any additional questions from members of the Commission? Hearing none, I do have a motion for approval from Senator Stone and a second from Assemblywoman Backus.

SENATOR STONE MOVED TO APPROVE REGULATION R156-22.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Cannizzaro:**

Hearing no opposition, R156-22 will be approved unanimously, and I believe that does it for the Tax Commission. Thank you so much, and we appreciate you being here to answer our questions. We will move to the next regulation on our agenda. It's R162-22 for the Board of Wildlife Commissioners ([Agenda Item IV](#)), and we will let them get joined with us. I see some folks moving in Carson City. We'll give you a minute to get settled. We will begin with, I believe Assemblyman DeLong had some questions on this, and then I believe also Senator Daly, I think you had some questions. So, we'll start with you, Assemblyman, whenever you're ready.

**Assemblyman Rich DeLong (Assembly District No. 26):**

Thank you, Chair. I appreciate it. Thanks for being here in person. I appreciate that. In going through this regulation, it's based on the planning and zoning chapter of NRS, not the wildlife or habitat chapter, and under NRS 278.335 there is basically an exemption from going in front of the Department of Wildlife if it is an infill property which is proposed on a vacant or substantially vacant tract of land that is surrounded by land that is already developed. It's a reasonable interpretation that that language in the NRS is related to an infill parcel and surrounding parcels that have human development on it. However, when we go to the regulation under section 5 for the definition of substantially vacant or vacant land, we bring in a wildlife and a habitat issue in determining what is vacant. To me, there's an internal conflict that we're bringing in a wildlife and habitat issue to a land-use planning and development section of our NRS, and taken to its limit, any parcel that has grass or a tree would be habitat, and therefore, essentially only bare dirt would be able to be considered vacant. Did you guys review that? I think that's internally inconsistent and inappropriate.

**Jasmine Kleiber (Department of Wildlife):**

Jasmine Kleiber with the Nevada Department of Wildlife (NDOW). We did review that at length, and we had solicited much public comment on that as well and worked with the Legislative Counsel Bureau to identify what is actually not a definition but an interpretation for the express intent of reviewing for wildlife impacts. It's not uncommon for what would be perceived as infill development to have wildlife habitats, such as a tree in your example, and often those types of habitat are very valuable for some species, even which

are protected under federal law, such as raptors who may nest in that tree, and so the intent of this interpretation is simply to offer the Department of Wildlife opportunity to review where there could potentially be wildlife impacts, and that is all the intent is, is that review.

Some examples: most notably of late, in Elko, the 7th Street ponds surrounded by development as well as surface infrastructure that includes surface transportation for roads as well as railroad tracks. It's right along the river but it's also surrounded by apartment complexes, and that's an area that is heavily utilized unofficially by folks who want to go down to the river and fish. It also has some trees, willows, other nesting-type habitat, but could be perceived as infill development. However, the Department of Wildlife wanted to make accommodation to be able to review those types of areas and provide meaningful feedback to developers on how they might avoid or minimize impacts to wildlife should they go through and try to develop a parcel such as that. I will add, in that particular case, that parcel will not be developed and was recently purchased for the recreational use, but the intent is to capture areas such as those that may still have valuable wildlife habitat or may have habitat that is suitable for protected species.

**Assemblyman DeLong:**

Chair, may I follow up?

**Chair Cannizzaro:**

Yes, please go ahead.

**Assemblyman DeLong:**

I appreciate that answer, and I get where you're coming from. However, I'm coming at it from more of a policy perspective that we're talking about the planning and zoning chapters and dealing with developments, and I think the appropriate interpretation of vacant or substantially vacant has to do with development of the land, not the habitat on it, and so I am not in favor of passing these regs.

**Ms. Kleiber:**

If I may add, there are no current definitions for substantially vacant or infill development within statute currently, which is why we offered interpretation simply for the review by the Department of Wildlife. Those interpretations would not apply to any other review.

**Assemblyman DeLong:**

Again, I hear where you're coming from, but we're talking about the planning and development statutes on what the counties or cities are doing, and the Department of Wildlife is then inserting in their regulations under the planning and zoning chapter their definition, rather than a definition of vacant or substantially vacant that relates to planning

and zoning activities. You're coming at it from a wildlife perspective and I just think it's inconsistent.

**Chair Cannizzaro:**

Any additional questions at this time, Assemblyman?

**Assemblyman DeLong:**

No, I don't have any. Thank you.

**Chair Cannizzaro:**

I see your hand, Senator Hansen. We're going to go with Senator Daly, and then we'll come to you.

**Senator Daly:**

Thank you, Madam Chair, and along those lines, my question was in section 7 where you get to put in written comments on the tentative maps and subdivisions and various things, and not dissimilar, following up on the Assemblyman's questions, you have EIS (environmental impact statement) statements, environmental impacts and various things. This is just the state level. So my question really was, how much weight is given to that? Are they requirements or things that require mitigation? So what level of oversight or whatever—are your recommendations required to be followed, or just recommendations? Just for the record, a rock outcropping on vacant land could be habitat for several species depending on altitude, endangered species.

**Ms. Kleiber:**

Yes, the intent in section 7 is really just to provide recommendations. We have no authority over whether any type of subdivision or development would in fact be authorized or not. We're simply trying to provide feedback to developers as well as those who are responsible for authorizing those types of developments to understand whether it might be suitable to leave additional open space or to avoid or minimize specific areas that are highly valuable to wildlife species, but our recommendations are just that. There is no obligation to follow mitigation or to accept it, nor is there any obligation or requirement to implement or otherwise have a developer adhere to management practices or other avoidance measures. They're just recommendations.

**Senator Daly:**

Understood, and that's what I wanted to try to find out. Seems like a lot of work to go through that, but it might be helpful to others, like if they do have to do an environmental impact statement, your findings, recommendations, etc., could be taken into consideration by other people. I'm not anti-development, I think people know that, but at the same time

there needs to be a balance. I'm glad that you're going to be able to have some oversight and be able to make those recommendations. I find a lot of times, the planning agencies and the government agencies would value that as much as you guys are giving it. That was all my questions, Madam Chair. Thank you.

**Ms. Kleiber:**

And if I may add to that, the Department of Wildlife currently has a review program that provides these types of recommendations and review of projects across public lands, and on average we review about 600 projects a year on public lands, so we're very familiar with the process. It would simply be adding that to subdivision development.

**Chair Cannizzaro:**

Okay, thank you. We will go to Senator Hansen.

**Senator Ira Hansen (Senatorial District No. 14):**

Thanks, Madam Chair. When I was reviewing the reg on this, I saw a cost of \$1,400 for an average review by you guys. Is that number accurate? One of the big concerns we have is rising cost of housing, and if every time you guys review one of these, the average increase in the cost of a house is \$1,400, I think that's a legitimate concern.

**Ms. Kleiber:**

That value was brought up during the small business impact analyses. We've currently had, since the implementation or the passage of Assembly Bill 211 during the 2021 Legislative Session, we've had approximately 52 different projects or developers submit maps to us for review, and the average for review has worked out to be approximately \$810 per subdivision. We don't anticipate that to fluctuate a tremendous amount, although we would expect it to change when we're having periods of increased development activity or decreased development activity. I will add that we're looking at less than \$1,000 per subdivision, not per lot or per house; it would be per development.

**Senator Hansen:**

Okay. Along those same lines, how do you guys determine which properties you are going to review and which ones you are not? Does somebody have to make the request to you guys, or do you make the determination internally?

**Ms. Kleiber:**

No, the requirement to submit to the Department of Wildlife is entirely based off of existing statute and regulations to when a developer has to submit a tentative map to a planning body, commission or other authorizing entity. That's the trigger that then causes the

Department of Wildlife to be included in review of those maps. We don't make any determination at the Department.

**Senator Hansen:**

You did mention habitat. Any habitat—you have a tree on a lot, Senator Daly mentioned rock outcropping, even bare ground. You can see all sorts of things, especially in Nevada, on bare ground. I'm just kind of wondering what is the trigger on the habitat side of it for you guys?

**Ms. Kleiber:**

Yeah, the habitat side is really specific toward actual native vegetation. That was the intent. Rock outcrops are fantastic habitat for some species, but are not often the areas where a developer is going to raise and put a housing development. Often the topography is not quite suitable. It can be, but typically what happens is developers will come to us early on to begin with and ask for recommendations or feedback, and so we can help guide through the process initially, prior to a formal map being submitted. However, once the formal map is submitted, the tentative map is submitted to the governing body, that's when we take a look at the map and take a look at what habitat resources may be there, or wildlife resources may be there, and if there are none, then it's not warranted to continue review.

**Senator Hansen:**

Okay. Last question along those same lines. When somebody does make the request to you guys, is there any other agencies that are kind of duplicating the same effort? We mentioned EPA (Environmental Protection Agency) or various other things that could possibly trigger a concern. What I'm wondering is, are we getting a redundant review of wildlife and habitat by having NDOW do it rather than the other agencies that apparently have been doing it prior to at least 2021?

**Ms. Kleiber:**

Yeah, there are numerous other agencies that currently already conduct subdivision review, but generally the intent of their review are for other purposes, such as effluent wastewater, and so not specific to wildlife. Also, none of the other agencies currently have management authority over wildlife or expertise in it, and I think the intent was to include wildlife for a more comprehensive, a more robust review.

**Senator Hansen:**

Very good. Thank you, Madam Chair.

**Chair Cannizzaro:**

Thank you. Any additional questions from members of the Commission? I'm not seeing or hearing any.

SENATOR DALY MOVED TO APPROVE REGULATION R162-22.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

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

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**Chair Cannizzaro:**

R162-22 will be adopted. We will move on to our next regulation, R199-22 for the Real Estate Commission ([Agenda Item IV](#)), and we've got someone here in Vegas who will come up and get situated, and then Senator Daly, when you are ready, I'll turn it over to you.

**Sharath Chandra (Administrator, Real Estate Division, Department of Business and Industry):**

Good afternoon, Madam Chair and Vice Chair, members of the Committee. Sharath Chandra, Administrator for the Real Estate Division. Thank you.

**Senator Daly:**

Thank you, Madam Chair, and I know probably some comments as well, but if we can ask for the Commission, when you develop regulations, do you believe the Commission is required to follow NRS and that their regulations have to comport with the NRS and not run opposite or violate the NRS? So you're required to follow NRS when you're submitting your regulations?

**Mr. Chandra:**

That is correct, sir.

**Senator Daly:**

And so I'm trying to figure out when you go to section 8 and it says, "The provisions of NRS 645.060 do not prohibit a member of the Commission who has served for a period

of 6 years consecutively from continuing to serve until his or her successor has been appointed and qualified,” which is exactly opposite of what the statute says. It says a person cannot serve more than 6 years. In fact, it has an exemption if someone was appointed to fill a vacancy—or not a vacancy, but to fill an unfilled term of less than 18 months, then they can go past the 6 years, but for no other reason. So if this language is in direct violation of the statute, how can you expect it to be passed by us, because it exceeds your authority. Part of what we’re supposed to do is review to see if you’re within the authority that you’ve been granted for your statute, but this is clearly in violation of the statute.

**Mr. Chandra:**

Thank you for that question. So essentially, the intent here was based on language that is in 232A.020, which basically talks about the terms, and I think the genesis of this is there is no language in our statute that specifically talks about what happens when there's a gap between when a Governor appoints the next member and there is a body that doesn't have a quorum or those kinds of situations. We've come across some of those situations where the Governor appointment is still being done, and then there's a serving member on the board that we believe should continue until the new appointment is done. We looked at 232A.020 for actually the language, and this was one of the questions that we posed to the LCB folks when we were drafting this is, this is what we want to do: we want to make sure that we are in alignment with 232A, but there is a gap in 645 that talks to that little portion, and so the language was basically proposed by LCB to make sure that we don't go against the 645 language but also stay within the statutory requirements under 232A to make sure that we address that gap, and that was all we were trying to do.

**Senator Daly:**

And I understand, and I served this last interim on the Sunset Subcommittee and we reviewed lots of boards that had vacancies and unfilled positions and haven't met in years and various things, so that's not an uncommon thing. But your specific statute clearly states, and it's unambiguous, “cannot serve more than 6 years consecutively.” They can be reappointed after a 3-year gap specifically, and the plain language of the law on a specific point always overrules or trumps—or whatever words you want to use, the specific always has more precedent than the general application. I understand LCB may have wanted to try to help you get to where you're going, but it still conflicts with the law as written, plain language. In fact, if you have those words and you go forward with this, I think it would allow, potentially, to say, “Hey, we've got a guy we want, he's doing what we want.” Whoever's appointing, whether it's the Governor or somebody else, could say, “No, this is my guy. I'm just not going to appoint someone else because that helps me have control on this board.”

There are reasons that this language was put in there. Bills get passed by the Legislature and people scrutinize, at least I do, over every single word that gets put in. There was a reason the 6-year limitation was put in, and I don't believe that you can override it by a regulation, no matter how much you want to, and the standards of judicial review, we don't

get to decide. But the Legislative Commission has to look and see if you're within the confines of your statute, if you're exceeding your authority, and clearly this is, regardless. I understand LCB may have their opinion, but if this went in, it would eliminate the plain language of the law, which to me would be an absurd conclusion if you were looking at judicial review. You can't give or render those words meaningless through a regulation.

**Mr. Chandra:**

Thank you for those comments. Again, I think we are in that situation where there is language in 233A which allows for that, and so again, we rely on counsel and LCB. We're not attorneys, and so that's basically how we got to this point. I understand your concerns, and hopefully someone else can address those beyond the scope of my expertise.

**Senator Daly:**

I just don't think the Legislative Commission would be doing our job if we did that. Before we get from counsel, I have a second question, and that was in section 23(6) where you're requesting or wanting to put in that you're going to publish a manual. So, what type of information is going to be in this manual? How are you interpreting what's going to be in the manual and how that applies and who that applies to?

**Mr. Chandra:**

Essentially this is a manual that we proposed to do for the education section. As you're aware, there is an emphasis on continuing education for real estate practitioners, and so they're required to do 36 hours of continuing education. Some of them are in specific areas, and so we've—the regulation generally talks about those areas, but the manual kind of helps either the sponsor or the educator and the person taking the courses to understand what the requirements of those. The Division doesn't develop courses. What we do is we look to the industry for expertise to develop courses, and that way we're not controlling the content. What we just do is, we do an overview of what is required to meet those constraints of that course. Essentially the guide gives a little more clarity on specifics of how that course needs to be structured or generally things that are not—without going into the minutia in the regulation, we want to do that in a guidebook that just basically kind of outlines the process of how someone would submit for an education course and some information on it. That's the intent of the course, the guidebook.

**Senator Daly:**

Yeah, and thank you for that, and what I was trying to get to on that particular thing is how far are we going, who it applies to, and if it's going to be rules of general application to the public or is it more narrow on to providers and various things, more internal, because you don't want to go past and create regulation in your manual and end up with the challenge there. That part of it I'm okay, but I disagree with the other part of it. I think it clearly goes against the statute, whether you want it that way or not, and I wouldn't be

able to support the regulation with that provision in there. So, those were my two questions, Madam Chair. Thank you.

**Chair Cannizzaro:**

Thank you. Any other questions from members of the Commission? Senator Hansen, please go ahead. We'll go Senator Hansen and then we'll come to you.

**Senator Hansen:**

Thanks, Madam Chair. I just want to find out if Legal was going to chime in on this. I thought they were going to give their two cents' worth, because if Senator Daly's concerns are correct, then this should be remanded back to the agency.

**Chair Cannizzaro:**

And I believe that we do have some—from our legal counsel on this, so I'll let them kind of chime in, and then I think maybe we can have an ongoing discussion with members of the Commission. I know I have Assemblyman DeLong who may have another, maybe a separate question, but I'll turn it over to Mr. Killian.

**Asher Killian (Legislative Counsel, Legal Division, Legislative Counsel Bureau):**

Thank you, Madam Chair. So our reading of the provisions of section 8 are not that this provision is intended to overrule existing law but rather to recognize a principle of statutory construction, which is that when there are two statutes that are amenable to multiple readings, some of which would create a conflict and some of which could be read harmoniously with each other, the courts generally prefer to find readings of those sections that can be read harmoniously with each other and give effect to both provisions of law rather than finding a conflict that would require one of the provisions of law to be overruled.

In this case, NRS 645.060 is a statute that governs appointments to the Real Estate Commission, and it sets a term limit of 6 years for the purpose of appointment. NRS 232A.020 is a general law for appointments by the Governor to boards and commissions that set the term length to 3 years, unless otherwise specified, and allow members to continue serving until their successor is appointed and qualified in order to avoid situations where, perhaps due to term limits, there are no eligible persons to serve on a body, and as a result the body may not have a quorum and may not be able to take action. It's our office's opinion that the intent of section 8 is to recognize these two provisions and read them harmoniously in a way that prohibits a person from being appointed to another term if they have served 6 years to give meaning to NRS 645.060, but to also give meaning to NRS 232A.020 by, in a situation where a person who is otherwise term-limited but no other person has been appointed and qualified, that person may continue to serve until such a person is appointed and qualified so that no vacancy is created that may prohibit the Real Estate Commission from operating.

Ultimately, it's the job of the Legislative Commission to determine what legislative intent is, so the question is before this body as to whether the intent of the Legislature is for these two provisions to be read together harmoniously or if the intent of the Legislature was that there be a conflict and that members who have been term-limited are not only prohibited from being reappointed but also immediately removed from office upon hitting that mark and cannot continue to serve until their successor is appointed and qualified. Ultimately, the question is for this body as to what the Legislature's intent was, but we believe there is a legal justification for either intent, depending on what the Legislative Commission decides.

**Chair Cannizzaro:**

Senator Hansen, I don't know if that prompted any questions from you.

**Senator Hansen:**

Well, thank you, Madam Chair. I actually didn't do the level of scrutiny that Senator Daly did, so frankly, if Senator Daly's okay with the reg, I'll vote for it. If Senator Daly thinks that this conflict is significant enough that we need to send it back to get that clarification in the regulation, I will vote no. I'm kind of leaving it in Skip's lap. Thanks, Madam Chair.

**Chair Cannizzaro:**

Thank you, Senator. Assemblyman DeLong, if you have additional questions, we'll go to you next.

**Assemblyman DeLong:**

Thank you, Chair. No, Asher answered my questions. Thank you.

**Chair Cannizzaro:**

Okay, great. Senator Daly, I think you had a question, and then I see Assemblywoman Hansen.

**Senator Daly:**

I did. I just wanted to follow up. I understand trying to get both of those to mesh, etc., but the specific law is going to override or take precedence, if you will, and be applied before the more general law regarding appointments of boards, and in this one specifically, the language in 645.060 says members are eligible for reappointment but shall not serve for a period greater than 6 years consecutively, after which time they may be eligible for appointment or reappointment or not eligible until 3 years have elapsed, and then it goes on to say that there's a provision where if they are filling an unexpired term that they can be over the 6 years if it's less than 18 months. There's no provision about filling the Board until someone else is qualified, and there's that general language, but if you're going to

try to override and say, hey, the specific is supposed to be complementary to this, I just don't see it. Every time I've had an arbitration or a court case or whatever, the standards of judicial review have always favored first the plain language of the law. If it's unambiguous you can't serve more than 6 years, you can't serve more than 6 years, and the Governor has a responsibility to appoint. There's a remedy for people for that if the Governor doesn't appoint. You can do a writ of mandamus. There are other remedies to resolve this rather than trying to adopt two laws that allows a person to go against the plain language of the law. Can't support it. It's just flat out against the rule the way I read it, and the plain language is right there in front of us, and even Mr. Asher said the specific rule says this but we're going to try to take a general rule and comport it. I disagree.

**Chair Cannizzaro:**

Thank you, Senator. We'll go to Assemblywoman Hansen next.

**Assemblywoman Hansen:**

Thank you, Chair. Boy, I really like this regulation, but this section that's been brought up, and I appreciate Legal jumping on and helping clarify for us, but to me, I'm seeing that whether we say it's in harmony or it's in conflict, the point that was just brought up—one statute says a 3-year, one says a 6-year—I'm seeing this as a conflict, although I love all the other sections. I think it's really a helpful and needed regulation, so unfortunately I think I would have to vote that we remand it back just to see if we could—can we bring this reg again without maybe—is it that vital we have this section in there? We have a very robust realtor community and real estate professionals. I'm not understanding why there would be such difficulty and have a gap in an appointment to have to have this kind of remedy. It was a comment, not a question.

**Chair Cannizzaro:**

That's totally fine, Assemblywoman. I think I'm generally getting from the tenor of the Commission that there is a significant concern, and while certainly you can read both of those statutes to allow for there to be a holdover appointee, I think that that is in the context where someone is looking to get appointed and may be a holdover for a few weeks or so. But certainly as written, there is the possibility and the opportunity for someone who has well exceeded that term-limited amount of time, in the absence of an appointment, to simply hold over for a period of years, which would be well outside of what I think the intent is of either of those statutes. I certainly understand, and I think the Commission understands, the desire for there to not be a lack of members on the Commission so that you can continue to do your business, which I know is a concern for many boards and commissions that we have, but I do think that there maybe needs to be some clean up in the language of this particular regulation such that we can make sure that you all are operating, but that we also have some confidence that this could not be abused by someone who may wish to extend their stay longer than really is intended by the statute.

As the members of the Legislative Commission and those of you with us here today know, we as the Legislative Commission cannot amend or change a regulation that is before us. We can merely adopt it as it is presented to us, but we do have the option of asking for the agency, without a vote of this Commission, to go back and try to rework some of that language and figure out if there maybe is a way for you to work that out or simply to just understand that you may be in a position where unfortunately you don't have someone filling that Commission. You may have to make sure that you're working amongst your colleagues, as Assemblywoman Hansen pointed out, to get someone who is qualified and willing to sit on those boards and commissions, which I acknowledge can sometimes be much more difficult than we imagine, to ask folks out of their busy schedules to come and sit on boards and commissions, but somehow I think we've managed to do that with a great number of them. We, I think at this point, will defer this regulation, send it back to the Commission with the understanding that that's where I think this Commission has some significant concerns and we'll look forward to seeing a new regulation from you at the end of your process that hopefully addresses that.

**Mr. Chandra:**

Thank you, Madam Chair.

**Chair Cannizzaro:**

Thank you so much for being here with us today. Members of the Commission that will bring us to our next regulation on the agenda, which is R025-23 ([Agenda Item IV](#)) for the Division of Industrial Relations, Department of Business and Industry. I have some folks here in Las Vegas who we are going to let get settled, and then I will go first to you, Senator Daly, and then we will go to Senator Stone. So, Senator Daly, whenever you're ready.

**Senator Daly:**

Thank you, Madam Chair. Is the person down south?

**Chair Cannizzaro:**

Yes, we have them here.

**Senator Daly:**

There they are. Just a couple of clarifying questions. I believe it's section 1, subsection 2, I might have that written down wrong, regarding the maintenance control program. You guys are eliminating the fee for turning that report in. So, is the report still required, there's just no fee?

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

I'm the Administrator of the Division of Industrial Relations. So, that fee and that program is no longer required. That's why we are recommending to repeal that portion of the regulation.

**Senator Daly:**

So the maintenance control program report is also defunct, and it's covered somewhere else what you have to do? So no fee, no report either?

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

Brennan Paterson, Division of Industrial Relations, Chief of the Mechanical Section. I think to clarify that, the fee is not required for filing of the maintenance control program, but maintenance control programs are still a requirement for every elevator, both under the ASME (American Society of Mechanical Engineers) codes we adopt by reference and generally within the NAC.

**Senator Daly:**

Okay, and I just wanted to be clear. We can get rid of the fee, but the report is still there. Lot of moving parts on elevators, a lot of things can go wrong. People need to have confidence in that.

So my second question, if I can, Madam Chair, was in section 3 where one of your regulations you're eliminating, which is 455C.503, where if an elevator travels 55 feet or less, they don't have to have—what was the term? Whatever it was, the Phase II control from inside the car. So now all elevators are going to have to have that control by eliminating that regulation, or how is that interpreting going to be administered?

**Ms. Carreon:**

That provision is no longer required, but Brennan Paterson will provide a little bit more information.

**Mr. Paterson:**

The provision was an old exemption at a time when the technology for Phase I and Phase II emergency recall and control of elevators was just coming online. We did a review of all of the permits we've issued for elevators in the past decade or more. There are no current elevators being proposed to be built that don't have Phase II functionality. It's standard equipment with elevators, so the provision appeared to be unnecessary.

**Senator Daly:**

And thank you for that. That's all; I was just wanting to make sure. It seemed to me that you see that on the panels. I don't know everything that some of that stuff does for the firefighters and everybody else, but it seems to me it would be a useful deal regardless of the distance that you would be traveling. Thank you for that. Those were my only two questions, and I'll make a motion whenever you're ready, Madam Chair.

**Chair Cannizzaro:**

I believe we do have some questions from Senator Stone. So we will go to Senator Stone, and you can proceed when ready.

**Senator Stone:**

Thank you, Madam Chair, and thank you for being here. Again, reading notes, companies have shared some concerns about the cost and ultimately the delay in elevator operability. We know that throughout Nevada and throughout the country, office space is struggling, and there could be enormous cost with the modernization of older elevators, which in many cases have never had any issues in the years in the past. I was just wondering, is there any grandfathering—and listen, I don't want to do anything that's going to jeopardize the safety of anybody using an elevator, but we have some older elevators that have never had an issue, they've been regularly inspected. Of course, there's new process boards that make elevators work a lot differently and a lot more efficiently and safer, but how do we address some of the concerns of some of these smaller buildings, if you will, or even larger buildings that have these older elevators that seem to be functioning fine, but to go in to retrofit them not only is expensive but it's also going to leave those elevators inoperable for some time. Has there been some mitigating language, or have you been able to appease some of the entities that have been concerned about the delay and cost?

**Ms. Carreon:**

So, in terms of retrofit of elevators, that is not one of the provisions that's part of this particular regulation. That's beyond the scope of what we're proposing today. But in answer to the question, I know there are certain provisions that require all elevators to meet certain basic safety requirements, and that is part of the existing elevator code. In a previous regulation that was adopted, we provided additional time to meet some of those provisions. There were some specific things, including door lock monitoring, ascending car overspeed protection and door restrictors; those three things we had received feedback that those were sometimes costly to implement, and so additional time was written into the regulation to achieve compliance with those provisions. So that has previously been addressed, Senator. Thank you.

**Senator Stone:**

I appreciate it. Could you just tell me what kind of extension of time has been offered to the quasi-opponents, if you will, and were they satisfied with that extension of time?

**Mr. Paterson:**

Under R034-21, which was adopted in August of 2023, the provisions for door lock monitoring and door restrictors, those requirements on older existing elevators were pushed to December 31, 2025 and the requirement for ascending car overspeed protection provisions was pushed to December 31, 2027.

**Senator Stone:**

That's great. Thank you very much.

**Chair Cannizzaro:**

Additional questions from members of the Commission? Okay, I am not seeing any. Senator Daly, I believe you had a motion?

**Senator Daly:**

Thank you, Madam Chair. Yes, I would move to approve R025-23.

SENATOR DALY MOVED TO APPROVE REGULATION R025-23.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Cannizzaro:**

So R025-23 will be adopted. Thank you all so much. Our next regulation is R081-23 from the State Treasurer ([Agenda Item IV](#)), and I believe that Senator Daly, you had some questions, so I will turn it over to you once we get folks settled up there in Carson City.

**Senator Daly:**

Thank you, Madam Chair, and I think it's an easy one. It's not going to be too hard. My question was in section 5 where we're talking about the language for underserved

communities, various things. You're going to rely on some data that's available out there, and what I wanted to try to get on the record, just so the Legislative Commission understands how it's going to be interpreted and actually applied and give some guidance to future people in the Treasurer's Office to give some guidance there as well. So, how are you going to measure that? I know in some of the other criterias, there are thresholds, there's minimums. On this, there wasn't really any, and I don't know enough about the data or how you're doing it to be able to make a judgment, so I was just looking for clarification on—there's going to be a scale that is going to be in the data, and if a person who wants their loans repaid is going to an area with higher versus lower, or is it all going to be looked at equally? That's what I just want to try to have is a little idea of how it's going to be applied to try to give some direction to us as we approve it, and future direction so hopefully that's continued to be administered, if we're satisfied with your answer.

**Erik Jimenez (Chief Policy Deputy, Office of the State Treasurer):**

Thank you for the question, Senator Daly. Erik Jimenez with the Treasurer's Office, and I do my best to try to satisfy you with every one of my answers. Sometimes I succeed, sometimes I don't, but this is a great question, Senator, and something we've been really wrapping our head around. I'll point your attention to both section 4 and section 5 of the regulation. This is all to implement Assembly Bill 45 from the last legislative session. I don't expect you to have Assembly Bill 45 in front of you, but that essentially made sure that any provider that wanted to participate in this loan repayment program had to be either ready to relocate or currently practicing in a number of different communities. Some of those are very clearly defined, whether you're in a low-income census tract, whether you're in an area that has a high social vulnerability index from the Centers for Disease Control. They have an index that measures these things. There's a percentage for certain census tracts that are high areas without English proficiency. I think it's 20 percent of households that are not English language proficient, tribal communities and rural communities, and then there is one section, and this is where you'll see in section 5, which is areas that have been historically subjected to things like discrimination, redlining and other discriminatory practices. As we kind of worked through the legislative process, we realized that wasn't defined anywhere, and it's really hard to, I think, track down some of that data. Most of the conversations that we had with stakeholders—well, you go to that community, you know it when you see it, right? While I agree that you probably know it when you see it, I think it's also important that we measure those things. So, then we started working with LCB and Bryan Fernley with LCB, who was incredibly helpful for this, and said how can we figure out certain factors to measure discrimination and redlining and things like that, and we've come on the three areas in section 5. One is whether or not they have a high level of residential segregation; number two is disparities within educational attainment and household income based on the factors that are in Assembly Bill 45, so things like race, gender, disability status, other things like that. Those are the things that we will measure. Now, I agree with you that I think it is this office's, and I think the Legislature's, intent to set some benchmark metrics so we're not making kind of just ad hoc decisions, and I think the Treasurer's Office is more than willing to put out documents before we launch this program to make sure that we're clearly saying what those thresholds should be for all of those. So, I hope that was satisfactory.

**Senator Daly:**

Yes, and I think so. I just wanted to have something on the record to that level because the data is not there. There are certain things you can look at, but it's also some historical factors and various things. They don't do redlining anymore, at least not officially, right? You've got some historical areas to look at. My question was really more into degrees, how much of it has been mitigated, how much of it is this area moving. I'm hoping that you have more applicants for this than you have money so you have to make some of these decisions. I know that if you have more money than you have applicants, you open the enrollment period. I did read that. I hope that's not going to be the case. But then when you're looking at that is, if a person's in one area versus another, how are you going to measure that? Those benchmarks are not listed in here, and I know that may be a difficult thing, and that's all I was looking for was to say if we have a higher percentage of all one race and there's historical documents that they're concentrated in that area based on previous segregation and discrimination, whatever it might have been, if someone is relocating to that, they're going to score higher than if an area that's got 5 percent or not as much historical information there. That's what I was looking for is that there's going to be a rating system and points, at some point, if there's competing people.

**Mr. Jimenez:**

Senator, I am so glad you asked that question, because in section 10 you'll see the framework for a scoring rubric that takes into account a number of different factors. We went through a large kind of discussion throughout the robust regulatory process that we had. We had two workshops on this. I think everybody at those workshops felt heard and really kind of got on the same page. We felt it was best to go through a scoring rubric that measured different metrics. You can see those outlined in section 10, but also that this scoring rubric, as we get more data for the program, could also kind of move over time. If we're seeing certain types of provider types that we really need, that we could score those types of provider types higher. If we're seeing certain geographic communities that need certain types of providers, those could be scored higher. I think one of the factors that we're thinking in our rubric is also language access. So for example, if you're in an urban community and they have a high Vietnamese population and we're really struggling to get doctors that speak Vietnamese, how can that applicant be scored higher, kind of moving through this program since this is a longer-term program? I think what we've done is created a metric where everyone will be on the same page. It'll be a publicly available rubric before the application process, but then that rubric can also move over time to kind of meet the needs of the communities across the state.

**Senator Daly:**

Thank you. I did see the rubric, I just was wanting to make sure that something like that was going to be applied to section 5, and I didn't see it directly, but maybe I just missed it. But yeah, that satisfies my answer. I just wanted to make sure that the data is not as established as some of the other stuff, is not as clear-cut, and that proper weighting was going to be given if there were competing applicants for that particular section of it. That's

all of my questions, Madam Chair. I just wanted to get that on the record and give guidance both to us and to the office on how they're going to interpret that. Thank you.

**Chair Cannizzaro:**

Thank you, Senator. Any other questions from members of the Commission?

**Assemblyman DeLong:**

Yes, Chair, I have a question.

**Chair Cannizzaro:**

Please, go ahead.

**Assemblyman DeLong:**

Thank you. Appreciate you being here in person. I think that's great. You had just mentioned, in responding to Senator Daly's queries, about coming up with metrics prior to implementing the program. For me that implies you're looking at doing that through policy. Am I correct with that?

**Mr. Jimenez:**

I guess if you could just specify that? I think some things are kind of like the application process and what metrics will be scored or will be done in regulation, but the actual scoring kind of criteria as set forth in the regulation would be done by the agency.

**Assemblyman DeLong:**

But I thought you were talking about actually setting thresholds for each of those? Would that be done by policy or regulation?

**Mr. Jimenez:**

That would be done by policy.

**Assemblyman DeLong:**

Okay, so when you do that then, setting those threshold values, if you do it by policy, there's no public input process, and I have a problem with that.

**Mr. Jimenez:**

Yeah, and I would wholeheartedly disagree with you, Assemblyman, that there'd be no public input process. We have gone through a robust public engagement process. This

bill is the result of a statewide listening tour that consisted of 123 events over 87 days with the last Governor and across communities all over the state. We did 90 days of listening before we did the regulatory process. We did two workshops and a public hearing and we are continuing to get feedback from something like 50 or 60 groups before each of these documents go live. So, I hear you from kind of like a practice standpoint, but this office is just not going to not take in public input.

**Assemblyman DeLong:**

I appreciate that; that's not where I'm going. I'm not questioning what you've done, I'm questioning about what's going to happen in the future. By doing it through policy, you don't have that formal propose a regulation, go through public workshops, bring that regulation in front of the Commission, does the Commission think it's appropriate. That's what I'm questioning. It's just food for thought at this point. I have nothing else, Chair.

**Chair Cannizzaro:**

Thank you. Any additional questions or comments from members of the Commission? Okay, I'm seeing none.

SENATOR DALY MOVED TO APPROVE REGULATION R081-23.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Cannizzaro:**

We will go to our next regulation on our list. It's R097-23 from the Commissioner of Financial Institutions ([Agenda Item IV](#)), and they are going to get settled here in Las Vegas. Senator Daly, we'll let you go ahead and begin when you are ready once they've taken their chairs. Give them just a minute.

**Sandy O'Laughlin (Commissioner, Financial Institutions Division, Department of Business and Industry):**

Good afternoon. Sandy O'Laughlin, Commissioner, Financial Institutions Division, and with me is Mary Young, Deputy Commissioner, Financial Institutions.

**Senator Daly:**

Thank you, and my question is just on one of the repealed sections, and I know we had the whole exercise and some good repeals have been done and other things. I think the repeal of section 649.086 is a redundant section that should be repealed, but I did just have a question on that where the language said, "Hey, we're specifically making these things public." Those things were already public. There's already language in 239 that says just because somebody made something public doesn't mean that other records have to be stated as being public. They're still already public, regardless of language like that, so it's not needed. The real clarification that I was looking for was, does the Commissioner, whoever the authority is, believe that there's some authority for them to be able to make things confidential that are not already confidential? How's that process going to work?

**Mary Young (Deputy Commissioner, Financial Institutions Division, Department of Business and Industry):**

Mary Young, Financial Institutions Division. SB (Senate Bill) 276 added a lot of additional confidentiality provisions to Chapter 649 to cover what is confidential. If we were to get a public records request, we would have to follow, of course, the public records law as well as what's in SB 276 and 649.

**Senator Daly:**

Thank you, and that's just what I wanted to make sure was clear on the record is that if something has been made confidential by statute, then you've got your test there on what it is. If it's not declared confidential, then it's public, and that's just been the black and the white of it. Some people may object or whatever, but that's the way it stands right now. I just wanted that clarification was all. I think getting rid of that eliminates confusion, and if you have other records that say this is what's confidential and that has been passed by the Legislature, I'm satisfied with that. Just want to make sure we're not extending anywhere past that. That was my question, Madam Chair.

**Chair Cannizzaro:**

Okay. Any additional questions or comments from members of the Commission? I am not seeing any. Do you have a motion, Senator?

**Senator Daly:**

Yes, Madam Chair, I move to approve R097-23.

SENATOR DALY MOVED TO APPROVE REGULATION R097-23.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Cannizzaro:**

Thank you so much for being here with us, and R097-23 will be adopted by the Commission. The next item on our list is R136-23 for the Commission on Ethics ([Agenda Item IV](#)). I will start with Assemblywoman Anderson when you are ready, and once they've gotten a chance to get settled there in Carson City, we'll turn it over to you, and then I've got Senator Daly up after you.

**Assemblywoman Natha Anderson (Assembly District No. 30):**

Thank you, Chair, and thank you for being here today. My questions have—I've got a few of them. The first question I've got has to do with section 5, I believe. Let me see if I can find my little questions. The first area that's being crossed out would take away the written communication or document filed with the Commission, which it appears would be the complaint, but then later it refers to NRS 281A.500, which has also to do with some written documentation, but that's actually the acknowledgment that's sent to each elected official. I'm confused, are you getting rid of a document needing to be actually filed if there is, in fact, an ethics complaint against an elected official? I'm really confused with this strikeout language and what exactly the intent is.

**Ross Armstrong (Executive Director, Commission on Ethics):**

Thank you for the question. Ross Armstrong, Executive Director of the Nevada Commission on Ethics. When we looked at our regulations to see if there were ways that we could streamline it, we found that this was kind of an old-fashioned way of describing how writings needed to be filed. There's another part of the regulation that changes it from being filed at the office to just filed with the Commission, because we can receive an email. The strikethrough language is really just allowing all different types of written communication to come into the Commission for consideration instead of putting those restrictions on it.

**Assemblywoman Anderson:**

Thank you for that clarification. I thought that's what it was, because then later in section 11 there's another reference to written documentation, I believe, but I'm concerned about the beginning part of section 11. I think this is a little bit more of a

concern for me under section 11 with the anonymous complaint automatically being rejected, but then later in section 11 there continues to be information where identity is confidential and that is not being looked at. I think it's very important that we continue to protect our whistleblowers, so I'm just curious how exactly that is described in this regulation change and/or how you see the protection of our whistleblowers being protected in this change in the regulation.

**Mr. Armstrong:**

Thank you for that question. I think to really understand section 11 of these regulations, it's important to know the part of our statutory framework. So, in the Nevada Revised Statutes we are prohibited from receiving anonymous complaints, but the cumbersome procedural way we go about that now is if we receive an anonymous complaint, or they haven't identified anybody, then the Commission counsel and I spend time creating a jurisdictional recommendation and go through the process of submitting that to the Commission. The Commissioners vote and say, "Okay, yes, this is an anonymous complaint. Those aren't allowed; we don't have jurisdiction." In order to be more efficient, those that have received the anonymous, or if they haven't identified someone, those would just get rejected and not have to go to the full Commission in order to have that jurisdictional determination, because it's our interpretation that that's not a legal complaint that has been filed.

In terms of the protection of whistleblowers, the ethics statute says that there are two reasons that somebody who files a complaint—because I said it can't be anonymous, but there are certain instances when confidential protections apply to the requester, and that is if the requester works at the same agency as the person they're filing the complaint about, or the individual includes in the complaint sufficient information that there is a substantial threat of physical force or bodily harm to them or their family members if their identity is discovered. Those are the only two ways that the identity of the requester is held confidential by the Commission.

**Assemblywoman Anderson:**

So if I may have a follow-up, Chair, if I may? I will 100 percent admit this: I have not studied as deeply as my good colleague over here, Senator Daly, the NRS statutes as I should have to prepare for today. When it comes though to a possible anonymous complaint, the name is given, the Commission gets to make the decision whether or not the name is actually released, and the only two areas that that decision is based upon is if there's any possibility of bodily harm or if they're in the same department. Is that correct? If so, that is another concern that's possibly a discussion for another day.

**Mr. Armstrong:**

Thank you, Assemblywoman. I want to make sure I get your question right. If there's an anonymous complaint filed, it can be the most serious, perfect ethics violation that's ever come through our door. If it's filed by an anonymous person, we cannot take jurisdiction.

That's our statutory restriction, and those two requirements about when we would hold something confidential are also established in statute.

**Assemblywoman Anderson:**

Thank you so much, and then my last question has to do with the decision to remove—let me see if I can find the section. It's toward the end, I can remember that. The decision to, on section 16.1(a), the written notice of the hearing in the matter which must not be held not later than 60 days, why that decision is made when already the subject can actually make the decision to waive the time limit. So, just wondering why that is now being struck out as well.

**Mr. Armstrong:**

Thank you for the question. As we went through the regulation review, that language is exactly what's in the statute for the time frames, so it was just removing that from regulation because it's already required by statute.

**Assemblywoman Anderson:**

Thank you so much for that clarification, and thank you, Chair. I still do have concerns about some of the other information I believe will be brought up from others. Thank you, Chair.

**Vice Chair Harris:**

All right, I believe we have questions next from Senator Daly.

**Senator Daly:**

Thank you, Madam Vice Chair. So, question before I get to the section and various things. Who under your statute can ask for an advisory opinion? Anybody? Who can ask for an advisory opinion?

**Mr. Armstrong:**

Thank you. I will defer to our Commission Counsel, Liz Bassett, who handles our advisory opinion process to help answer that.

**Elizabeth Bassett (Commission Counsel, Commission on Ethics):**

Thank you, Senator. Currently, as our statutes are written, the only people who can ask for an advisory opinion are a public officer or a public employee who are currently employed or appointed.

**Senator Daly:**

Okay, under the current deal, and then that gets to my question in section 2 where you're changing the definition of a subject from a public officer or public employee. So is that in statute where only a public officer or public employee can ask for an opinion?

**Mr. Armstrong:**

Thank you, Senator Daly. So, subject is a term we use when we're talking about ethics complaints, and so we worked with the LCB to remove public officer or public employee because there's later parts in the regulations where it talks about a subject of a complaint is due certain things, but if they're not a public officer or public employee—people file ethics complaints against non-public officers and employees regularly, so this just makes it clear that the subject is whoever is the person that is the subject of the complaint. It still can't be an entity. You can't file ethics complaints against like an entire county commission, but it is any person, whether they be a private or public official, can be the subject of a complaint, but we'll never take jurisdiction over a complaint unless they're a public officer or employee or a former public officer or employee in certain circumstances.

**Senator Daly:**

And that just gets to my point. So, people, because they don't understand and they don't know, can file a complaint against the contractor; that's an ethics complaint, but you guys don't have jurisdiction over that private enterprise. Go to the Contractors' Board or go to whoever it is. I have an ethics complaint against an attorney; there's a process for that, but it's not you guys, unless they work with the state or the government somewhere, right? That's where changing the subject to a person, right, and I was looking at your statute just now, actually, and there's no definition of person in your statute, no specific on that, which then defaults to the zero chapter. A lot of people don't know there's a zero chapter, but 0.39 of a person, basically that's everybody, right? Corporations, everybody, so I think it just creates a confusion. I would hope the words could be worked on, because a person under the definition of 0.39 can't be the subject in most cases, right? That's why I just think that I have a problem with person being overly broad on who you're talking about and who the subject of a complaint can be. I think when you say, well, the subject means any person, and then people are filing complaints against people you don't have jurisdiction over, you're going to be writing a lot of determinations that we don't have jurisdiction. I just don't think person is the right choice of words there. I don't know if you have a response or not, but I think that's a problem. It's overly broad.

**Mr. Armstrong:**

Again, I think our intent in adjusting that in section 2 was so that the appropriate process would be followed in terms of receiving in those initial phases of a complaint, whether or not the person was a public officer or employee, but it's just—we can't control who people put on the subject line of the subject of a complaint, and so by allowing it to be person, then that allows us to then appropriately handle it. We're not expanding the scope of the

Ethics Commission. We can't do that from the regs, clearly, but for us, when we took a look at section 2, it just seemed like it was narrow in an unnecessary way.

**Senator Daly:**

You could have referred back to what your statute is on who you have jurisdiction, or the subject means anybody over which we have jurisdiction pursuant to, and then list the statute or the regulation or whatever it might be. I think that would be a better definition, because when you get down further and you're talking about a subject, of course it is after you've determined you have jurisdiction, can make requests, they can make motions through their attorney, they can request subpoenas of various things, and using the person there and then subject later I just think is going to create confusion. That was all my questions, Madam Vice Chair. Thank you. Oh, no, the Chair is back. Thank you.

**Chair Cannizzaro:**

That's okay, Senator. Are there additional questions or comments from members of the Commission? I do think, because some of this has been brought up, and so I think one of the questions, especially in regard to Senator Daly, your interpretation and the use of the word person. I'd like to ask Mr. Killian if he can kind of weigh in on that to give us some context on how that works and what that might mean and whether we have multiple interpretations here in front of us or if that seems to be something that maybe could be, I think, at least clarified a little bit, but Mr. Killian, I'll let you sort of take the helm.

**Mr. Killian:**

Thank you, Madam Chair. So the court rule that Senator Daly referenced is correct and that Executive Director Armstrong also referenced. The Commission on Ethics does not have the power by regulation to change the persons who, by law, it has jurisdiction over, and so that would be the fundamental rule that a court would apply in interpreting this regulation and the change to NAC 281A.100 by this regulation would be to refer back to the law and see who the Commission has jurisdiction over and read this change in a way that would not be construed to expand the Commission's jurisdiction, because the Commission cannot do that by regulation. But I think one of the concerns that was raised by Senator Daly is that the use of this term in this place may create an implication that the jurisdiction of the Commission is being expanded, that the testimony from the Executive Director seems to indicate was not the Commission's intent, so it would be within the discretion of the Legislative Commission to decide whether this is a reg that they would like to ask the Commission to take another shot at to see if they can work with LCB to find language that would not create that implication but would still satisfy the agency's desire in this instance, and we'd be happy to work with them on that language.

**Chair Cannizzaro:**

Great. Thank you, Mr. Killian. Mr. Armstrong, I know you are very well versed in all of these regulations and everything the Ethics Commission has on its plate. Wondering if

you have any thoughts on that, or maybe to address that as a concern that's been brought up again today in light of some of the reasoning that we have had from LCB.

**Mr. Armstrong:**

Thank you, Madam Chair. I still believe that using the term person instead of the public officer or public employee in that line makes it clear that we have to process this individual who files or is the subject of that complaint—with respect to who an ethics complaint has been filed or who files the advisory opinion. I don't know that extra clarification of person would be helpful in this case.

**Chair Cannizzaro:**

And I certainly appreciate that. I understand what I think the Ethics Commission is trying to get at and certainly respect that, Mr. Armstrong. I think there is some concern on part of this Commission that, because it could be read either way, that there's still some angst over certainly that you may read it that way or that the folks who are currently there may read it that way, but in the future, because it could be subject to different interpretations that maybe there's a little bit more finesse that could be added to the language, and then I think some additional concerns that maybe we can have some conversations with on some of the reports and making sure that we're clear on the anonymous piece. I understand that that would require, I believe, a statutory change in order for you all to be able to kind of take jurisdiction over those anonymous reports, but I think maybe some additional conversations could be had with respect to how we protect whistleblowers and ensuring those complaints can still come forward.

I think in terms of the regulation, though, there is some concern with the Commission over who is trying to be captured within that definition of person and making sure that, as much as I think you are absolutely reading it correctly and have a good understanding of that, that because it could be open to multiple interpretations, that we would want a little bit more certainty in that language. I think at this point what I am going to ask this Commission to do is to defer this back to you all to kind of work through a little bit of that and ask that you have some conversations with members of the Commission who've expressed some concerns today, and then work with LCB to hopefully get just a little bit more finesse with that language over who you're trying to capture and in hopes that we will see this regulation back at a future Commission meeting.

**Mr. Armstrong:**

We can do that. Thank you very much.

**Chair Cannizzaro:**

Thank you so much, Mr. Armstrong. I truly appreciate you being here today.

Okay, members of the Commission, that will take us to our next regulation on the agenda today. It is R017-24 for the Board of Massage Therapy ([Agenda Item IV](#)), and we will allow them to join us wherever they may be. I think we might have them remotely. No, in Carson City, my camera angle just isn't quite big enough to see you coming from the other side. We'll let you get situated, and then this one I think was pulled in regards to some of the commentary that we heard during public comment and especially the concerns, and what I am very interested in is, and I sort of took another look at the regulation after some of the public comment that was offered here today, that there may be students who are currently enrolled in this program who have paid for, maybe potentially have done some of already for this ITEC program, or that they may be getting their results and sort of on the precipice of getting a license, and there doesn't seem to be any addressing of folks who have previously relied on that or what a timeline might look like, or the plan is to grandfather folks in. So, can you talk a little bit about two things: one, why the removal of this particular program, and two, with the removal, how that will impact any of those individuals that might be within that pipeline of potentially entering into that program or finishing it and going to be getting their license.

**Elizabeth Barnard (Executive Director, Board of Massage Therapy):**

Thank you, Chair Cannizzaro. I'm the Executive Director for the Nevada State Board of Massage Therapy. So, a little bit of history. I know you guys have had a lot today and still have quite a bit to consider, so I don't want to take too long, but I do want to try to answer some questions. So, this exam was approved by the Board in 2018, and at that point the Board thought that other states would be adopting it and that it would meet the qualifications of NRS 640C.580(2)(b), which include that an applicant for a license for massage therapy needs to pass a nationally recognized examination, basically to prove their competencies. One of the things that I think is kind of happening in this discussion and concern with public comment is this idea of education and examination are getting conflated a little bit. The schools that currently offer this exam have expressed their concerns. The education those students still get at those schools will be valid. The question about the exam is that it would no longer be accepted.

In the public hearing on May 9, the Board did discuss this. Part of the reasons that they chose to not include any extension when the motion was made to adopt the changes to the regulations were due to concerns over the security of the exam, as well as other irregularities. Just as a comparison, the other exam that's currently in existence that's offered and that we accept is administered at secure testing sites. This exam is administered at two schools in Nevada, and those are actually the only two schools that this exam is administered at in the country. So right now, Nevada is the only state in the country that recognizes this exam. Back to the history lesson, in 2018 we thought more states would be coming on board, but that has not happened. I know for sure two states have considered it and denied it just over other concerns.

**Chair Cannizzaro:**

So let me jump in here and ask a question.

**Ms. Barnard:**

Sure.

**Chair Cannizzaro:**

Why approve an exam in a regulation if it was entirely dependent upon whether other states would be adopting this? Because essentially, now we are setting up in regulation folks to be in a position where you're approving an exam, saying yes this will qualify, yes we're going to accept this, but it is dependent upon the actions of other states to adopt it, which did not happen and was not the case when that exam was allowed by the Board, and now after the fact, when folks are signed up for that exam, because it was an allowed examination as adopted in regulation, we're going to pull that because other states didn't do the thing that we were hoping that they would do. It just creates a lot of uncertainty, and so I'm just curious what is the thought process behind doing something like that when it could leave people in a precarious situation?

**Ms. Barnard:**

So, I don't think we're pulling it just because other states don't recognize it. That's one piece of the puzzle. The fact that the administration of the exam, and when there have been questions over the security of the exam, and I've tried to speak to the company that administers the exam, but there was not much done as far as investigation. So in the interest of protecting the public, the Board thought—

**Chair Cannizzaro:**

But wouldn't that be within the Board's purview to oversee that and to conduct an investigation if you think that there's an error or potential safety concerns or security concerns or whatever sort of concerns there may be? Wouldn't that be within the Board's purview to actually take some sort of investigation or action on?

**Ms. Barnard:**

Respectfully, no. Basically, that's why we cite other examinations in our regulations, so that we are not ultimately responsible for all of that. We need to verify education and that they've successfully passed an exam. Colleen, do you want to chime in on the legal aspect of that?

**Colleen Platt (Legal Counsel, Board of Massage Therapy):**

I'm legal counsel for the Board of Massage Therapy. The issue with regards to the investigation into testing irregularities or concerns about the test itself are really—the jurisdiction is the administrator of that exam, and the Board is not the administrator of any of these exams. They just accept them in regards to determining whether the licensed applicants have gained their requisite education.

**Chair Cannizzaro:**

So why approve—I know I'm probably getting into the weeds here, because I'm just trying to understand like where this would in theory leave students who have now gotten into this position, right? You all in regulation approved a particular examination without any sort of idea of whether or not it was acceptable, if there were security concerns. You have no oversight, but you approve this exam and you see other states are not approving it. Now you have all these questions, so you're going to remove it. In the meantime, there are students who are now in these programs. Where does that leave them?

**Ms. Platt:**

Thank you, Madam Chair—

**Chair Cannizzaro:**

—because this all sounds like it's not like standards changed or there was this significant shift, it was we just randomly approved this as one of many types of programs, it's up to the companies to administer it, we didn't think they were doing a great job, we have no oversight, so now we're just going to say we're not going to approve that examination.

**Ms. Platt:**

Thank you, Madam Chair. So back in 2017 when the Board was looking at the exams that it accepted with regards to competency, the ITEC exam is actually administered internationally, so it's used in international countries. I think the UK (United Kingdom) uses it quite a bit for their competency, so in an effort at the time for the Board to offer an option to applicants, this was an exam that was added, and at the time they used that international reputation when it was analyzing whether to accept this as a competency with regards to massage therapy. In addition to massage therapy, they do also test for some other things. What has happened is certain schools within this state have incorporated that exam into their own curriculum, so those students will go to the massage school, take that coursework and at the end of that program will then take the ITEC exam.

Over the last year or so, questions regarding whether or not that test is in fact safe in regards to that the individual is in fact the individual that says that they're taking the exam, and then regards to the test security and efficacy of measuring competency have come into question, and so when we've reached out to the administrator and asked—not the schools here, but the actual administrator of the exam in the UK, they've not taken any steps to mediate that concern. The Board has some severe concerns that the individual taking the exam is not the individual coming for the license. In addition, there's some concerns that it's not really measuring competency as well. After taking a look at that, the Board's decided we want to make sure that those individuals that are coming as applicants have the competency and are not going to injure anyone while they're performing massage. Those individuals, the applicants that are currently enrolled in the schools that were making public comment today, still have the option to take a different

examination. There's one other exam that they can take, and so it's not that they're prevented from continuing on and obtaining a license, because remember, their education will be accepted. It's whether or not they want to shift and take that other examination.

**Chair Cannizzaro:**

But what happens then if they're in the process of undergoing this particular examination and now they would have to stop that and do a different one, because we heard in public comment that there are folks who are in the pipeline for this who are now sort of left in this unknown where they've paid for, or are part of undergoing this, and if we pass this regulation today, tomorrow they would sort of be out that money, out that spot and have to go find a different place. What do we do with those students?

**Ms. Barnard:**

Thank you, Madam Chair. With the knowledge that this was coming up, our licensing team has been trying to process as quickly as possible and kind of jump people that were applying under these qualifications, just this exam, to the front of the line. I saw the public comment that was the written comment submitted by Mr. Kennedy. Of those, I think there's one that has not applied, two had been approved, and I think—let me double check. I had notes on everybody. I think that leaves three pending, one we were waiting on their background results, which we're not able to speed up the results we get from DPS (Department of Public Safety).

Administratively what we're considering is that we would not deny their applications. We would reach out to them and say they have the option to consider another exam if they would like. Previously, both the schools that currently use this exam, the ITEC exam, were teaching to the MBLEx exam (Massage and Bodywork Licensing Examination), which is the other exam that's currently available, and they seem to have good pass rates. It was commented during the public hearing that we have lots of students coming in with limited English proficiency that still manage to pass this MBLEx exam. We would extend basically the open time of their application and allow them to submit results of a different exam to us.

**Chair Cannizzaro:**

But they would have to pay for and sign up for whatever they might need education-wise order to do this.

**Ms. Barnard:**

No. Sorry to interrupt you, Madam Chair, but no. Their education will still be valid. This will not invalidate their education at all. There are two components—well, three components to our licensing process, so they have to have education that meets the requirements, which these schools are in Nevada, so even moving forward it still will be an approved program, so we will still accept their education. They have to complete a

criminal background, so that has to be clear of anything that would affect their ability to safely practice massage, and then they have to pass an entry-level examination proving that they have that competency at the entry level.

**Chair Cannizzaro:**

But if they already paid to take this exam, they then have to pay for the other exam to go ahead and take that one.

**Ms. Barnard:**

That is correct.

**Chair Cannizzaro:**

I think I'm going to turn this over to Assemblyman DeLong, because I think you had a question. We'll go to you next.

**Assemblyman DeLong:**

Thank you, Chair. Appreciate it and again appreciate you being here in person. Thank you very much. My recollection is that last session the Legislature passed statute that brought Nevada into the Interstate Massage Compact. I think we're a state in that Compact, I believe.

**Ms. Barnard:**

We are the first. We're waiting for other states.

**Assemblyman DeLong:**

Yeah, I understand that. So my question is, does the ITEC exam actually meet the standards of the Compact which we said we would abide by?

**Ms. Barnard:**

The Compact is an option, so we didn't have to raise the standards to meet the Compact to be part of it. The standards we had when that legislation was approved were fine. So, two big things are happening in this reg change. One is we are increasing our minimum hours to 625 which will help new graduates from programs in Nevada qualify for that Compact licensure immediately upon graduation. That also is addressing a concern that some changes to funding federally for education and loans were going to be interrupted potentially for any programs less than 600 hours. That was the other piece addressing that Title IV funding, access to the federal loans, basically. That's a piece of it, and then under the Compact language, the language is pretty similar as far as that it has to be a nationally recognized exam. At this point, the only nationally recognized exam is really

the MBLEx, so this regulatory change actually helps ensure that graduates moving forward will be eligible for the Compact as well as for federal funding.

**Assemblyman DeLong:**

Thank you very much. That was my only question, Chair.

**Chair Cannizzaro:**

Okay, thank you. I see Assemblywoman Hansen, you have your hand up, so we'll go to you next.

**Assemblywoman Hansen:**

Thank you, Chair. Thank you, Miss Barnard, for being there in person. Sorry I'm not. Assemblyman DeLong covered some of my questions. The test that we do have in place, not this one that we're talking about getting rid of, is a nationally accepted standard test. Did I understand that correctly?

**Ms. Barnard:**

Yes, of the 47 states that currently regulate massage, I think all but two of them accept this exam. One is a state that does not require an exam, but they don't require licensure either, and then the other one is New York, which has had their own exam for quite some time.

**Assemblywoman Hansen:**

And Chair, if I could follow up real quick, if that's okay, Chair?

**Chair Cannizzaro:**

Yes, please go ahead.

**Assemblywoman Hansen:**

I think when we talk about in 2018 this test was accepted and now we're looking at repealing it, I think all of us here as Legislators can attest to the fact that we have passed legislation in the past that then we have had to come back because it had some unintended consequences. I see that as what we're dealing with here, and also the idea that these students, their education is preparing them for a test and it sounds like it's an education that will prepare them fine for the nationally accepted test.

I think it's so important that we know that massage therapy has done the work to create an environment that doesn't have any appearance of nefariousness. I think they have fought hard to overcome stereotypes, and I applaud any effort, especially in this

regulation, to ensure that those that choose to go into this as a profession, an honorable profession, that they have good education programs, which it appears that we do, a certain amount of hours, which it looks like we're increasing to increase the product and the productivity of our graduates, and that it's done with a test that we can feel completely confident in that's a nationally accepted test. I know as a member of education during session and in the interim, we have visited and we've passed legislation to eliminate some tests for teacher recruitment, whether it be to make it easier or whether we have testing to improve a standard. I frankly am fine with this reg. We have a way to make sure it looks like you're tracking students who might be caught in a little bit of a gap here. It looks like you're paying attention to that, and perhaps how many students are we talking about that might be caught in this gap? Would you happen to have that number? That's all from me, Chair. Thank you very much.

**Ms. Barnard:**

Thank you, Assemblywoman Hansen. There was a spreadsheet that my team was monitoring of what we had as far as results from the exam versus who had actually applied and where they were at in the application process, and I want to say there was about 30 names still on that list. There are a couple that, like I said, I know we were waiting on backgrounds, some of them did not complete their application and some of them we have not received an application from at all, and that happens from time to time. Someone will complete a program, take an exam and decide they don't want to get licensed in this state and they may have moved somewhere else.

**Assemblywoman Hansen:**

Thank you.

**Chair Cannizzaro:**

Assemblywoman Backus.

**Assemblywoman Backus:**

Thank you so much, Madam Chair. I have two questions. One, I'm trying to wrap my head around, I know you said that there is one examination that is accepted, but when I look at section 2 which references NAC 640C.050 for the acceptable exams, there's actually four exams set forth there under where there was originally five with the ITEC removed, and I was just kind of curious if some of those other exams are just no longer being offered, or why that is?

**Ms. Barnard:**

Thank you for that question. That is correct. Those exams were available in the past but are no longer being offered in that current format.

**Ms. Platt:**

As a follow up, the reason those are not removed even though they are no longer administered is that individuals in other states could have taken them while they were being administered and then relocate here and seek a license, and so we need to make sure that those exams which were nationally recognized at the time that they were administered still remain on the books for us to take and accept.

**Assemblywoman Backus:**

Okay, thank you for that. I was just kind of confused when I just kept hearing that one exam and I saw the multiple ones there. I guess from deductive reasoning, I do believe you had said it, that the ITEC is now no longer one of those examinations that would be offered in another state that we would be looking to give, I guess, full faith and credit to in the State of Nevada?

**Ms. Barnard:**

I'm not sure if I fully understood your question, but basically no other states have ever recognized this exam, so we don't really have to worry about anybody moving from another state with this exam as their credential or as part of their credentialing process. Did that answer what you're asking?

**Assemblywoman Backus:**

Okay, and thank you for that. It did, and I do believe you did say that earlier today, so sorry about that. I was just kind of thinking of just the removal of that one.

Then my other question for you guys is under that section 12. I'm trying to kind of wrap my understanding of that, because it does kind of give a grace period, but that grace period is basically 12 days from today for those that are enrolled in a program and looking at the prerequisite number of hours to be completed and then the specific number of hours in subspecialties or specific areas of study, and I'm just trying to understand what this grace period is recognizing. Is it recognizing those students that are currently enrolled in a program, or is it just merely giving those individuals enrolled in a program 12 days to basically complete the program that they're enrolled in to be recognized?

**Ms. Barnard:**

Thank you for the question. So that grace period gives that time frame for somebody to be enrolled in that program, so if somebody enrolls tomorrow in a program that's only 550 hours and completes it, we would still recognize it. The changes and those hours, the timing on it was to line up with the impending changes from federal funding so that schools that were offering federal funding would still be able to receive loans and extend those out to the students that needed that to complete their education.

**Assemblywoman Backus:**

I just want to clarify what you had said at the end. If someone enrolls in a program tomorrow, there's no pressure for them to complete the program in 12 days. The grace period up until June 30, 2024 will recognize any students that are currently enrolled in a program before June 30, 2024. They don't have to complete it before June 30, 2024. Is that my understanding?

**Ms. Platt:**

Thank you, Madam Chair. Yes, the idea behind this 12 day/June 30 ties up to the rule being implemented at the national level wherein, come July 1, students who are enrolled in these programs will not be able to access federal loans unless they're in a program that has these 600 hours as a minimum. We have one school here, I think, that only has a curriculum of 550 hours, so we will accept individuals that enroll in that school on or before June 30 of this year. If they enroll in that school and complete their program, it's usually about a 6-month program, and so 6 months from now, let's say they apply on December 31, we would accept that 550 hours, even though as of today, if you approve this regulation, the hours would shift to 625.

**Chair Cannizzaro:**

Can you walk us through, because now we've talked about a few different pieces of this, for folks who are currently in like a program where they were anticipating taking that ITEC exam, or those who've taken that exam, how does this regulation impact them?

**Ms. Platt:**

Thank you, Madam Chair. If someone is currently enrolled in a program—I think it was Fu Zu Ba that testified today, so if Sally Sue is enrolled in Fu Zu Ba today and is scheduled to take the exam—maybe she took the exam June 1. She took the exam and now is completing her program and submits the application. It depends. Sometimes they submit the application before they have the results of the exam or they have taken the exam, so it's really kind of a case-by-case basis, but if they have taken the exam and submitted an application, the Board will process that application even though, because they've submitted it before this reg was passed. Anyone who submits an application after today who is enrolled in any program will now have to take the MBLEx because that's the one national exam that is currently administered. If they were in Fu Zu Ba and they didn't sign up to take the exam then now they will sign up and take the MBLEx. If they signed up to take the ITEC exam but didn't, then they'll have to cancel that exam and then reschedule and take the MBLEx. Does that answer your question?

**Chair Cannizzaro:**

I think so. I'm trying not to mix the two, because we talked about there is a grace period for folks who are enrolling in programs who will not have to complete the 600-hour

requirement if they were in a program by June 30, but for everybody else who's within that application and exam timeline, there is no grace period. If we pass this regulation, it would end today. They would be out whatever that money is or they would be out whatever that is if that application is not in and have to go and then reapply and take a different test.

**Ms. Platt:**

Thank you, Madam Chair. Yes, so the rationale behind the grace period for the curriculum, the change, so currently we have a curriculum requirement of 550 hours and they revised it to 625 after extensive discussion, not only amongst the Board members themselves but with the Commission on Postsecondary Education, and then in looking at the Compact, the Compact requires at least a minimum of 625. So, in review of that and then on top of it, you have the federal rule coming into effect July 1 which requires a minimum of 600 hours. The Board recognized that revising its curriculum, the various courses that are required, so it's different numbers of hours for different subjects, and someone could have been enrolled in a program already that's 550 hours, or even if it was 625 hours, maybe the hours are apportioned differently, so we recognized that we had to change the number of hours in order to allow students to still be able to continue to access federal loans for these programs, but we wanted to give the individuals who are already committed to a program on the path to 550 hours, we want to give them that ability to continue and finish that program without theoretically a penalty.

Now, when it comes to the exam, they did have a discussion about doing this, about allowing this grandfathering in for a period of time, but again, they went back to their mission. These boards are dictated to regulate in the benefit of the public, and so the mission of this Board is—I'll turn to Miss Barnard for the mission of the Board.

**Ms. Barnard:**

The mission of the Nevada State Board of Massage Therapy is to protect the public health, safety and welfare through effective massage therapy regulation, ensuring that qualified, competent, ethical practitioners are licensed.

**Ms. Platt:**

So when that's the mission of the Board and you're—

**Chair Cannizzaro:**

I think that the question that we're trying to get to is, what happens to these students who up until today were in a program and signed up to take an exam that was recognized, that tomorrow will not be? Practically speaking, logistically and practically, where does that leave them? Because I don't think anybody's taking any issue, like you guys don't want to do the ITEC exam anymore, fine. But for students who, up until today, that was an approved course of action, not because they said so but because the Board said so. Now,

tomorrow that's not the case and they have to try to figure out like, "How do I pay for this? What are the next steps? What if my application is in?" That's what we're trying to get at, and there are parts of this where there was some grace given for certain programs, right, where if tomorrow they sign up for a program and it doesn't meet the new hours that are part of this regulation, that's going to be given the grace period until June 30, but there are students who are falling in this gap. No one's questioning the Board's ability to regulate. Certainly the Legislature understands the importance of and the significance of and why we want to regulate people, and the health and safety and all of that, but like, what happens to those students? That's what we're trying to get at.

**Ms. Barnard:**

Thank you, Madam Chair. I communicated with both the schools that currently offer this exam, advising them of what legal counsel had told me as far as when this would be effective and also the date of this Commission meeting so that they were well aware of what the timelines would be and when this exam might be being removed. So, if they—

**Chair Cannizzaro:**

But this Commission could either approve this regulation, send it back to you all, or just deny it outright.

**Ms. Barnard:**

Right, and I understand that.

**Chair Cannizzaro:**

So why not build in a grace period for those students as well, into the regulation?

**Ms. Barnard:**

I believe the Board did not do that because they wanted to ensure proper public safety. So at one point, Las Vegas Metro PD (police department) had asked me for a list of all of our licensees who had taken this exam because they wanted to match it up against prostitution arrests because they were seeing a trend.

**Chair Cannizzaro:**

I understand all that and was a prosecutor for a very long time. The question though that you are prompting before this Commission is that there are students who you are saying if there is an application in and that's the exam they took, you are going to acknowledge it, but if they didn't get in an application and they were going to do it tomorrow, now they're out of it. I'm trying to figure out, practically speaking, what happens to those students, because prior to today that exam was acceptable. So, what happens to those students is the question, not why this happened, different things that are ongoing, why you don't like

the exam anymore, why there might be some issues related to that, why there might be safety concerns. I understand all that. I think we all do. We're trying to get to the point of, if we approve this regulation and we vote for that, there are students who are going to be out money, fees, exams, etc., and what happens to them when in some cases we're willing to give some sort of accommodations and grace periods, but for this particular set of students who don't have an application in already but are taking the same exam as somebody who may have gotten an application in yesterday, are now going to be left in a position where they have to go and sign up for another exam?

**Ms. Barnard:**

Madam Chair, that is correct. They will have to take a different exam.

**Chair Cannizzaro:**

Okay, thank you. Senator Harris.

**Vice Chair Harris:**

Thank you, Madam Chair. I have a couple of questions. I hope that will all flow together at the end here, so can you tell us how much does someone pay currently to take the exam that we're getting rid of? I think it's referred to as ITEC, is that right? What's the fee for that?

**Ms. Barnard:**

One of the people present there from one of the schools in Las Vegas would be better able to say. However, I believe it's around \$350, give or take.

**Vice Chair Harris:**

And are these fees paid directly to, I guess, the exam company? So would these folks have paid ITEC directly, or are these facilitated through you all?

**Ms. Barnard:**

No, we do not handle any of the exam fees as a Board. I know for the MBLEx, those fees I believe are paid directly to the Federation of State Massage Therapy Boards. For ITEC. I don't know if the schools handle that and then submit on their behalf or if it's paid directly to ITEC.

**Vice Chair Harris:**

Okay. Is there any practical issue with—I guess because you guys don't handle the fees, right, so we can't get anybody any refund that's already paid for the exam, right? Are there practical issues with drafting a regulation that would say if you've already signed up and

paid for the exam prior to the change, we will accept that exam? Prior to today's date. I guess you'd have to maybe go back and redraft it in order to do something like that, but would that be practical? Because I think that would address some of the concerns that you're hearing from the Committee. You'd still have a clean cut-off date. As soon as the regs are changed, if you sign up for the test after that, we're not going to take it, but if you can come and show that you paid to take the exam before the regulations were changed, we'll take it. Is that something you all could consider?

**Ms. Barnard:**

So, just to clarify, are you asking if you remanded these reg changes back to us if we could make that adjustment? So that would then interfere with the schools that need this help to get federal funding.

**Vice Chair Harris:**

And that would be because we've run out of time, correct?

**Ms. Barnard:**

Correct. Yes. The one thing to kind of answer your question about refunds and all of that stuff, I would suspect the schools could maybe reach out to ITEC on behalf of students that had signed up and won't have that exam considered now. That would really be up to the schools to see if that's possible.

**Vice Chair Harris:**

Okay. I'm trying to help you get your regs out today.

**Ms. Barnard:**

I appreciate that.

**Vice Chair Harris:**

Yeah, but in order to do that, I need to know about what you all are willing to do. Is there anything that you all could do, absent a change to the regulations, to address this gap for folks? Maybe waive a different fee or something in order to kind of ease the cost burden of someone having to pay \$300 for one test and then bing-bang-boom tomorrow having to pay \$300 for another just because they didn't take the test in time or whatever the case may be? Any suggestions?

**Ms. Platt:**

Possibly. If you approve this regulation today on trust and faith that we would have a meeting of the Board, we could theoretically adopt an emergency regulation which would

be valid for 150 days whereby we allowed a grandfathering period for a certain period of time. Of course, that would require—I'd have to look at what I have to do for an emergency reg, how many days I have to post, but that could be done. But I believe it requires the Governor to sign, so I'd have to get his signature.

**Vice Chair Harris:**

Okay. Well, it's nice to know that we have that option in our back pocket. Thank you for riding along on that ride with me. I think we've ended at a good destination. I wish you the best of luck on getting that reg passed.

**Chair Cannizzaro:**

Senator Stone.

**Senator Stone:**

Thank you, Madam Chair, and hope you feel better soon and thank you for allowing me to ask a couple of questions. So right now, prior to the change in the number of hours, I think it's 550 I think you mentioned was the older number of hours that a massage therapy student would be needing to get licensed. I got a real estate license and when I was looking to go to real estate school, I wanted to go to a school that had the highest pass rate, if you will, that they really prepared you for a test. So, when you have 550 hours versus 625 hours, one could assume that the test is going to be somewhat different, and you have these students that have been studying for 550 hours expecting one test, and in addition to the financial burden are going to have to figure out what additional coursework is necessary for the public safety that you talked about. We're always looking to improve our schools and make things safer for the constituents, but I agree with the Chair and the Vice Chair that we should have some grandfathering in. Based on the number of kids that you talked about, or adults that you talked about, are we talking about 20 or 30 people, and are you telling me that you don't have the capability of just grandfathering these people in that are having the 550 hours of education to take the ITEC test and anybody that applies after June 30 has got to go for the 625 and will be taking the new test? Are you incapable of doing that under present policies and laws in the State of Nevada?

**Ms. Barnard:**

The short answer is yes.

**Senator Stone:**

Then let's do it.

**Ms. Barnard:**

We do try to follow the laws and the regulations, and I think we do that so far, and absolutely I can take this to the Board and ask for an emergency regulation to do that grandfathering piece, and then what we'll do is just put all of the people who are applying with the ITEC exam kind of on hold for the moment until that kicks in and then we could process them and complete their applications.

**Senator Stone:**

Just to follow up, I think we should honor our promises, if you will, to students and say this is a 550-hour curriculum, this is the test that you're going to be taking. I understand there's a new test, I understand there's more hours, but we should live by the rules that we sign up with. We shouldn't have to pull the carpet out underneath students and say, well, we're going to go ahead and go 625 hours, which means the curriculum is going to be expanded, which means the test is going to be expanded, which means there's a possibility if I don't put in another 75 hours that I could potentially flunk the test, and I don't think that's what the schools want to do. I think we should hold people at the rules of the time that they signed up. We're talking about 20 to 30 students. I don't think it's that big of a deal. We ought to grandfather them in and move forward with your new enhanced curriculum and do what we can to make it safer and more professional for massage therapists to give their appropriate services to our constituents, and if you are able to commit to that, I'm happy to support the regulation with the understanding that these people are going to be protected. Thank you, Madam Chair.

**Chair Cannizzaro:**

Thank you, Senator. Assemblywoman Monroe-Moreno.

**Assemblywoman Monroe-Moreno:**

Thank you, Madam Chair, and hearing the comments from the Senator up north, if we were to do that and these students are grandfathered in, being what you said earlier that the requirements are changing at the federal level to more hours that would be required for licensure, would these 30 students only be able then to practice here in the State of Nevada? If they were to go to another state, they would have to have that additional training before they could get licensed in that state moving forward. Is that a correct assessment?

**Ms. Barnard:**

Not necessarily. There's a patchwork of different requirements amongst the states, ranging from about 500 hours to 1,000 hours, so it really would depend on what state, any sort of reciprocity happening in the other states, all of that. One of the motivating factors behind this increase in hours as well as the removal of the ITEC exam is to make us a little more in line with other states, which also gets us in line with that national

compact once it stands up. The 600 hours is for the federal funding for the student loan piece. Did that clarify the answer?

**Assemblywoman Monroe-Moreno:**

Perfect, thank you. It did. I just wanted to make sure that they would be employable if they did choose to leave the State of Nevada and go somewhere else for employment. It answered the question.

**Ms. Platt:**

Madam Chair, if I may, in response to some of the questions with regards to creative thinking around here. July 1, I believe, and LCB can correct me if I'm wrong, Mr. Killian can correct me, but I believe July 1 starts the temporary reg adoption process and so I wouldn't have to do an emergency reg and get it signed by the Governor. It would just follow the standard temporary reg posting requirements. I believe even there you have the ability to pull the reg for review to make sure that we are doing what we said we would do.

**Chair Cannizzaro:**

You are correct that the temporary regulation process is about to begin, but it's August 1, not July 1, so that would be an additional 30 days or so, and I'm not sure how that complicates things or doesn't complicate things. I think after a very lengthy discussion, here are my thoughts. We're in a bit of a tough situation because we have a regulation before us that if not adopted today, which I extraordinarily hate being in this position where we get a regulation that if we don't adopt now we're out of alignment with federal standards, and this has other implications that are broader than just what this Commission has the authority to do. It is exceedingly frustrating to be in a position where we have a reg before us that has those sorts of implications that if we do not pass it, there are other ramifications for things that are outside of our control because it sort of puts this Commission in a position where we sort of have to do it or deal with all the additional outfall, some of which we don't have control over, like federal funding. We are at the state level, and beyond that, we are not a legislature that is in session. We are a Legislative Commission that can either approve or deny regulations, so when we get a regulation that is missing or lacking some pieces that we would like to see but yet has other pieces that we absolutely must pass in order to meet guidelines that are outside of our control even if we were in a legislative session because they're federal in nature, that is an exceedingly difficult position for all of us to be in because we did hear public comment, we did hear from the students, many of whom were here in Las Vegas today, about the uncertainty and frustration that come from one day being able to have been in a program and in a situation where this was an allowable exam. I understand you can find the issues with exams and say, well, this wasn't working or that wasn't working. We have all been through the regulatory process where that's been the case. We've been in the legislative process where we're being asked to pass bills to address certain issues that come up. No one questions that as a legitimate thing for this Board to be doing, and certainly a

legitimate use of the regulatory structure and this Commission. However, we do not have an opportunity as a Legislative Commission to amend regulations. As you have seen today, we either have to defer them entirely, which will leave us outside of that federal deadline, or we have to adopt them or deny them entirely, which starts the entire process all over again.

I want to be very clear that I expect to see a process and I will make the appropriate calls I need to make to see about whether we can get an emergency regulation to make sure that there's some clarity for some of these students, because I think it is disappointing that there wasn't also some grace period put in here in the regulation. It's not like, "Hey, we're bringing this; it's going to go before Legislative Commission that's going to get scheduled for some time in June." When that meeting is set, it's sort of dependent a lot upon who's available here to be able to come in a June meeting, so that is not a lot of clarity for folks. I expect that the Board will take the appropriate action to engage in whatever sort of waivers they can for fees and for students and to be gracious with the applications that are coming to you for folks who relied on something that today is an allowable exam and process and that tomorrow may not be. I also expect this Board to engage in that emergency regulatory process, because as much as I think the temporary reg is a good idea and that's kind of where my thought went, August 1 is a long period of time and probably doesn't solve that issue in the way that an emergency reg could.

My promise to all of you is that I will make a call and request, some of this being outside the hands of the Legislative Commission and the Legislature, but I will make a call to see if we cannot get some support in order to help that process take effect so that there is some ability for those students to have clarity and to not be out a whole bunch of fees or to find themselves in a position where now they have to go and retake some courses in order to get to a particular position due to no fault of their own. We're all going to move forward with a lot of faith and good dealing between one another that we will make this work in exchange for the fact that we know there are pieces of this regulation that have to be adopted.

That's kind of my thought to this Commission is to approve the regulation, but to do so with the Board's understanding, and I'd like for you all to just say that sounds like something you can do, that you will engage in that emergency regulatory process, that you would give grace and find ways to be creative with fees and being flexible, that to these students who may fall into this gap, that you do what you need to do, and that the schools do what they need to do to get those students to a place where they need to be so that they are not out all of that. I think we can find a resolution that way for this particular issue and, in the meantime, allow the portions of this regulation that need to go into effect for other reasons to actually do so, and if we can all agree to do that, that'll be my promise to you all, and if the Board is in agreement, then that to me kind of feels like maybe the right place for us to go today.

**Ms. Barnard:**

Madam Chair, I believe we can do that. Absolutely. I've been trying to—as I stated early on, we've been trying to work with all the pending applications that we could, to move them through so they didn't get caught up in this. We just still had a few stragglers, and I understand the ones that maybe still were in the process of completing their program and still needed to apply, and I will defer to our legal counsel and to your direction as far as the best step to take in that process. If an emergency reg is the way to go, then I will put that to my Board and I hope that they will be amenable to it.

**Chair Cannizzaro:**

And I appreciate that, and I do appreciate and I do acknowledge the work that was done to try to get some folks to that place. I just fundamentally think when we change things one day to the next, that creates uncertainty that's not fair to folks who maybe weren't aware for whatever reason or another. I appreciate your willingness to kind of work on all of that. Members of the Commission, thoughts? Do I have a motion to approve?

**Assemblyman DeLong:**

Chair, I move we approve regulation R017-24.

**Senator Stone:**

With the promises expressed, I second.

ASSEMBLYMAN DELONG MOVED TO APPROVE REGULATION R017-24.

SENATOR STONE SECONDED THE MOTION.

**Chair Cannizzaro:**

Any discussion on that motion? Senator Harris.

**Vice Chair Harris:**

Thank you, Madam Chair. I think you outlined well what it is that we all can and need to do in order to assist the students, but I do just want to also comment that I expect the schools to also do a little bit of sweat equity to help the students as well. I don't know how much they paid you, but I'm pretty sure they paid you to help them get through this process. Clearly we're not accepting this test anymore because of what seems like very valid reasons, and so whatever you all can do to advocate on your students' behalf to get refunds so that they can sign up for the proper test. That company may tell you no, and I'm not expecting anyone to spend dollars suing anyone or anything like that, but we will

all do our part and I hope that you all will do your part to advocate for your students as well. Thank you.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Cannizzaro:**

That brings us to our next regulation, R025-24 with the Peace Officers' Standards and Training Commission ([Agenda Item IV](#)), and we will let them get with us, and I'm going to turn it over to Assemblyman DeLong. You had a question on this.

**Assemblyman DeLong:**

Yes. Thank you, Chair. I'll wait for them to alight in their seats.

**Chair Cannizzaro:**

I think we may have them remotely.

**Assemblyman DeLong:**

Okay, they are in their seats then. I just have a question why, under section 1(2)(f), why are we removing the state's physical fitness standard from the regulation?

**Mike Sherlock (Executive Director, Peace Officers' Standards and Training Commission):**

I'm the Executive Director of the Peace Officers' Standards and Training Commission. This simply applies to reciprocity. At the same time, it does allow the hiring agency to administer a physical readiness test. At the request of hiring agencies, we wanted to recognize that this applicant is already certified as a peace officer in that other state, and many states already have a physical fitness requirement or physical readiness requirement, so this only applies to those applicants. Anybody newly certified as a peace officer in the State of Nevada is still required to do the physical readiness test. It's just that often they've already done that in the state they came from. It is a matter of recruitment and that sort of thing.

**Assemblyman DeLong:**

Okay, thank you. That clarifies it for me. Thank you.

**Chair Cannizzaro:**

Okay, thank you. Any additional questions or comments from members of the Commission? Hearing and seeing none, do you have a motion, Assemblyman?

ASSEMBLYMAN DELONG MOVED TO APPROVE REGULATION R025-24.

VICE CHAIR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Cannizzaro:**

Thank you so much. We will move next to R047-24 for the Board of Public Employees' Benefits Program ([Agenda Item IV](#)), and I'm going to turn this over to Senator Daly once we have them with us, which I think we may have them in Carson. Once they're settled, Senator Daly?

**Senator Daly:**

Thank you, Madam Chair. My question comes in along the theme today, it seems like. So in your statement on why you needed the regulations, one of the things that stuck out to me is that on the things you're deleting, several of them are repealed regulations whose provisions were otherwise addressed in statute, which is fine, or more appropriately addressed in agency documents. That's where I wanted to get a little more information on what's going to go into agency documents versus what's already covered. There's nine sections that you're repealing. Some of them look straightforward. They might be about who votes and the director and the vice chair and all that kind of stuff, but when you're putting things in agency documents, what type of things are you putting in there if they were previously in regulation? Because I don't want to see mission creep. "Well, we're not going to go through the regulatory process. We're going to take that out of regulation and we're just going to adopt it ad hoc in agency documents." As you might guess, I'm opposed to that.

**Celestena Glover (Executive Officer, Public Employees' Benefits Program):**

Good afternoon. I'm the Executive Officer for the Public Employees' Benefits Program. The things we're talking about putting into our agency documents, we have what we call a master plan document that outlines the benefits for the various plans that we offer. The things that we're looking at putting in there would be things like address changes or forms that we require the members to submit if they need to make a change to their plan or if

they need to add dependents, things of that nature. We felt like the master plan document clearly outlines what kind of information we require. It also outlines eligibility for the plan, things that include the list of benefits, documents required, all of those types of things. That's the only thing we're looking at putting in plan documents.

**Senator Daly:**

And I understand, and that's kind of what I wanted to get on record. Do you guys have to do—I know private health and welfare plans, like I'm still a trustee on the one for my union—have to do a summary plan description-type document that you have to submit or send out to the participants every so often. The feds make us do it. Do you guys have to do a similar type of thing when you're talking about—reenrollment, those types of things?

**Ms. Glover:**

We do have what we call the summary benefits documents. We also have the master plan document, which is the complete document, and we also have a comparison guide. We post those out on our website, but if somebody would like something in hard copy, then we will mail that out on request.

**Senator Daly:**

Understood, and I was just trying to guard against the mission creep on what needs to really be a regulation, something that's a general application, as you guys know, that needs to go through that. Eventually, if you went too far, there would be a complaint and ad hoc rulemaking and it would potentially get struck down. I don't think you have any interest in doing that, but I want to make sure you're not as well. That was my question on that, on what type of things we were going to put into agency documents and that if it's appropriate for regulation, we expect that to go through the regulatory process. That was all I had, Madam Chair.

**Chair Cannizzaro:**

Any additional questions or comments from members of the Commission? I am seeing none. Senator Daly, do you have a motion you'd like to make?

SENATOR DALY MOVED TO APPROVE REGULATION R047-24.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Cannizzaro:**

And that brings us to our final regulation of the day, R061-24 for the Administrator of the Division of Outdoor Recreation ([Agenda Item IV](#)). We will let them join us and I will turn it over to Assemblywoman Anderson when they are ready.

**Assemblywoman Anderson:**

Thank you, Chair, and thank you very much for being here in person and also getting a chance to talk to you earlier today. My question has to do with the process that you're envisioning, in particular under section 10 when you're changing the Administrator's verification from every 5 years down to each year. My two questions: number one, is this going to be a self-reporting or are you expecting members from your staff to go out and double-check it? Then the second question is, is there already a plan to do auditing? I noticed that the compliance is already listed, but is there a plan to do possible auditing in the future to make sure that the information given is actually accurate?

**Chelsea Kincheloe (Program Officer III, Division of Outdoor Recreation, State Department of Conservation and Natural Resources):**

I'm the Program Officer III for the Division of Outdoor Recreation. Thank you for your question and thank you for connecting with me earlier today as well. So as to your first question about self-reporting, the way we're planning on implementing this is to have some type of form that our applicants would fill out and submit to us, and then we would verify that form, look it over, ensure that they are providing all of the materials that were needed, whether that be photos, receipts of upgrades to infrastructure or policies, and then, if need be, we would go more in depth if we needed to follow up with them in addition as well. Does that answer your question?

**Assemblywoman Anderson:**

It does, thank you, and I'll explain why I'm asking it. I'm concerned about us, possibly by approving this, 2 years down the road having somebody come up and say we need more people to double check this information. So it is at this time—the plan is to have it be self-reporting is what I'm understanding, and the application itself has not been completed yet. Is that correct?

**Ms. Kincheloe:**

Correct, and I would also like to note that we've only had within the past year one individual express interest in this program, so it's not something that we see as in huge demand yet.

**Assemblywoman Anderson:**

I love the optimism of yet, and so at this time you are not planning on doing audits or anything along those lines because there is not yet a need for it?

**Ms. Kincheloe:**

Correct.

**Assemblywoman Anderson:**

And then for that application, will that be looked at by anybody else, or is that you get to own it and it's just your application, how you see it?

**Ms. Kincheloe:**

It's a good question. So it will be me reviewing, but should I feel like there needs to be additional oversight, I will include our deputy admin or our Administrator, Denise.

**Assemblywoman Anderson:**

Thank you so much for those clarifications, and thank you, Chair. I'm ready to give a motion if you'd like me to.

**Chair Cannizzaro:**

Are there any other questions or comments from members of the Commission? Seeing none, then I believe I have a motion for approval from Assemblywoman Anderson.

ASSEMBLYWOMAN ANDERSON MOVED TO APPROVE REGULATION  
R061-24.

VICE CHAIR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Cannizzaro:**

Thank you so much for being here with us today. Members, that does complete our consideration of administrative regulations for this afternoon. Thank you, everyone, and thank you for everyone from our agencies who were with us to answer all of our questions.

That brings us to item V, which is approval by this Commission of the language to be included on the General Election ballot in 2024 for Ballot Questions 1, 2, 4 and 5. That is pursuant to NRS 218D.810. I believe that we have Heidi Chlarson, our Chief Deputy Legislative Counsel, with us in Carson City this afternoon, and I'm going to turn it over to her to proceed with our consideration of the language for Ballot Question 1 ([Agenda Item V-A](#)). Members, you will also note that you have a hard copy of these materials in front of you as well, and for those of you joining us remotely, it should be available on the Legislature's website.

**Heidi Chlarson (Chief Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau):**

Thank you, Madam Chair. I'd like to begin this agenda item by just giving a brief overview of the process for preparing the ballot materials for constitutional amendments and statewide measures proposed to the voters by the Legislature. After that, I will turn to the specific materials presented to the Commission for the four ballot questions.

The process for preparing the ballot materials is governed by NRS 218D.810. Under that statute, the Legislative Counsel Bureau must prepare for any proposed constitutional amendment or statewide measure a condensation, which is the question that appears on the voters' ballots, an explanation and digest, arguments for and against passage, and a fiscal note. The ballot materials are required to be of reasonable length and written in easily understood language. The Legislative Commission is required to review the ballot materials, revise them if necessary, and approve them for delivery to the Secretary of State on or before July 1. The approved ballot question materials are included in sample ballots. For purposes of this agenda item, it is important to note that the Legislative Commission is not being asked to approve or disapprove of these proposed constitutional amendments or statewide measures. That issue will be decided by the voters at the 2024 General Election. Instead, the Legislative Commission is being asked to review the language and the ballot materials to ensure that it will assist the voters in making an informed choice. In preparing the ballot materials that the Commission has before them, the LCB assembled a team consisting of staff of the Legal, Research and Fiscal Analysis Divisions. The team met and conferred multiple times before finalizing a draft of the ballot question materials for public comment. The period of public comment began May 21 and ended on June 4. After the two-week public comment period ended, the LCB staff met again to revise the ballot question materials, taking into account the public comments received for each question, if any.

Turning now to your meeting packets, there are four tabs under each ballot question that correspond to the sequence of the drafting process. Under the first tab is the joint resolution or bill proposing the constitutional amendment or statewide measure. Under the second tab is the LCB's initial draft of ballot materials that was submitted for public comment. The third tab contains the public comments received by the LCB, if any, in response to the initial draft, and under the fourth tab is the LCB's revised draft that is before the Commission for review and approval under this agenda item.

The LCB's revised drafts follow our typical drafting conventions. They use blue, bolded italics to show the language being added to the ballot materials based on the public comments, and they use red brackets and strikethrough to show the language being removed from the ballot materials based on public comments. After the Legislative Commission approves the final versions of the ballot materials, the LCB will format the language into normal fonts and text colors before delivering the finalized ballot materials to the Secretary of State.

That brings us then to Ballot Question 1 ([Agenda Item V-A](#)). Ballot Question 1 proposes to amend the Nevada Constitution relating to the Board of Regents of NSHE (Nevada System of Higher Education). As I previously mentioned, tab 4 has the revised draft based on public comment for your consideration. The Legislative Commission can approve the revised draft as presented under tab 4 or make additional changes. I am happy to answer any questions that the Committee has. Also, Haley Proehl of the Research Division and Michael Nakamoto of the Fiscal Analysis Division are also available for questions.

**Chair Cannizzaro:**

Thank you, Ms. Chlarson. Members of the Commission, do we have questions or comments on the language that is proposed in front of you for Ballot Question No. 1? I am not seeing any. With that, I would accept—sorry, Assemblyman, go ahead.

**Assemblyman DeLong:**

Chair, I do have a quick question. Thank you. Just wanting to make sure I understand what we're seeing. Under the first tab, we've got the Senate Joint Resolution (SJR), but then under the resolve section and further resolved, we've got changes, and so are those changes that were part of the original joint resolution or are those something new as a result of public comments?

**Ms. Chlarson:**

Thank you. Under the tab that indicates Ballot Question 1, SJR 7, 2021, that is the actual Senate Joint Resolution that was approved by the 2021 and 2023 Legislatures. The reason that it shows red and blue italic language following our drafting conventions is because this is how the resolution was drafted and approved by the Legislature. This version under this tab has no changes that have been made since passage by the 2021 and 2023 Legislatures.

**Assemblyman DeLong:**

Thank you for making that clear. Thank you.

**Chair Cannizzaro:**

Thank you. Additional questions or comments? I'm not seeing any. I have a motion to approve the proposed language for Ballot Question No. 1 in the revised draft as presented before this Commission from Senator Harris and a second from Assemblywoman Backus. Is there any discussion on the motion? Seeing none.

VICE CHAIR HARRIS MOVED TO APPROVE THE PROPOSED LANGUAGE FOR BALLOT QUESTION NO. 1.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Cannizzaro:**

We are going to go ahead and move on to Ballot Question No. 2.

**Ms. Chlarson:**

Thank you, Madam Chair. Ballot Question 2 ([Agenda Item V-B](#)) proposes to amend the Nevada Constitution to revise certain language relating to institutions that the state must foster and support. The LCB did not receive any public comment regarding our draft of the materials for Ballot Question 2, so we did not make any changes to the materials. The Legislative Commission can approve the language as presented under tab 4 or make additional changes. LCB staff is available if there are any questions.

**Chair Cannizzaro:**

Okay. Do I have any questions from members of the Commission on Ballot Question No. 2 language? I am not seeing or hearing any. I do have a motion from Senator Harris and a second from Assemblywoman Backus. Any discussion on that motion? I am not seeing any.

VICE CHAIR HARRIS MOVED TO APPROVE THE PROPOSED LANGUAGE FOR BALLOT QUESTION NO. 2.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Cannizzaro:**

We will move on to Ballot Question No. 4

**Ms. Chlarson:**

Thank you, Madam Chair. Ballot Question 4 ([Agenda Item V-C](#)) proposes to amend the Nevada Constitution to remove language authorizing the use of slavery and involuntary servitude as criminal punishment. Tab 4 has the revised draft based on public comment for your consideration. I note that there is one inaccuracy that I need to correct on the record. In the arguments for passage under tab 4 on page 2, line 7, the reference to 27 states should be 23 states. I apologize for the confusion. The Legislative Commission can approve the revised draft as presented under tab 4 with that one correction or make additional changes. Again, LCB staff is available if there are any questions.

**Chair Cannizzaro:**

Right, thank you. So, members of the Commission, that is 23 instead of 27 on page 2 under tab 4. Any questions or comments on the language for this ballot question? I am not seeing or hearing any, so I would accept a motion to approve this language with that correction to 23 from 27.

VICE CHAIR HARRIS MOVED TO AMEND AND APPROVE THE PROPOSED LANGUAGE FOR BALLOT QUESTION NO. 2 AS DISCUSSED.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Cannizzaro:**

The motion carries unanimously, and that will bring us to Ballot Question No. 5.

**Ms. Chlarson:**

Thank you, Madam Chair. Ballot Question 5 ([Agenda Item V-D](#)) proposes to exempt diapers from sales and use taxes. Tab 4 has the revised draft based on public comment for your consideration. The Legislative Commission can again approve the revised draft as presented under tab 4 or make additional changes, and LCB staff would be happy to answer any questions the Committee has.

**Chair Cannizzaro:**

Thank you. Are there any questions or comments from members of the Commission? I am not seeing or hearing any.

VICE CHAIR HARRIS MOVED TO APPROVE THE PROPOSED LANGUAGE FOR BALLOT QUESTION NO. 5.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Cannizzaro:**

Thank you very much, Ms. Chlarson, for walking us through all of that. I appreciate your hard work and those who have gotten us to this point on those questions. Members, that takes us to item VI, which is the appointment of members to committees and similar entities. There is a document in front of you, Commission members, that does outline the individuals who are proposed to be appointed to the various boards and commissions for which this Commission has us to approve. I'm actually going to turn it over to Mr. Killian to walk us through the details.

**Mr. Killian:**

Thank you, Madam Chair. In the interest of time, I'm going to be brief in my description of these positions. I have more background on each of these bodies if the Commission would like to hear it, or if there are any questions.

There are three bodies for whom there are appointments before you for consideration. The first is the Advisory Council on Mortgage Investments and Mortgage Lending for which there is one vacancy with a person recommended for appointment in the attached document ([Agenda Item VI](#)).

The second is the Commission on Minority Affairs. There are six names for this body; three of these are reappointments, two of them are new appointments to new terms and one of them is an appointment to fill an unexpired term of one year rather than two.

Finally, there's the Southern Nevada Enterprise Community Board, and there are two members recommended for reappointment for this Board. I'm happy to answer any questions, or if any members would like any additional background on any of these bodies, I'm happy to provide it.

**Chair Cannizzaro:**

Any questions from members of the Commission on these appointments? Seeing none, I would accept a motion to approve these appointments, as recommended on that sheet in front of you ([Agenda Item VI](#)).

VICE CHAIR HARRIS MOVED TO APPROVE THE APPOINTMENTS OF MEMBERS TO COMMITTEES AND SIMILAR ENTITIES AS DISCUSSED.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Cannizzaro:**

Those individuals will be appointed to the various committees as listed in front of you. That brings us next to item VII, which is the approval of early session hires for the next legislative session because it is just around the corner ([Agenda Item VII](#)). This is a pretty standard agenda item for us at this time in the interim, but I am going to turn it over to Mr. Killian who will be able to answer any questions that anyone may have about a request. We generally start the session hires about this time, so for those of you who have been with us before, it's time. Mr. Killian.

**Mr. Killian:**

Thank you, Madam Chair. You said most everything that I intended to say. We generally hire our first slate of early session hires around July 1, so this is the typical timing for the first set to come before the Legislative Commission for approval. There will likely be at least one additional set coming at a future meeting, and I would note this is the first time we've got session hires to staff our significant new facilities in Las Vegas, so a significant number of the positions before you for approval today are for our first set of people staffing

the first session for all of our buildings down here in Las Vegas. I'm happy to answer any questions the Commission may have.

**Chair Cannizzaro:**

Members, any questions for Mr. Killian? Senator Harris.

**Vice Chair Harris:**

Thank you, Madam Chair. I am so thrilled to hear that a good portion of these positions will be located here in the southern part of the state at our new offices. I just would like to put it on the record and implore the Legislative Counsel Bureau to take these open positions as an opportunity to make sure that the legislative staff looks a little bit more like the rest of the State of Nevada, and I think we have that opportunity with new positions opening, especially here in Las Vegas. So, hopefully we can start that process. Thank you, Madam Chair.

**Chair Cannizzaro:**

Thank you, Senator. Any additional questions or comments? Seeing none.

VICE CHAIR HARRIS MOVED TO APPROVE THE EARLY SESSION HIRES.

ASSEMBLYWOMAN BACKUS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Cannizzaro:**

All right, members, that brings us to the next item on our agenda, which is our second period of public comment. We'll be accepting public comment in person here in Las Vegas. If you're here to give public comment, take these seats in front of us, or in Carson City. It doesn't look like we have anybody who managed to make it to the end. If so, and you're on the ends, come and take those seats. As a reminder, please identify and state and spell your name for the record, and we will give you two minutes. Seeing no one in person, we will move to the phones. BPS, if you could connect us to anyone who may still be with us wishing to give public comment? As a reminder, two minutes for those of you on the phones and we're happy to accept any written comments over and above that two minutes. BPS when you are ready.

**Broadcast and Production Services Staff:**

Chair, your public line is open and working, but we have no callers at this time.

**Chair Cannizzaro:**

I appreciate that, and thank you for your time and assistance today in facilitating public comments. Members, that brings us to the last item on our agenda. It is adjournment. Thank you so much for being here with us today, and seeing no further business to come before this Legislative Commission, this meeting is adjourned.

RESPECTFULLY SUBMITTED:

\_\_\_\_\_  
Jordan Haas, Secretary

APPROVED BY:

\_\_\_\_\_  
Senator Nicole Cannizzaro, Chair

Date: \_\_\_\_\_

<b>Agenda Item</b>	<b>Witness/Agency</b>	<b>Description</b>
<a href="#"><u>Agenda Item II A</u></a>	Kirk Kennedy, Fu Zu Ba School of Massage and Reflexology	Public Comment
<a href="#"><u>Agenda Item II B</u></a>	Yolanda King, Nevada Taxpayers Association	Public Comment
<a href="#"><u>Agenda Item II C</u></a>	Alejandro Rodriguez, NSHE	Public Comment
<a href="#"><u>Agenda Item II D</u></a>	Nathan O'Hara, Fu Zu Ba School of Massage and Reflexology	Public Comment
<a href="#"><u>Agenda Item III</u></a>	Jordan Haas, Commission Secretary	Draft Minutes of the Meeting Held on April 18, 2024
<a href="#"><u>Agenda Item IV</u></a>	Asher Killian, Legislative Counsel	Administrative Regulations for Review
<a href="#"><u>Agenda Item V-A</u></a>	Heidi Chlarson, Chief Deputy Legislative Counsel	Materials for Ballot Question No. 1
<a href="#"><u>Agenda Item V-B</u></a>	Heidi Chlarson, Chief Deputy Legislative Counsel	Materials for Ballot Question No. 2
<a href="#"><u>Agenda Item V-C</u></a>	Heidi Chlarson, Chief Deputy Legislative Counsel	Materials for Ballot Question No. 4

<a href="#">Agenda Item V-D</a>	Heidi Chlarson, Chief Deputy Legislative Counsel	Materials for Ballot Question No. 5
<a href="#">Agenda Item VI</a>	Asher Killian, Legislative Counsel	Appointment of Members to Committees and Similar Entities
<a href="#">Agenda Item VII</a>	Asher Killian, Legislative Counsel	Approval of Early Session Hires

<b>Additional Public Comment</b>	
<a href="#">Exhibit A</a>	Compilation of written comments received from members of the public who did not speak during the meeting. These comments are individually posted at the following address: <a href="https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2023/Meeting/34532">https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2023/Meeting/34532</a>