

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

SEPTEMBER 13, 2024

The meeting of the Legislative Commission was called to order by Vice Chair Harris at 2:07 p.m. at the Nevada Legislature Office Building, Room 165, 7230 Amigo Street, Las Vegas, Nevada, and via videoconference at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada. The meeting was adjourned at 5:54 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 Dallas Harris, Senatorial District No. 11; Vice Chair
Senator Marilyn Dondero Loop, Senatorial District No. 8 (Alternate for Senator Nicole Cannizzaro)
Senator Jeff Stone, Senatorial District No. 20
Assemblywoman Shea Backus, Assembly District No. 37
Assemblywoman Sandra Jauregui, Assembly District No. 41
Assemblyman Steve Yeager, Assembly District No. 9

COMMISSION MEMBERS PRESENT IN CARSON CITY:

Senator Skip Daly, Senatorial District No. 13
Senator Ira Hansen, Senatorial District No. 14
Assemblywoman Natha Anderson, Assembly District No. 30 (Alternate for Assemblyman Howard Watts)
Assemblyman P.K. O'Neill, Assembly District No. 40 (Alternate for Assemblyman Rich DeLong)

COMMISSION MEMBERS PRESENT VIA VIDEOCONFERENCE:

Senator Lisa Krasner, Senatorial District No. 16
Assemblywoman Jill Dickman, Assembly District No. 31 (Alternate for Assemblywoman Alexis Hansen)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Asher Killian, Legislative Counsel, Legal Division
Kevin Powers, General Counsel, Legal Division
Jennifer Ruedy, Research Director, Research Division
Wayne Thorley, Senate Fiscal Analyst, Fiscal Analysis Division
Sarah Coffman, Assembly Fiscal Analyst, Fiscal Analysis Division

Dan Crossman, Legislative Auditor, Audit Division
Melisa Aguon, Deputy Director
Roger Wilkerson, Deputy Director
Broadcast and Production Services Staff, Administrative Division
Brendan Bucy, Secretary of the Senate
Bonnie Borda Hoffecker, Chief Clerk of the Assembly
Angela Hartzler, Secretary, Legal Division
Jordan Haas, Secretary, Legal Division

OTHERS PRESENT:

Nick Shepack, State Director, Fines and Fees Justice Center
Mary Pierczynski, Nevada Association of School Superintendents
Jodi Hocking, Director, Return Strong
Stephanie Mullen, Executive Director, Public Utilities Commission of Nevada
Shellie Hughes, Executive Director, Department of Taxation
Yvonne Nevarez-Goodson, Chief Deputy Executive Director, Department of Taxation
Jeff Briske, Director, Educator Development, Licensure and Family Engagement,
Department of Education
Anna Reynolds, Assistant Director, Career and Technical Education, Department of
Education
Sam Crano, Utilities Hearing Officer, Public Utilities Commission of Nevada
Victoria Carreon, Executive Director, Division of Industrial Relations, Department of
Business and Industry
Bruce Snyder, Commissioner, Government Employee-Management Relations Board
Laura Arnold, Executive Director, Board of Psychological Examiners
Ann Marie Dickson, Deputy Superintendent, Department of Education
Alicia Briancon, Legislative Liaison, Department of Education
Dean Hardy, Senior Appeals Officer, Hearings Division, Department of Administration
Terry Wike, Director of Investigations, State Contractors' Board
Bree Welch, Licensing Supervisor, State Contractors' Board
Megan Wickland, Health Program Manager, Aging and Disability Services Division,
Department of Health and Human Services
Jennifer Frischmann, Quality Assurance Manager, Aging and Disability Services Division,
Department of Health and Human Services
Sarah Bradley, Deputy Executive Director, Board of Medical Examiners
Peter Zutz, Department of Education
Danilo Dragoni, Deputy Administrator, Division of Environmental Protection, State
Department of Conservation and Natural Resources
Christine Hess, Chief Financial Officer, Housing Division, Department of Business and
Industry
Timothy Galluzi, Chief Information Officer, State of Nevada
Troy Jordan, Deputy Director, Department of Employment, Training and Rehabilitation
Barbara Bidell, Education Programs Professional, Office of Student and School Supports,
Department of Education

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

All right, good afternoon, everyone. Welcome to the fourth meeting of the Legislative Commission in calendar year 2024. This afternoon we have six members attending at the Nevada Legislature Office Building in Las Vegas, four members in Carson City and two members attending virtually. We do have a quorum present, but before we begin, I have a few housekeeping items to go over.

I'd like to ask all those who testify to state and spell their names for the record before testifying. If anyone 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. Contact information for staff is also listed on the Legislature's website. In addition, we 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.

We'll move on to item II, which is public comment. We will be accepting public comment at this time from persons present here in the Nevada Legislature Office Building, then from those attending the meeting at the Legislative Building in Carson City and then from the persons wishing to provide public comment by phone. If you prefer to wait to speak until later, there will be a second period for public comment at the end of the meeting. Please remember that comments will be limited to no more than two minutes per person. If there are any people in our audience here in Las Vegas who wish to provide public comment at this time, please come forward to the table in front of the dais. All right, not seeing any. We'll go ahead and move to Carson City. Is there anyone in Carson City who'd like to provide public comment at this time?

Senator Skip Daly (Senatorial District No. 13):

Looks like we have two up here.

Vice Chair Harris:

Okay, great. Thank you. We'll ask each person who wishes to speak to identify yourself for the record each time you speak and ensure that you sign in on the clipboard by the door before you leave. We'll go ahead and start with whoever would like to begin down in Carson City.

Nick Shepack (State Director, Fines and Fees Justice Center):

Thank you, Chair and Committee members. I am the State Director of the Fines and Fees Justice Center. We are here today in support of R097-24 regarding the Board of State Prison Commissioners. This regulation has been four years in the making. First, Senator Scheible ran a bill with the support of the Department to have the Department of Corrections go through the public rulemaking process for any item that pertains to costs charged to offenders. What we have in front of us with this regulation is the first time we

have an actual fee schedule publicly available for the Department of Corrections. We have caps on all the fees, and we have a significant reduction in the amount of money that will be charged for commissary. Nevada had one of the highest commissary costs in the entire country. This brings us in line with national averages and will bring extreme relief to families of incarcerated individuals. We want to thank the Department for all their work with us on this, and we encourage you to pass this regulation. Thank you very much.

Mary Pierczynski (Nevada Association of School Superintendents):

Good afternoon, Madam Chair and members of the Committee. My name is Mary Pierczynski, here representing Nevada Association of School Superintendents. I want to address a concern that the Nevada Association of School Superintendents have regarding item—it's on your agenda, item IV-D, and it's R099-23. It's found on the third page and it deals with graduation requirements. The Nevada Association has expressed concern and objected to the implementation date of these new graduation requirements. We were at the April 15 hearing and the July 31 hearing and talked about what I'm talking about now, which is the new graduation requirements would impact kids who are in high school now, and if the graduation requirements are going to be changed—and this is the addition of world history or world geography—then that should start with the class of 2029, the eighth graders who will be going into high school next fall, and not impact kids who are already in high school who have been on a graduation plan, whose parents have agreed to that graduation plan. This will cause a lot of disruption, so that's why we've been opposed to it before, just because of the implementation date, and we're here again today to voice our concerns with you. Thank you.

Jodi Hocking (Director, Return Strong):

I am the founder and director of Return Strong. We are an organization that works with both incarcerated people and families of the incarcerated, and I'm here today in support of R097-24. I just wanted to say that for some of us, this has been decades of knowing that there was a problem with pricing on commissary, and we just want to thank everybody that has been involved in it. We're extremely grateful with the new administration to be able to sit down and have conversations that are transparent and find solutions to issues. This not only is going to be a benefit to people who are incarcerated, who frequently are going hungry and frustrated with that system; it also actually impacts the public health of families and children and people who are outside of prison, because we're the ones the vast majority of the time that are providing support for people. So, thank you for considering it, and thank you to the Director for his work with us on it, and Fines and Fees Justice Center.

Vice Chair Harris:

Okay, is there anyone else in Carson City who'd like to provide public comment today? All right, looks like we can move on to persons who'd like to provide public comment by phone. If you've called in and you'd like to speak during this part of the meeting, you'll be notified by our Broadcast and Production Services (BPS) staff when you've been

connected and it's your turn to speak. Please remember that comments will be limited to not more than two minutes per person. You're welcome to submit any additional comments in writing and they will be added to the record for this meeting. If you prefer to wait to speak until later, there will be a second period for public comment at the end of this meeting. I'm going to go ahead and turn it over now to our Broadcast and Production Services to queue up anyone calling in to speak. Just a reminder, a member of BPS staff will inform you when it's your turn to speak. BPS, take it away.

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

Thank you, Chair. The public lines are currently open and working, however there are no callers at this time.

Vice Chair Harris:

Okay, thank you. Just another friendly reminder to anyone watching, we'll have a second period of public comment before we adjourn today. We will now turn to [agenda item III](#), which is approval of the minutes. Commission members, you have in your packet the draft minutes for the Legislative Commission meeting held on June 18, 2024 ([Agenda Item III](#)). These draft minutes are also available on the Legislature's website. Let me first ask, is there any discussion on these minutes? All right, I'm not seeing anyone for discussion at this time. I would accept a motion to approve the minutes of the Legislative Commission.

ASSEMBLYMAN YEAGER MOVED TO APPROVE THE DRAFT MINUTES OF THE MEETING HELD ON JUNE 18, 2024.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Vice Chair Harris:

Any discussion on the motion that's on the floor?

Assemblywoman Jill Dickman (Assembly District No. 31):

I won't vote on this since I was not present for the meeting.

Vice Chair Harris:

All right, Assemblywoman Dickman, That's of course your choice, but I do want to note that it is okay if you wanted to vote in the affirmative for the minutes even though you did not attend the previous meeting. We've had that issue raised before, and I believe that's the common practice.

Assemblywoman Dickman:

Okay, good to know. Thank you.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

That takes us to agenda item IV, which is the administrative regulations. Our Legislative Counsel, Asher Killian, is with us today in Las Vegas to assist us with this item. We have three categories of regulations for consideration today. Item IV-A is a request for the early review of a regulation under NRS (Nevada Revised Statutes) 233B.0681. Items IV-B and IV-C are requests to continue regulations not adopted within the 2-year deadline set by NRS 233B.040, and item IV-D is regulations for consideration pursuant to NRS 233B.067 and 233B.0675. There'll be a quiz later.

First, we'll start with item IV-A. There's one regulation that's submitted for early review pursuant to NRS 233B.0681. That section provides for the early review of a proposed permanent regulation after the agency has given notice of a hearing on the regulation but before the hearing is held. If the Legislative Commission approves a regulation under this early review section and the permanent regulation adopted after the agency's hearing is identical to the regulation submitted for early review, the Legislative Counsel is required to promptly file the regulation with the Secretary of State and notify the agency of the filing. If the regulation adopted by the agency is not identical to the one submitted for early review, the regulation must come back to the Legislative Commission for approval in the same manner as if early review had not occurred. A copy of R076-23 ([Agenda Item IV-A](#)), the regulation submitted for early review, is posted on the Nevada Legislature's website under the tab for this meeting, which you will find by hitting the button in the upper-right corner of the home page which says "View Events."

I believe Victoria Carreon and Chris Eccles, representing the Division of Industrial Relations of the Department of Business and Industry, are here in Las Vegas to answer any questions that the Commission may have regarding R076-23. Do we have any questions regarding this regulation? All right, I don't have a view of Carson City at the moment, so if you have any questions, this is your chance to pipe up. All right, not seeing or hearing any, do I have a motion to approve the proposed permanent regulation R076-23 under early review pursuant to NRS 233B.081 so that if the permanent regulation adopted after the agency's hearing is identical to the regulation submitted for early review, the Legislative Counsel is required to promptly file the regulation with the Secretary of State and notify the agency of the filing?

ASSEMBLYMAN YEAGER MOVED TO APPROVE THE EARLY REVIEW OF REGULATION R076-23.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Thank you both for being here. Next, we'll move on to item IV-B, which is a request by the Public Utilities Commission of Nevada to continue a regulation, R029-22 ([Agenda Item IV-B](#)), that was not adopted within 2 years after submission to the Legislative Counsel as required by section 4 of NRS 233B.040. An agency that has not adopted a proposed regulation within two years from the date that the regulation was submitted to the Legislative Counsel has two options if they wish to proceed with the adoption of the regulation. The agency may, one, request a new regulation containing the same provisions and begin the hearing and adoption process anew, or two, the executive head of the agency may appear personally before the Legislative Commission and explain why the proposed regulation has not been adopted.

Today, Stephanie Mullen, the Executive Director of the Public Utilities Commission of Nevada (PUCN), as well as Sam Crano are here with us in Carson City to request that the process of adoption for R029-22 be continued past the 2-year mark. Executive Director Mullen, you may proceed.

Stephanie Mullen (Executive Director, Public Utilities Commission of Nevada):

Thank you, Vice Chair Harris and members of the Commission. I am Stephanie Mullen, Executive Director for the Public Utilities Commission of Nevada, and we have a proposed regulation, LCB (Legislative Counsel Bureau) file number R029-22, that the PUCN adopted 13 days after the 2-year deadline. We do apologize for the length of time this regulation took to bring before you. We decided it was best to request an extension under existing LCB file number than to initiate a new rulemaking that would increase costs for the state stakeholders related to further noticing an additional workshop and hearing. As many of you may know, this was a very important topic with many stakeholders, and we wanted to work on the language as much as possible before we brought it to you for approval. For example, while we average three workshops for any particular rulemaking, we had nine for the regulations involved in this matter, and while we usually get a few comments from interested parties while crafting language, we had almost 70 comments in the wordsmithing phase and an additional 4 comments on language of the revised regulation that we put together following the vetting prior to the final workshop and hearing. Additionally, while these regulations provide more clarity to parties regarding

what to include in applications under applicable statutes, we were still able to implement the new statutory language to accomplish the Legislature's goals while the regulation was being developed. So again, we ask you to forgive the fact that the PUCN adopted this regulation after the deadline, and we are not asking for additional time. The regulation has been adopted by the PUCN and is before you as an agenda item later on in this meeting. Thank you for your time this afternoon, and Hearing Officer Sam Crano and I are available to answer any questions you may have.

Vice Chair Harris:

Thank you. Do any members of the Commission have questions for Director Mullen? And again, I can't see my folks in Carson City or online at the moment, so if you have any questions, pipe up. Okay, not seeing any questions, do I have a motion to approve the proposed permanent regulation R076-23 under early review pursuant to NRS 233B.081, so that if the permanent regulation adopted after the agency's—oh, I'm sorry, my apologies, that's the wrong motion. Yes. Oh, this one's not much better. Okay, my apologies. Do I have a motion on R029-22 to allow the adoption process to continue?

ASSEMBLYMAN YEAGER MOVED TO APPROVE THE CONTINUANCE OF
REGULATION R029-22.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Next we'll move on to item IV-C, which is a request by the Nevada Tax Commission to continue a regulation, R100-22 ([Agenda Item IV-C](#)), that was not adopted within 2 years after submission to the Legislative Counsel as required by subsection 4 of NRS 233B.040. As was the case for the last regulation we discussed, an agency that has not adopted a proposed regulation within two years from the date of that regulation being submitted to the Legislative Counsel has two options if they wish to proceed with the adoption of the regulation. The agency may request a new regulation containing the same provisions and begin the hearing and adoption process anew, or the executive head of the agency may appear personally before the Legislative Commission and explain why the proposed regulation has not been adopted.

Today, Shellie Hughes, the Executive Director of the Department of Taxation, as well as Yvonne Nevarez-Goodson and Sarah Glazner are here with us via Zoom to request that

the process of adoption for R100-22 be continued past the 2-year mark. Executive Director Hughes, you may proceed.

Shellie Hughes (Executive Director, Department of Taxation):

Thank you, Madam Chair and members of the Legislative Commission. I'm the Executive Director of the Nevada Department of Taxation. I'm here today to request a continuance for the Legislative Commission to approve adopted regulation LCB file number R100-22 pursuant to NRS 233B.040, subsection 4. Proposed permanent regulation R100-22 has a lengthy history. This regulation was originally submitted to LCB on June 13, 2020 and given LCB file number R076-20. Given the impacts of COVID on all agencies and the demands of the 2021 Legislative Session, the Department did not receive the draft back from LCB and instead was given a new LCB file number approximately 2 years later on June 15, 2022, which is the current file number, R100-22. Between the months of July 2022 and October 2022, the Department staff worked with LCB to draft language and respond to questions from the drafters.

As the regulation was being drafted by LCB, Governor Lombardo issued Executive Order 2023-003 in January 2023 requiring all executive branch agencies, boards and commissions to freeze the issuance of new regulations, conduct a comprehensive review of existing regulations and prepare a report to the Governor's Office by May 1, 2023 with recommendations for regulations to be repealed and any other regulations that could be streamlined, clarified, reduced or otherwise improved. The executive order also froze all proposed regulations that were pending at the time and required specific approval by the Governor's Office for exemption from the executive order to proceed. In response to the executive order, the Department issued a report on May 1, 2023 identifying 27 chapters of NAC (Nevada Administrative Code) that would require various provisions to be repealed, amended or added to comply with the Governor's order. The Department also requested various exemptions to proceed with otherwise stayed regulations, including R100-22. This was a monumental project for the Department given the volume of regulations within its jurisdiction. On July 1, 2023, the Governor issued Executive Order 2023-008 lifting the freeze on the regulatory process. The Governor's Office also confirmed its exemption for R100-22 to proceed through the process.

Given the demands on resources of the LCB and the Department, our records indicate we were working with LCB drafters on regulation language through April 2024, with the final draft regulation provided to the Department on May 20, 2024. The Department utilized the weeks and months thereafter to provide sufficient time for small businesses to respond to questionnaires, post a 15-day notice of workshop and thereafter a 30-day notice of public hearing. The Nevada Tax Commission only meets once every other month. Notably, there are a number of regulations pending from the Department that were initiated in 2020 but were otherwise delayed by COVID, the 2021 Legislative Session and the executive order. Each of the other regulations ultimately received a new file number by LCB after the two years, but this one was inadvertently missed in the timelines. A final draft was issued by LCB with only one month remaining for its adoption before the two-year timeline lapsed.

Accordingly, the Department respectfully requests your consideration of the continuance to approve this regulation after the two-year time frame. It was adopted by the Nevada Tax Commission at its June 25, 2024 meeting, only 10 days beyond the 2-year deadline of June 15, 2024. A significant amount of work went into the drafting and review of this regulation, along with public workshops and hearings pursuant to the Governor's executive order and required processes set forth in NRS Chapter 233B. The regulation is necessary to provide clarity in the existing regulations to ensure compliance with statutory changes that were enacted in 2019 in Senate Bill 81.

With me today are the Department's Chief Deputy Executive Director, Yvonne Nevarez-Goodson, and Management Analyst Sarah Glazner who manage all of our regulations and work regularly with LCB regarding the regulatory matters. I will defer to them to answer any questions you may have. Thank you.

Vice Chair Harris:

Thank you, Commission members. Any questions for Director Hughes?

Assemblywoman Natha Anderson (Assembly District No. 30):

I do have one, if I may. So, thank you for the extensive timeline. It makes sense why this has taken so long to get forward, and I'm not sure if this is part of the current discussion or not or if it needs to be a future discussion. In section 2 on page 3 ([Agenda Item IV-C](#)), there is discussion about a refund request. It's actually in section 2.3. Do they have the same amount of time, as in 20 days, which is mentioned in the NRS statute, or would that need to be defined in statute and so therefore not part of this language?

Vice Chair Harris:

And Director Hughes, I'm just going to step in very quickly here before you respond. Assemblywoman Anderson, under this particular item we are considering the extension. If we grant and allow the adoption process to continue, we will reconsider the substance of the regulation in a later part of this meeting.

Assemblywoman Anderson:

Thank you so much for that clarification. I completely forgot about that part. Kind of an important part to remember. Thank you.

Vice Chair Harris:

No, absolutely understandable. Do we have any questions about the delay of submittal of the final regulation? Okay, do I have a motion on R100-22 to allow the adoption process to continue?

ASSEMBLYMAN YEAGER MOVED TO APPROVE THE CONTINUANCE OF REGULATION R100-22.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Finally, we will move on to item IV-D. There are 60 regulations that were submitted for approval pursuant to NRS 233B.067, including R029-22 and R100-22 which were just approved by us for a continuance. Additionally, we'll have two regulations that were deferred at a previous meeting and are being considered pursuant to NRS 233B.0675. These regulations are all contained in the notebook provided to the members and posted on the Nevada Legislature's website under the tab for this meeting ([Agenda Item IV-D A-1](#)), which you'll find by hitting the "View Events" button in the upper-right corner of the Legislature's website home page. There is also a public copy of the notebook on the sign-in table at each end of the video conference.

At this time, I'll ask Commission members if there are regulations to be held for further discussion. Once we pull all of those out, we will take a motion to approve the remaining regulations, then we will come back to those regulations that we hold for discussion in turn. Just to keep it simple, I'm going to go ahead and just list off the list of regulations that I have already been notified that folks would like to pull. That is R188-22, R194-22, R039-23, R102-23, R003-24, R026-24, R031-24, R078-24, R082-24, R086-24, and then back to the top, R119-22, R165-22, R167-22, R063-23, R065-23, which will be heard in conjunction with R119-22, R099-23, R008-24, R041-24, R093-24, R059-24.

I will now then open it up to Commission members if there are additional items you would like to have pulled for separate consideration.

Senator Ira Hansen (Senatorial District No. 14):

Yeah, Madam Chair, I have several.

Vice Chair Harris:

Senator Hansen, please.

Senator Hansen:

I want to double check on that. Did you say R195-22? Is that on your list? If not, I want to put it on it.

Vice Chair Harris:

It is not. R195-22.

Senator Hansen:

Okay, then I've got R026-23, then R095-23, R032-24, R041-24—well, that's on yours. I'm sorry, that one I caught, and last, R075-24.

Vice Chair Harris:

Okay, let me repeat those back to you to make sure I got them all: R195-22, R026-23, R095-23, R032-24, R075-24.

Senator Hansen:

That's my list. Thank you.

Vice Chair Harris:

Of course. Anyone else?

Senator Daly:

Madam Chair, I just wanted to confirm, did you say R118-22? I misheard.

Vice Chair Harris:

I did. It is on the list.

Senator Daly:

Okay, that's all I got. Thank you.

Vice Chair Harris:

Thank you. Assemblywoman Dickman.

Assemblywoman Dickman:

Thank you, Madam Chair. I just have a quick question on R033-24.

Vice Chair Harris:

Okay, R033-24.

Assemblywoman Dickman:

Thank you.

Vice Chair Harris:

You're very welcome. Anyone else? Just one second, Senator Stone. Assemblywoman Anderson, you had a question about R100-22 and so, with your permission, we'll go ahead and pull that for you to ask that question, okay?

Assemblywoman Anderson:

Sounds great. Thanks.

Vice Chair Harris:

You're welcome. Senator Stone? Not quite, wait until we get to the actual regulation part. Hold on. Senator Stone?

Senator Jeff Stone (Senatorial District No. 20):

Thank you, Madam Chair. I had four to be pulled. I think you already mentioned three of them. The one I didn't hear, and forgive me if I missed it, is R118-22. That was pulled as well? Okay. I also was going to pull R119-22, which I think you called, R165-22, which you called, R194-22 that you called. Thank you much.

Vice Chair Harris:

You're welcome. Okay, I think that's a sufficiently comprehensive list, unless anyone has any more to add on. All right, I don't see any additional regulations to be pulled at this point. I'll be looking for a motion to approve the remaining regulations under this item that were not pulled. Do I have a motion?

SENATOR STONE MOVED TO APPROVE REGULATIONS R029-22, R124-22, R145-22, R152-22, R157-22, R068-23, R087-23, R088-23, R090-23, R006-24, R012-24, R019-24, R020-24, R023-24, R028-24, R029-24, R030-24, R040-24, R045-24, R046-24, R048-24, R064-24, R071-24, R074-24, R076-24, R084-24, R092-24, R097-24, R101-24, R105-24, R114-24, R115-24, R199-22 and R136-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Now we will get back to the regulations that have been pulled for further discussion, and we will take them from the top of the list as listed on the agenda.

The first one is R100-22 ([Agenda Item IV-D A-1](#)), and we will invite up Director Hughes, who I believe is on virtually. Assemblywoman Anderson, once we get Director Hughes queued up, you can ask your question, okay?

Yvonne Nevarez-Goodson (Chief Deputy Executive Director, Department of Taxation):

Good afternoon, Madam Chair. I'm Chief Deputy Executive Director here at the Department of Taxation. If I may be the one to respond?

Vice Chair Harris

Absolutely.

Ms. Nevarez-Goodson:

Thank you.

Assemblywoman Anderson:

So, thank you so much for jumping back on, and I'm sorry. You got a little preview of it earlier, I guess. With the language that is being proposed, the refund request is in section 2.3. Is the same amount of time necessary which is mentioned in the law, or is that needing a separate law? Currently, the NRS statute I believe states that it's 20 days for the language. So, do the small businesses have 20 days to request that refund as well?

Ms. Nevarez-Goodson:

Thank you, Madam Chair. If I understand the question correctly, requests for a refund typically have a three-year statute of limitations so that taxpayers can request a refund within that three-year time period.

Assemblywoman Anderson:

If I may have a follow-up, Chair?

Vice Chair Harris:

Yes, go ahead.

Assemblywoman Anderson:

Thank you. So just to verify, then there's no need for a separate NRS to state that that is there. Instead, it would be continuing to go with the current practice of all refunds for taxes. Is that what I'm understanding you state?

Ms. Nevarez-Goodson:

Yes, that's correct.

Assemblywoman Anderson:

Thank you so much. Thank you, Chair, and is it appropriate for me to do a motion at this time for approval?

Vice Chair Harris:

Absolutely.

ASSEMBLYWOMAN ANDERSON MOVED TO APPROVE REGULATION R100-22.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Thank you so much. We'll now move on to R118-22, which is a regulation revising provisions related to provisional licensure ([Agenda Item IV-D A-1](#)). All right, and I believe, Senator Daly, you had a question here. Go ahead whenever you're ready.

Senator Daly:

Thank you, Madam Chair, and I did. When I was reading this, I just wanted clarification, and I think some others may have questions as well. I think Senator Stone and Assemblywoman Anderson—well, my colleagues. Sorry, I'm not supposed to use names. My bad. So, when you're getting rid of the pass a competency test in, I think it's section 1, subsection 2. When I was looking at that, I originally had concerns, and then when I got further down into section 2, and tell me if I'm wrong the way I read it, section 2, subsection 5, if I read that correctly, and then I tried to follow through to the paragraph (e) of subsection 2 of administrative code 391.057. It adds in back a requirement where you're trying to add in back a requirement, that they completed all academic requirements prescribed by the chapter for licensing, or the license, which I think would include the competency test. The only other thing I found on that is the reference, and maybe our staff can fix it, when they say paragraph (e) of subsection 2 of Nevada Administrative Code 391.057. There is no subsection (e) in subsection 2 of that, but there is a subsection (e) in subsection 3 which adds that language back in. Maybe we can confirm both of those things, and I'm not sure what other questions there were, but I had just concern about getting rid of the competency test, but that's going to be added back in someplace else. That was the question. Can you hear me?

Vice Chair Harris:

Yes. Thank you, Senator. If you want to go ahead and respond, and then we'll have Legislative Counsel also respond to your second part of your question with regards to references in the regulation.

Jeff Briske (Director, Educator Development, Licensure and Family Engagement, Department of Education):

Thank you. Good afternoon. I am the Director of Educator Development, Licensure and Family Engagement at the Department of Education. I'm also the secretary to the Commission on Professional Standards in Education. You are correct in seeing that the competency exam for the ARL (Alternative Routes to Licensure) conditional license was moved from the beginning of the license to when it's time for them to convert to an initial standard license. So, you did read that part correctly. Regarding where that may be mislabeled, referring back to 057, we did touch that regulation as well and I'll let the LCB answer that. Thank you.

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

Thank you, Madam Chair. Yes, so since section 1 of this regulation is actually amending NAC 391.057, what used to be subsection 2 was deleted, so subsection 3 became subsection 2, so that reference to paragraph (e) of subsection 2 in section 2 is now correct as a result of the amendments from section 1 of this regulation.

Senator Daly:

Thank you for clearing that up. Those were my only two questions. I just wanted to make sure they were going to still have to do the competency and then we had the right reference. Thank you.

Vice Chair Harris:

All right. Do we have a motion or any—first, let me ask, are there any further questions? Senator Stone.

Senator Stone:

Thank you, Madam Chair. I think my questions kind of mirror my good friend up in Northern Nevada. When I read section 1, it says it removes the requirement for the alternative provisional license, which includes reading, writing and mathematics, and so, as I've heard the explanation, this is taken away at the beginning of the process, but when they actually get the license that they have to satisfy these requirements. I just want to make sure I'm understanding it right.

Mr. Briske:

Yes, that is correct.

Senator Stone:

Thank you very much.

Vice Chair Harris:

Okay, and did you have a question, Assemblywoman Anderson?

Assemblywoman Anderson:

I did not. The Senator to my right actually asked it earlier. Thank you. I'm more than happy to make a motion, if you'd like me to, to adopt this regulation.

Vice Chair Harris:

I will accept said motion.

ASSEMBLYWOMAN ANDERSON MOVED TO APPROVE REGULATION
R118-22.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Thank you so much. Oh, you're here for the next one as well? Great. We will then turn to R119-22, which is a regulation revising provisions related to licenses to teach middle school or junior high school education ([Agenda Item IV-D A-1](#)), and I will turn it over now to Assemblywoman Anderson, who I believe had a question on this one.

Assemblywoman Anderson:

Sorry about that, Chair. We were a little bit distracted up here for just a second. My question has to do with—there's a lot of comments in section 1 of R119-22, so I just want to make sure that I'm understanding correctly with one area that appears to have been taken out of R119-22 but might be in R065-23, and that is the English language learners. English language learner education is not mentioned at all in R119-22, but it is in R065-23. Is that done on purpose or is there a plan to cross-reference this? I'm a little bit concerned about removal of how to teach our language learners, and more importantly, how the educators get that development.

Vice Chair Harris:

And thank you for that question, Assemblywoman Anderson. That reminds me that we're going to be hearing R119-22 in conjunction with R065-23 as that only makes sense, and so, as Commission members are considering this item, if you have questions on either one of those regulations, this would be the time to ask them.

Mr. Briske:

Thank you for the question. Apologies, I'm not seeing where English language learners is referred to in R119-22. Or maybe that's your question, because it's not in there.

Assemblywoman Anderson:

That's correct, because I believe it has been taken out, if I'm remembering correctly, in one area. Let me look for it as well because you guys were busy in looking through all these different education things. There's a lot of them. I thought that there was something that had to do with, or maybe it was possibly the fact that it's not mentioned at all in this area and should have been at one point or another. So, I guess it is maybe the fact that it's never been mentioned and should be, considering that it is incredibly important to our

schools. So just wondering where exactly then our English language learner items are specifically brought in.

Mr. Briske:

No, I don't think it was in any of the previous NACs that are covered under R119-22, and now I'm going to look over at R065-23, and I don't see that it is in there either. I do remember discussing it at a previous Commission meeting. I don't think we came to consensus on a regulation, so it still may be pending workshop.

Assemblywoman Anderson:

So, just to verify then, there is discussion though about how to provide these services to our students, to the individuals who are becoming licensed in English language learner areas, is that correct? And that language is still being considered with the Commission on Professional Education? Is that what I'm understanding you are saying?

Mr. Briske:

I would have to check with staff. I believe there is an English language acquisition and development (ELAD) regulation, but I'm not sure where that—you know what, I think it has passed, but I don't have that number, that NAC in front of me. It would be in NAC 391, additional endorsements, probably 200 area. I'm not sure where it's at. But yes, we do have that endorsement. It has passed, so anyone who does want to obtain that ELAD endorsement, it is available to them and many of our prep program—as the initial prep program, in the initial prep program. I think Asher's looking.

Vice Chair Harris:

We'll go ahead and let Mr. Killian supplement that response as well.

Mr. Killian:

Thank you, Madam Chair. I was just trying to find that section of NAC. It's 391.287.

Assemblywoman Anderson:

Thank you so much, and then my other question is still under the same area, if I may, in the same regulation. It appears that the Commission creates the cut score for this one, but in prior regulations it is a superintendent's decision. Is that correct, or is it always the Commission that makes that decision on a cut score or is it always a superintendent decision that creates that cut score?

Mr. Briske:

I believe it is in statute that the Commission always approves the cut scores for each one of the exams.

Assemblywoman Anderson:

Okay, so its approval, but the superintendent is the one that makes the recommendation. Is that what I'm understanding?

Mr. Briske:

No, we discuss it at the Commission, and we vote on a cut score for each exam that we adopt.

Assemblywoman Anderson:

So, when you take a look then at—sorry that I do not have my notes right in front of me of exactly where I saw that. Okay, so thank you so much for that clarification, and unless there's other questions, I am comfortable asking for approval of this regulation, making a motion, unless there's others.

Oh, in conjunction. Oh, that's correct. If you are comfortable, Chair, with both of the items I asked to be pulled at the same time. Sorry.

Vice Chair Harris:

No, you're perfectly fine. Are there any additional questions on R119-22 or R065-23? Senator Stone.

Senator Stone:

Thank you, Madam Chair and colleagues. It's great to see all of you in Northern Nevada and here. Going back to R119-22, existing regulations require an applicant for a secondary license with an endorsement in career and technical education (CTE) to adhere to a number of things, including completing one year of certain verifiable work experience aligned in the subject matter which can be offered as a part of the career and technical educational program. Section 3, as you can read, eliminates the requirement that the applicant complete one year of verifiable work experience. It would seem to me that that would be an important component for somebody to teach career education. I was curious as to why that was taken out.

Mr. Briske:

Thank you for the question. For our B&I (business and industry) pathway, we currently require two years of business or industry experience because it did not go through a

teacher prep program or a CTE program. For the teachers that we license under the CTE pathway, they do have to go through a four-year teacher training prep program. So, with all that coursework, we felt the additional work experience was a barrier to that license.

Senator Stone:

Thank you.

Vice Chair Harris:

Any additional questions from the Commission? All right, not seeing any at this time. I will accept a motion to approve.

SENATOR DONDERO LOOP MOVED TO APPROVE REGULATIONS R119-22 AND R065-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We will now go on to R165-22 ([Agenda Item IV-D A-1](#)). This was requested to be pulled by Assemblywoman Anderson. You can go ahead and ask your question when you're ready.

Assemblywoman Anderson:

Thank you, and yes, I was busy, as was, it appears, the Education Department. With R165-22, I was just wondering why the decision was to remove early childhood care education as I know that we are currently trying to do more and more to bring more people into the fold of education as a career. I believe it's on page 6 of the proposed regulation.

Mr. Briske:

Thank you. This regulation, R165-22, goes along with regulation R145-22. They both have to match. This regulation was from the Commission on Professional Standards. The other regulation is by the State Board of Education, and they are specific to the career and technical education areas that are approved, so we had to make sure that both of those regulations matched. Regarding specifically why childcare was removed, that I

would have to rely on one of my colleagues who may be here in Las Vegas or up north, why that particular area may have been removed.

Assemblywoman Anderson:

So, I'm not seeing anybody coming from the audience here in Carson. Is there anybody coming up in Vegas?

Vice Chair Harris:

We're contemplating it.

Assemblywoman Anderson:

Phone a friend.

Vice Chair Harris:

All right, looks like we have a taker. Give us just a moment, Assemblywoman, okay?

Anna Reynolds (Assistant Director, Career and Technical Education, Department of Education):

Thank you for the question. Anna Reynolds, Assistant Director of Career and Technical Education for the Nevada Department of Education. The reason that childcare is removed is because that is not a CTE program, and the licenses have to align with the CTE program.

Assemblywoman Anderson:

So, if we were to try to do an apprenticeship of some sort, we would not be able to do it through the CTE program? Is that what I'm understanding you to say?

Ms. Reynolds:

No. If you look at all the different licenses, they align with the various CTE programs that we offer. For example, agricultural education, we offer CTE programs that are in the agricultural field. If you look at business education, we have a CTE program, business education. Childcare is not a CTE program to whereas we have teaching and training which covers early childhood education as well as other teacher pathways. So, I believe that early childhood education would be covered as opposed to childcare.

Assemblywoman Anderson:

Thank you so much for your verification. Perfect.

Vice Chair Harris:

Assemblywoman Anderson, if you'd like, we also have Mr. Killian available to add some flavor to it.

Assemblywoman Anderson:

That makes sense.

Vice Chair Harris:

Thank you. All right, lovely. Great, thanks. Would you like to make a motion at this time?

Assemblywoman Anderson:

Yes, I would like to make a motion to adopt R165-22, I think is the number.

ASSEMBLYWOMAN ANDERSON MOVED TO APPROVE REGULATION
R165-22.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We will now move to R167-22 ([Agenda Item IV-D A-1](#)), and I will turn it back over to you, Assemblywoman.

Assemblywoman Anderson:

Thank you, Chair. My question for R167-22: would the Department receiving information about an educator—could this documentation be used against an educator when renewing their license? I guess what I'm really asking for, what is the purpose of this documentation, the request for the documentation of the testing being taking place?

Mr. Briske:

The regulation itself was always a requirement, but we put forward this regulation to show multiple pathways of how to obtain the training. Regarding your question specifically about why we may want to audit that, I think that it's pretty standard practice that we put

in any regulation that at any time we may want to pull that or ask districts to provide that information if at any time that it is necessary. I'm not sure under what circumstances we may do that. In my tenure, I don't remember pulling any audits for that particular reason, but I think that's just a safeguard that we put in in a lot of different regulations.

Assemblywoman Anderson:

Thank you so much for that explanation. That's what I thought it might be, but I wanted to double check. So, Chair, if you are, if you'd like me to, I would be more than happy to make a motion to adopt regulation R167-22.

Vice Chair Harris:

Unless anyone has any other questions? Okay, we'll go ahead and accept that motion at this time.

ASSEMBLYWOMAN ANDERSON MOVED TO APPROVE REGULATION R167-22.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We will now move on to regulation R194-22, which is a regulation establishing provisions governing applications and licensing of persons who sell energy capacity or ancillary services to eligible customers ([Agenda Item IV-D A-1](#)). Senator Daly, I believe you had a question on this one, and we should have Mr. Sam Crano available for you in Carson City.

Senator Daly:

We do. Thank you, Madam Chair, and I apologize. I know this is an amendment you guys are coming back with this, but I'm looking at section 2, subsection 2, regarding language on information that the provider can say, hey, we want to keep this confidential, and then it says that the Commission will grant the protective order if it is determined that the request for information is commercially sensitive and requires confidential treatment under Nevada law. So, I was curious if that was in there before. I should have asked before, sorry. What are you actually going to use? Are you going to use actual statutes? Are you going to apply case law? Is it more of an educated understanding of what

sensitive confidential information is, or is there state law on this specifically that says these types of things can be confidential if they ask? I want to know what standard are you going to use.

Sam Crano (Utilities Hearing Officer, Public Utilities Commission of Nevada):

Certainly. Thank you. Sam Crano, Utilities Hearing Officer. Thank you, Senator. There is a statute, but it has fairly similar language to this. It's 703.190, I think, and it's basically if it's commercially sensitive information or a trade secret, and there is some case law and there's some Commission precedent on things that we've done in the past, but mostly it's the utility requests confidentiality, or in this case the provider requests the confidentiality. Staff, the Bureau of Consumer Protection (BCP), any other party can object to that claim of confidentiality and then the Commission will determine. Sometimes we take briefings. We always look at the information, and the BCP and the staff look at the information, get copies of that confidential information also. It's just whether or not it gets disclosed to the public at large. But we just use the standards we've been using for 703.190.

Senator Daly:

Understood, and I appreciate the answer. In other committees, there's been questions about what is a public record and some of those things. It's a sensitive area for some people. I understand the trade secrets, I understand proprietary information, and we have that in other areas of statute. For instance, when they do design build construction, they put in proprietary methods of building and that. Eventually it may become public, but not in the preliminary processes. So, there is a process, as you alluded to, so other people can object whatever determination you make. If you say it's confidential, people can seek judicial review if they wanted to in those cases. So, there is a process, and I just wanted to get something on the record regarding that, because some people will say everything should be open and I know that's a gray area too many times. I just wanted to have that on the record that there is a process and it's not just somebody's whim.

Mr. Crano:

Yes, Senator, there is a process that can be appealed to a court and/or to the full Commission, because usually the presiding officer, one of the Commissioners or myself, whoever's case it is, makes the initial determination. It can be appealed to the full Commission, and then after that to a court if people are dissatisfied with the Commission's ruling, and yeah, it's been a process that's been in place. The general standard is if the ratepayers are going to have to pay for anything, then that's public because they should know what they're paying for. But there are some trade secrets the different utilities don't want each other to know, basically.

Senator Daly:

Understood, and I'm not opposed to it. I was just sensitive to it based on some other discussions and possible legislation that might come up. That was the only question I had, Madam Chair. If there are no others, when you are ready, I'll make a motion.

Vice Chair Harris:

Are there any—Senator Stone.

Senator Stone:

Thank you, Madam Chair. I'm concerned about section 4 that provides that if the Commission determines that there's probable cause that a provider has violated any applicable laws or malfeasance that they can hold a hearing and they can actually revoke a license. But also under section 4, it authorizes a provider whose license has been revoked to file an application for a new license. Is that immediately after the license has been revoked, or is there a time period for them to correct their ways, if you will, and then come back for a reapplication?

Mr. Crano:

Thank you, Senator. We don't have a cooling-off period, so to speak, in the regulation. I suppose they could apply immediately, but the Commissioners and myself, the ones making the decision—the Commissioners are the ones making decisions, don't turn over all that regularly. So, if we've just revoked someone's license, it's unlikely that right away they'll get it right back. But you are correct, there is no cooling-off period in the regulation. They could apply immediately. It would go through the hearing process at that point to see if there's a reason that they've changed their ways enough to get the license back.

Senator Stone:

So, if I could continue, why do we even have to see this language in there that they can provide a new license when anybody can file for a license if it's been revoked, and probably any other agency? Why do we have to put this into the regulations? It just seems kind of illogical to me that if you've been revoked that you're probably going to get revoked again if you apply for a license because I'm sure the facts that were considered in revoking your license are still applicable. Does that make sense?

Mr. Crano:

It does make sense, Senator, and as you said, they can apply for a license but then it would go to a hearing process, and it probably at that point wouldn't get granted unless there's some extraordinary circumstances that have changed in the intervening amount of time, however much time that was.

Senator Stone:

Okay, thank you.

Vice Chair Harris:

All right. Any additional questions on this particular regulation? Seeing none, I will accept a motion to adopt. Do we have that motion?

SENATOR DALY MOVED TO APPROVE REGULATION R194-22.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED (SENATOR STONE VOTED NO).

Vice Chair Harris:

We will now move on to R195-22 ([Agenda Item IV-D A-1](#)), which is a regulation revising provisions relating to exemptions and annual limits of energy and capacity sales. We will turn it over to Senator Hansen for his question here.

Senator Hansen:

Thank you, Madam Chair. Actually, it's a 42-page reg, one of the most complicated regulations I've ever tried to read. Seriously, what that actually means, I have no clue. I mean, I read it, and like, my gosh. Here's the bottom line for me, though. There was a big concern when some of the big energy users, especially big casinos, were going to leave and go and buy power independently, because they basically subsidize a lot of the smaller consumers for the grid and so forth. Does this regulation now allow them to leave? Because at one time there were big giant penalties, and they were very upset about it because they could obviously buy energy less expensively through different sources, but if they actually did that, the costs for maintaining the grid and so forth would be passed on to all the small consumers. I'm kind of wondering, does this reg cover those kinds of costs or is there some protection in there for essentially the smaller consumers, residential users and small businesses, especially I would assume in Clark County?

Mr. Crano:

Yes, Senator, the large casinos that left were assessed an exit fee, which was designed—basically, what we did is we ran modeling of the grid itself with their load and then without their load and figured out what the cost difference was, and then they paid that over a six-

year period which allowed growth to take up their place, and they did that so they could get cheaper power elsewhere. Although, interestingly enough, some of them want to come back now because the power markets fluctuate with a lot more volatility than the electric company. But this reg and SB (Senate Bill) 547, which generated this reg, contains more protection for the smaller customers. Basically, what it does is it sets a maximum amount of capacity that can go 704B, so a certain number of megawatts basically can leave every 3 years, and that's set in the IRP (integrated resource plan) process. So, 3 years ago in the IRP, it was set at 11 megawatts per year for 2022, 2023 and 2024, and there is an IRP currently pending from the power company where they're going to set a new limit for 2025, 2026 and 2027. Then, the reg also sets forth the procedure for a company or an entity to apply for that capacity and the process for, again, generating an exit fee. They would still have to pay an exit fee for whatever period is appropriate for their load. For larger loads, it's generally a larger time. That is contained in the 43 pages of regs. It is fairly complicated, and that's the reason it took us so long to bring it to you, but those protections are built in there, yes, sir.

Senator Hansen:

Okay. I'm just going to have to go on your word on that, because honestly, when I read through it, it was like, man, way over my pay grade. But that was my concern. So, as long as the regulation is attempting to make sure that if a big consumer of power leaves that the cost that would be normally paid by that big consumer is somehow fairly distributed and doesn't fall on the backs of smaller consumers is really what I'm getting at, and your testimony is yes, that's the purpose of the regulation.

Mr. Crano:

Yes, Senator, that is the purpose.

Senator Hansen:

Very good. Thank you, Madam Chair. That answers my questions.

Vice Chair Harris:

Okay. Senator, would you like to make a motion? Oh, I'm sorry, my apologies. We have additional questions. I'm sorry, jumped the gun there. Senator Stone.

Senator Stone:

Not a problem, Madam Chair. Thank you very much. Appreciate the indulgence. We're doing everything we can to encourage businesses and residences to use more energy-efficient infrastructure, solar panels, windmills, etc. In section 12, it says it prohibits an eligible customer from receiving certain energy efficiency and renewable energy portfolio credits. So, if you have a company out there that has done a great job of reducing their electrical needs through the utilization of clean energy—if you will, green energy—and

the business is expanding and they need more energy, maybe even just at the same threshold that they originally were using electricity prior to the green enhancements, why wouldn't they get any credit? What would be the procedures for them to get more energy use to further their business needs?

Vice Chair Harris:

I think that was for you, Mr. Crano.

Mr. Crano:

I apologize, I forgot to turn on my mic. Yeah, basically that's dealing with portfolio credits transferred from the utility in those earlier cases between 2015 and 2017 when companies left. With their exit fee payments, they were transferred a certain amount of portfolio credits, basically in proportion to the amount of those payments that were for renewable energies that was signed by the company in order to serve them initially. This just limits the amount that the power company can transfer to them if they sign a contract with a renewable energy provider for a solar program. The news recently showed MGM just signed a contract with a solar provider. They will get all the PECs (portfolio energy credits) from that contract, they just won't get any more from the power company because they are no longer buying those from the power company.

Senator Stone:

Okay, so they've virtually been given the credits, and by putting this in there you're preventing, I guess, double dipping for those credits. Is that the way I understand it?

Mr. Crano:

Yes, sir.

Senator Stone:

Okay, thank you.

Vice Chair Harris:

All right. Any additional questions? Okay, Senator Hansen, would you like to make a motion?

SENATOR HANSEN MOVED TO APPROVE REGULATION R195-22.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We will now move on to R026-23 ([Agenda Item IV-D A-1](#)), which is a regulation revising provisions relating to boilers and pressure vessels. We'll go ahead and turn it over to Senator Hansen for his question.

Senator Hansen:

Thank you. Is there anybody there in Clark County coming to the desk? Aha, there they are.

Vice Chair Harris:

They're ready for you, whenever you're ready.

Senator Hansen:

Okay. My question is on boiler definitions and BTUs (British thermal units). I ran into a situation—as you may know, I am actually a mechanical plumbing contractor. About 10 years ago, we put in, I actually did it myself, some giant water heaters at Mendive Middle School in Sparks, and we ended up having a big fight with the boiler inspector because at the time the BTU requirements, I think it was 399,000 or greater, required them to meet boiler standards even though they were clearly water heaters. I'm just wondering, does this regulation deal in any way, shape or form with that, and has that been cleared up? Because in this case, it caused a huge problem for Western Nevada Supply, for the water heater distributor and for Washoe County schools, so I'm kind of wondering, have we cleaned that up, because they were clearly water heaters and they were not boilers.

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

Thank you for the question. So, the issue you're talking about regarding water heaters and whether they are defined as boilers, that was cleared up in a prior regulation statewide, so we no longer have that issue. The particular regulation you have before you is related to boilers actually that are in mining facilities, so it's very specific to that.

Senator Hansen:

Perfect. No, I saw the mining thing, but I wanted to make sure that if we had an opportunity to perhaps clean it up if it hadn't been. It sounds like it's all done. Excellent. Madam Chair, that's all my questions, so unless somebody else has an additional question, I'd be happy to make a motion.

Vice Chair Harris:

Any questions? Okay. We'll go ahead and take that motion, Senator.

SENATOR HANSEN MOVED TO APPROVE REGULATION R026-23.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Thank you. We will now turn to R039-23 ([Agenda Item IV-D A-1](#)), which is a regulation revising provisions relating to bargaining units, and I believe this question was from Senator Daly.

Senator Daly:

Thank you, Madam Chair, and I think the questions might be answered by—one of them might be answered by legal, and that had to do with the severability part that they're deleting. I just wanted to understand that a little bit better. It seems to me, if there was something that was declared unlawful, there had to have been a court case and they would declare specific provisions. Is this language really not needed, because all of the rest of them would already stand unless the court struck it down, and maybe that's the legal side of the question. The second question may be for the gentleman at the table. Also in that, when they delete the mailing list and notices, just want to get on the record that you guys have an electronic list. People have received that same information instead of a mailing list through email or some other method. Just want to make sure that people are still able to get that information. You're putting it on your website and you're sending out electronic communications, or something of the sort. So, whoever wants to go first.

Bruce Snyder (Commissioner, Government Employee-Management Relations Board):

Bruce Snyder, Commissioner of the Government Employee-Management Relations Board. Thank you for the questions. With regard to the mailing lists, yes, we have robust email lists. We have almost 700 people roughly on our email list. It includes all the governments who appear before us, all the labor and employee organizations, all the attorneys who practice before us plus anyone else who has an interest in our agency. We have monthly newsletters we send out. That started in February of 2014. We have not missed one month since then, and we are proud of our newsletters for getting out all the information, and we contact our people fairly regularly apart from even the regulations. For example, every time a new statute is passed, we send copies to everybody on our mailing list so they're aware of the new statutes that are passed. We were told that we had to come up with a certain number of regulations to kind of repeal or streamline when this process started. Unlike some agencies that have very extensive regulations, ours are pretty small to begin with, so we tried to find some things that we thought were not controversial, and that's what ended up on this list here. With the severability, this was, I believe, discussed with the LCB drafter and it was decided, I believe, to leave it, and maybe Asher knows more about the internal aspect of that.

Vice Chair Harris:

Senator Daly, would you like to hear from Mr. Killian a bit about the background on the drafting process?

Senator Daly:

Sure.

Vice Chair Harris:

Mr. Killian.

Mr. Killian:

Thank you, Madam Chair. So, as you may be aware, there is language in the preliminary chapter of NRS that provides effectively a severability provision for all of Nevada law. That was adopted in 1977. This particular regulation of the Employee-Management Relations Board actually predates that. I believe it was adopted originally in 1971, so with the adoption of that provision into the preliminary chapter of NRS, this section of NAC is no longer required because it's effectively preempted by that Nevada law-wide severability provision. So, the repeal of this section is effectively eliminating duplicative language in NAC that's already covered in NRS.

Senator Daly:

Thank you for that. I just was making sure on both of those things it was as I suspected, but some things you just prefer to have on the record. The communication to the public and the people that are concerned, wanted to make sure when they got rid of the mailing list that that was still available and robust. I'm ready to make a motion, unless someone else has a question, Madam Chair.

Vice Chair Harris:

Any additional questions? All right, not seeing any, Senator Daly.

SENATOR DALY MOVED TO APPROVE REGULATION R039-23.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We will now turn to R063-23 ([Agenda Item IV-D A-1](#)), and I believe Assemblywoman Anderson, you had the question on this one.

Assemblywoman Anderson:

I am so sorry, Chair. I did not have a question on this. I probably sent that in incorrectly, so please accept my apologies, and if there are no other questions from people, I'm more than happy to bring forward a motion to accept it. I'm sorry I sent in that number incorrectly.

Vice Chair Harris:

No, that's okay. Go ahead and make the motion.

ASSEMBLYWOMAN ANDERSON MOVED TO APPROVE REGULATION R063-23.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We already did R065-23, but you can go ahead and stay, Mr. Briske. I'm going to try and save you a little bit of steps today, and I believe you have one more on the list.

Mr. Briske:

R008-24.

Vice Chair Harris:

Okay, let's go ahead and consider R008-24, and that was Assemblywoman Anderson.

Assemblywoman Anderson:

And this time I did mean to do that. Thank you, Chair, by the way. When I read through this information, it feels like there's two different topics that are being discussed. The first has to do with the parental engagement and family class, which I believe is to comply with SB 442, and the second appears to be the initial \$20 increase in licensure renewal and then the subsequent \$5 incremental increases for licensure renewal. My questions are mostly about the second issue. Is the \$5 incremental increase that's being proposed basically consistent with all the other professional licensure requirements or renewals that we've done in the past?

Mr. Briske:

I started with the Department in 2018, and I believe that's the last time fees were raised was April 2018, so a few months prior to my tenure here in state service. I can't speak to that question, but I can tell you the reason we put in \$5 incrementals is to keep our office solvent, as we are completely fee-funded, without having to come back and request a regulation change every year.

Assemblywoman Anderson:

Thank you for that clarification. So, I guess my question would be I guess to our legal counsel, if this is consistent with other professional organizations that require a licensure fee increase, if this is also something that has been done in the past.

Vice Chair Harris:

Mr. Killian.

Mr. Killian:

Thank you, Madam Chair. I'd have to do a little bit of research to see if this has been done historically by other licensing bodies. I don't recall having seen a structure like this before, but that by no means doesn't mean that it hasn't happened before. I just am not immediately familiar with it. I'm happy to look into that and get some information back to you.

Assemblywoman Anderson:

I would really appreciate it. Thank you so much. I think that research is very important to know about. Then my other question has to do with, if I understand how this has been presented at this time, if this were to pass today, September 13, and somebody's licensure is due on September 15, would they need to pay this additional, I think it's \$20 increment, at this time, or is there any sort of, I guess, structure or plan to make this a little bit of an educational purpose for other individuals who are trying to renew their license, or is it upon the passage of this body's decision to adopt R008-24? Would that increment be started right away?

Mr. Briske:

Yes, upon adoption and after it's filed with the Secretary of State's Office, that's when we would change the fees in our system.

Assemblywoman Anderson:

Thank you. So, what is the plan for letting current license holders know about this incremental increase?

Mr. Briske:

We will be sending out memos, as I do after every single Commission meeting. I have what's called the COPS (Commission on Professional Standards) conversations where I meet with all the HR (human resources) directors and all of the LEAs (local education agency), as well as our ed prep programs, and I will be sending out a memo in regards to that to those parties.

Assemblywoman Anderson:

Thank you so much for that. I appreciate what the Department is going through with the difficulty and how there is a staff shortage at this time, but I am not comfortable without knowing the other licensure issues. I'm not comfortable at this time, but I'm only one vote,

so other people might be more comfortable. So, thank you so much, Chair, for that much time for questions.

Vice Chair Harris:

Absolutely. Commission members, do we have any additional questions on this regulation? Okay, not seeing any. I will accept a motion at this time.

Assemblyman Steve Yeager (Assembly District No. 9):

Thank you, Chair. I would move to approve R008-24.

ASSEMBLYMAN YEAGER MOVED TO APPROVE REGULATION R008-24.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

THE MOTION PASSED (SENATORS KRASNER AND STONE, ASSEMBLYMAN O'NEILL AND ASSEMBLYWOMEN ANDERSON AND DICKMAN VOTED NO).

Vice Chair Harris:

Thank you. We will now move on to R095-23 ([Agenda Item IV-D A-1](#)), which is a regulation revising provisions relating to continuing education definitions and disclosures. Senator Hansen, I believe you had a question on this regulation, and I believe we have Ms. Arnold available for questions.

Senator Hansen:

Good, okay. Somebody's up there, I assume, in your neck of the woods. We're on R095-23, right?

Vice Chair Harris:

Correct, and actually, Senator Hansen, we do not have someone here in Las Vegas.

Senator Hansen:

Uh oh.

Vice Chair Harris:

BPS, by chance do we have Ms. Arnold available on the Zoom?

Laura Arnold (Executive Director, Board of Psychological Examiners):

I'm here.

Senator Hansen:

Aha. Good.

Vice Chair Harris:

Okay. Senator Hansen, go ahead.

Senator Hansen:

In your clear and concise explanation of the need for the regulation, you wrote, this regulation was in response to 2023 AB (Assembly Bill) 244 which, as enacted, violates ethics codes for licensed psychologists as it relates to psychological examinations and testing. I've never seen that in any of these regulations before. Essentially, the state passed a law that is going to force psychologists to violate what are industry-wide ethical standards? Am I reading this correctly?

Ms. Arnold:

I'm the Executive Director for the Nevada Board of Psychological Examiners. That is correct. AB 244 got a very robust, very concerned response from Nevada psychologists, and in response to that, the Board worked with those concerned to set out a statement about the response to AB 244 that is available on the Board's website, and that clear and concise statement that you have there is taken from that statement that the Board has made public.

Senator Hansen:

Okay. That's very interesting. I've never seen—I have a question for legal. Can the State of Nevada force members of an industry to violate their own ethical codes? I guess that's for Asher.

Vice Chair Harris:

Mr. Killian.

Mr. Killian:

Thank you, Madam Chair. So, unless the ethical codes have the force and effect of law, which is to say unless they are passed by the State Legislature or Congress as a law, then the state retains authority over those to whom it chooses to grant licenses and can impose standards that vary from any professional standards that may exist within the community. Professional standards are generally set by nonprofit organizations that are not governmental organizations, so the state does have the right to override those by law.

Senator Hansen:

Okay, well, so legally we can do it, but since this is an ethical question, the question should be, should we? My oldest daughter is actually a psychologist, and she didn't bring this to my attention, but I just thought this is really an unusual regulation. A question again for the industry representative. Does the regulation that you are proposing now put you within the confines of being ethically within the bounds of whatever it is that we're telling you to violate ethically? In other words, if this passes as you wrote it, is it now ethical by your industry standards?

Ms. Arnold:

Thank you for the question. So, what the Board has done, and they worked with those that appeared and gave comment, other psychologists that were concerned, is we gave them some tools in terms of the verbiage of the regulation to help them navigate what they think are the ethical perils that they think AB 244 imposes on them, and then we will work further with them if this regulation passes. We'll work further with those psychologists in terms of policy that aligns with this proposed regulation.

Senator Hansen:

In other words, no. So, it was a nice attempt. All right, Madam Chair. Look, this is very, very awkward. I don't know how we can pass a law that basically tells members of this industry to violate what is apparently a nationally known standard. So, I'm sorry, I'm going to have to be opposed to this regulation on that basis. Thank you, Madam Chair.

Vice Chair Harris:

Thank you, Senator Hansen. Ms. Arnold, can you give us just a little bit more information about what ethical standards are perceived to be violated by the legislation and by virtue this regulation?

Ms. Arnold:

Thank you for that question. If it would be okay, I'd like to just read the Board's statement in response to AB 244. It's not very long, but it might help shed some light and answer your question, if that would be okay.

Vice Chair Harris:

Sure, absolutely. Please.

Ms. Arnold:

Thank you. On our website, you can click on the link that says "State of Nevada Board of Psychological Examiners' Statement in Response to 2023 AB 244," and the statement is:

"AB 244, which was enacted during Nevada's 2023 Legislative Session, establishes certain rights of a person compelled to submit to a mental or physical examination under certain circumstances. As enacted, AB 244 violates ethics codes for licensed psychologists and creates risks to public safety by creating conditions under which psychologists are to, one, undertake psychological examinations such that it places them in a position of violating the assessment procedures stated in NAC 641.234, as well as laws governing the release of proprietary material and ethical codes that protect standardized test content; and two, administer standardized measures such that they are likely to invalidate those standardized measures. The conditions that AB 244 create for psychologists may also have unknown effects on the validity of other measures administered and further risk public safety because of the interpretability of test data collected under those conditions would be compromised, and the long-term effects of the release of protected material would be harmful to the practice of psychology."

Senator Hansen:

Madam Chair.

Vice Chair Harris:

Thank you for that, Ms. Arnold. Yes, Senator Hansen.

Senator Hansen:

Since AB 244, I think it is already law, I guess the question is, is this regulation going to make it less onerous, and perhaps we should, as a legislative body, recommend we revisit that law in the next legislative session? Because they're stuck with the law, whatever the regulation ends up being, and it sounds like they're trying to come up with a regulation to try to make it less onerous on their industry, so maybe my idea of voting no on this is counterproductive. They're trying to come up with some way to balance the two conflicting

problems they have here. So, I don't know if I could ask the industry lady again—I'm sorry, I forgot her name—if we pass the regulation, is it going to make it less of a problem before we have a chance to revisit the ethical issues in the next legislative session?

Ms. Arnold:

Thank you for the question, and yes, that's the intent. This went through several workshops and hearings to get to this language so that these psychologists had these tools, the written tools to kind of navigate AB 244.

Senator Hansen:

Thank you, Madam Chair.

Vice Chair Harris:

Go ahead, Miss Arnold, you can finish.

Ms. Arnold:

I was just going to say it just helps—it creates some definitions and some distinctions so that they're not worried about HIPAA (Health Insurance Portability and Accountability Act) violations and compromising the integrity of the testing data, testing materials, protected information, those kinds of things.

Vice Chair Harris:

Okay. Thank you. With all of that information, Senator Hansen, would you like to make a motion at this time?

Senator Hansen:

Yeah, ironically, I will. I think we should pass R095-23. So, that's my motion, with the caveat that we make sure that in the next legislative session we revisit this.

Vice Chair Harris:

And Senator Hansen, unfortunately the only aspects before us today are to approve or deny the regulation, and so we have a motion, I believe I heard, to approve the regulation?

Senator Hansen:

Yeah, it was. I just threw that out there for edification.

Vice Chair Harris:

And also available BDRs (bill draft request) for every legislator to use.

Senator Hansen:

I know; I've been on this Legislative Commission about the whole time I've been in the thing, so I know I can only do—it's very limited to what we can and can't do, but I just want to get that on the record that it's not right for us to try to force people to do things that are unethical in their industry. Okay, rephrase it, I make the motion that we approve R095-23.

SENATOR HANSEN MOVED TO APPROVE REGULATION R095-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We will now turn to R099-23 ([Agenda Item IV-D A-1](#)), which is a regulation revising provisions relating to diplomas. Assemblywoman Anderson, you're up.

Assemblywoman Anderson:

Shocking, I know. Thank you so much. My question has to do with both what was brought up during our earlier comments and then also just double checking that the timeframe is for our current sophomores to have this change, or is it our current ninth graders to have some of these changes when you talk about the arts and humanities and some of those other areas? I'm confused with the timeline that's happening when we've got some students that have already started their high school plans.

Ann Marie Dickson (Deputy Superintendent, Department of Education):

Thank you for the question. Deputy Superintendent Ann Marie Dickson, Department of Education. For this one, I'm going to defer to my colleague, Alicia. I don't have the timeline in front of me. Is this sophomores or juniors—I'm sorry, seniors?

Alicia Briancon (Legislative Liaison, Department of Education):

Thank you for the question. As far as the timeline, this would be, as you heard from public comment from Mary Pierczynski with NASS (Nevada Association of School Superintendents), the request is specifically for—as it's written, it would be impacting those graduating in 2027 and they would like for it to be those graduating in 2029. So, it would be impacting eighth graders currently, and the request—and we understand, based on their feedback, we understand their concerns with the scheduling to meet the students' graduation requirement needs, and so the request is for those graduating in 2029.

Assemblywoman Anderson:

So, the class of 2027, which is basically our current sophomores, would not be required to take the flex credit as referred to in some ways, am I understanding that correctly?

Ms. Briancon:

With this regulation—so just a little bit of history with this regulation. The school districts are already offering the world geography/world history credit. The placement of the credit is either in the arts and humanities credit line, the flex credit line or the elective credits. So, this is really about the alignment based on the 2023 legislative recommendation from LCB and legislators to align the language between the NAC and NRS. The school districts are already offering this world geography/world history credit for the standard diploma requirement. This is really more about the alignment in the language for the regulation for NAC. So yes, as far as the timeline, so that it's not impacting current sophomores, the request is for it to move to the 2029 graduates.

Assemblywoman Anderson:

Thank you. I think the other thing that I've heard from educators across the state, not just in the two large districts—this is mostly in the smaller districts that we're hearing it from, or that I've heard about it from. Are there enough licensed personnel to be able to provide these classes which, yes, are already being provided in some cases? It's not consistent. So, are there enough licensed personnel to be able to provide these courses to this year's eighth graders in White Pine or in some of our other smaller districts? That, I think, is the concern that I've heard from others. So, just to verify, there are enough licensed personnel to do this across the state for our current eighth graders?

Ms. Briancon:

Deputy Dickson, would you like to answer?

Ms. Dickson:

Yes, Director Statucki did reach out to rural districts as well. They felt like they could meet this if they're given enough time to make sure that they are able to hire for those positions.

So, as was already stated, we do have that class currently being taught, but it's being utilized under a flex credit or other credits currently, so they do have staff in the majority of districts and did feel like with the extension of time they could meet that requirement.

Assemblywoman Anderson:

Okay, thank you, because I kind of heard something a little differently today. Thank you for that. So then just to verify as well, would the fine arts credit still be a requirement of graduation for our current eighth graders, or would that be taken away to make way for the geography and/or world history, which is something that has unfortunately made its way into some of the conversations as well?

Ms. Dickson:

Alicia, please, if I'm incorrect in this—I'm going over the wonderful table that you put together for me, thank you. We do have the arts and humanities; JROTC (Junior Reserve Officers' Training Corps) or CTE would be counted as one credit that would be required.

Assemblywoman Anderson:

Thank you. I appreciate that. Thank you, Chair.

Vice Chair Harris:

Do we have additional questions? Sure, Senator Dondero Loop.

Senator Marilyn Dondero Loop (Senatorial District No. 8):

I don't know if this is a question, but I'm just going to make a clarifying comment. I think we need to understand that what we're saying is it's not we just want this to start in 2025-2026 with those students that are going to enter high school that year and subsequently would graduate in 2029. It's just a delay of the start so that it's consistent with students' high school classes, because the kids that are already in there have already started their classes. So, if we wait and start with a fresh freshman class, it will make it much more consistent. Said like a true teacher.

Chair, I guess the question I would have, and it might be for Mr. Asher, do we need to send this back? Can we clarify that and vote on it, or do we need to send it back and have that in the actual regulation, because right now the regulation does say on page 8, it does say for a pupil in the graduating class of 2025, 2026, 2027 and 2028, units for the required courses, and so that creates a problem because all those—I mean, we've got kids that are seniors. So, does this need to go back and we'll hear it at another time?

Mr. Killian:

Thank you, Madam Chair. If the intent is not for a pupil in the graduating class of 2025, which would be a pupil graduating in 2025, to complete that credit, then it would need to go back to have that language be revised to reflect the Commission's intent. I believe the Department has represented that they could use waivers to give it the effect that the Commission desires. I would just note that that's obviously not binding. If you want it to be binding in the regulation, then you would need to send it back. But there is a path forward to approve the regulation today and still have the effect you want based on the Department's administrative actions.

Senator Dondero Loop:

Then Chair, with that information, I think that what I would do to make it clean and to make it consistent with what our education personnel are saying, that we would send this back and have it rewritten for a pupil starting in a graduating class of 2029, and that may be cleaned up a little bit, but I would delete all those graduating years and then just put for a pupil in graduating class of 2029, moving forward, for the required courses must be earned in accordance with the following table.

Vice Chair Harris:

Assemblywoman Backus

Assemblywoman Shea Backus (Assembly District No. 37):

Thank you so much, Chair. I was diving into the bills that kind of triggered some of these changes and am in agreement with pages 8 and 9. It doesn't seem like they really do comport with what Senate Bill 249 had gone with, because it seemed like there was some flexibility and some choice for some students for two units of credit in either American history, world history or geography, and that already went into effect. I'm assuming the schools are making sure that students are meeting those requirements, but when you look at pages 8 and 9, it provides specific credits that are now kind of going retroactive, so obviously that would need to be cleaned up. Also in that bill and that statutory provision, I understand that the school districts could work with the students and give waivers, but that just seems kind of messy. But I think the big one was AB 274, unlike SB 249 that was effective at a certain date, AB 274 which addresses the financial literacy, and moving that with the economics, that does not go into effect until we pass the regulation. So, it seems like we do already have laws on the book that have to be complied with what student graduation requirements are, but it is confusing when it's all grouped together and now giving set units. When you look at the bill that was passed, it didn't have set units, rather it was more of a flexible up to the two units of those three classes. So, there's no questions, kind of just thoughts that I was noticing.

Vice Chair Harris:

Okay, after the Committee's discussion, we're going to go ahead and defer this item, R099-23. That will allow the Board of Education to take into consideration some of the comments that they've heard from members today and potentially bring back another regulation to the Commission. Thank you.

Ms. Briancon:

Thank you.

Vice Chair Harris:

All right. We will go ahead and turn to R102-23 ([Agenda Item IV-D A-1](#)), which is a regulation establishing provisions relating to an electronic filing system. I believe we have Mr. Hardy with us here in Las Vegas. Senator Daly, you can go ahead and ask your question when you're ready.

Senator Daly:

I'm sorry, we're on R102-23, right? Yes. Okay, so just a quick question. I just want to see how it's actually going to work with some of the language that's being deleted in section 3, subsection 2(b), where you can personally deliver it to the other party or their counsel, and I understand that if it's a corporation or somebody or they don't have a counsel, some people may be trying to hide. I think you're trying to remedy that by saying you can hand it off to the Division in subsection 2(c), right? But I was curious about the three-day delay before you guys say it's received, and then how that three-day delay, if a person tries to or wants to take advantage of that, affects the overall timeline. So, if you have 15 days to submit it and serve it on the other party, do I have to submit it to you guys at 12 days, or can I still go to the fifteenth day and then you guys will recognize it as received 3 days later? How is that three-day delay affecting the overall timeline of all of the steps and the various things that have to take place? Does it shorten it, or does it matter?

Dean Hardy (Senior Appeals Officer, Hearings Division, Department of Administration):

Good afternoon. My name is Dean Hardy from the Department of Administration's Hearings and Appeals Division, and I'm not sure I followed the question. I apologize. If you could direct me—you said section 2(c)?

Senator Daly:

Section 3, subsection 2(b) talks about personally delivering a copy of the document to the other party or their counsel, and you're striking out leaving at the office of the party or his or her counsel with the clerk or other person in charge, or if there is no one in charge, leaving in a conspicuous place therein. You're deleting that language. A lot of times you're

going to go to somebody's business, they're not there, you tape it to their door. You're deleting that. That option is gone. I think you're trying to—the way I'm reading this, anyway. I don't want to put words in your mouth. I think you're trying to remedy that potential of a person secreting themselves and not being available, purposely trying to evade getting served or getting the document put to them. I can alternately take it to the Hearing Division and give it to the Hearing Division, and then that will be considered served on the other party, but only after 3 days. You're going to have it for 3 days. I want to know how that 3 days is affecting the overall time limit, and my example was, you have 15 days to serve the other party, whatever the response is to the complaint or back and forth briefs are being exchanged. How does that 3 days affect the overall time limit? If I want it to be served by the 15-day time limit, do I have to get it to you 3 days shorter? So, does it shorten my time to respond or to put in the service? Now do you understand it?

Mr. Hardy:

I think so. What we are attempting to do is eliminate paper altogether. That's the purpose of the entire regulation, and the only time in which paper will still be allowed is when there is a pro se litigant and this particular pro se litigant is someone that's not represented. So, what we've tried to do is eliminate the necessity of serving an individual that has opted out of the electronic filing system but is represented by an attorney. If an attorney is representing someone, then what we're trying to do is eliminate the duplication of service, and service upon counsel will be deemed sufficient on a litigant that has opted out of the electronic filing system. What we have currently is a non-digitized system, all paper, no digital e-filing whatsoever, and we may be the only court system in the western world that still operates like that. What we've attempted to do was clarify every single provision that might occur, and what this attempt was—was to eliminate the necessity of sending paper out to an individual that was represented in the case itself.

Senator Daly:

And see, that's not answering my question. In 3(c) it says that you can leave a copy of the document at the Office of the Hearing Division. Next sentence says service by leaving a copy of the document at the Hearing Division pursuant to this paragraph shall be deemed received 3 days after the copy of the document. Now, the 3 days is existing language, left at the Office of the Hearing Division. You eliminated the language that says I can just leave it with the person at a conspicuous place, whether or not he has a counsel. You're trying to eliminate paper, but you've taken an option away to hand deliver. I'm going to go to this person's last known best address, I'm going to tape it to his door, do my best to get him the information, take a picture of it, make sure, sign an affidavit that I had myself and a witness that did it, etc., etc. So, on this three-day rule, I can no longer do that because you're eliminating that language. How does this three-day delay affect the overall timing of submitting this? We're talking about workman's comp here. I know you're familiar with it. I also know that there are strict deadlines and submitting claims and doing these things, appealing and going to your hearing officer, all of these things. It's all set in statute. It's got a lot of land mines and things to trip people up. What is this three-

day delay, now that you've eliminated me taping it to the guy's door? How does that affect my overall timeline? Do I have to now shorten everything by 3 days under this process?

Mr. Hardy:

It does not, Senator Daly. What we're trying to do is make sure that anyone that is participating in this arena has the ability and opportunity to be served equitably, fairly and timely. So, what we've tried to do is outline every scenario that could possibly occur as a result of this, and this is one that I think will occur on an infrequent basis. But what we try to do is try to recognize any options. It's not an attempt to trick anyone, to trip up anyone, to lengthen or shorten any timeframe. What we've tried to do is just outline an option by which we can have someone serve through the Hearing Office, and then what we plan to do at the Hearing Office is then input that into our electronic filing system ourselves and eliminate the necessity of someone that has opted out of the electronic filing system, and it'll be in there in their file and their counsel will be notified, opposing counsel will be notified, and anyone that has registered on that case will be notified of anything that's occurred. This is not a subpoena to mandate someone's appearance for court. This is a document that is filed like a package of evidence. Normally it's filed now by paper, having the necessity of some office bringing it to the Hearing Office and mailing it to opposition counsel and any other party, and this eliminates that. They can bring it, they can take it to this individual. If not, they can bring it to the Hearing Office, we'll input it into the system, it'll be flagged. As I understand, once the system is up and running and we're close to being operational, everyone that is registered on that case will be notified that something has been filed. That answer your question?

Senator Daly:

I understand your goal and I hear your words. However, I know a few lawyers, and I know that lawyers advocate on behalf of their clients, and if I have a time limit that I have to submit a response, put in your evidence on appeal, whatever it might be, and you have to give it to all of the parties, and I have 15 days like I said from the last correspondence and I have a date—now I have a date, right? Let's just use September 30 as a date. That's my deadline. So if I turn it in to you because I couldn't get the other person, I want to do this electronic thing, they don't have counsel, and I turn it in to you on September 30, you don't deem it to be received until 3 days later. If I'm an attorney for my client, I'm going to say you're late. It wasn't deemed to be received for 3 days, which would be October 2 or whatever day it's going to be. That's what I want to know is do I have to now then say I have to turn it in 3 days earlier than my normal deadline? I have to turn it in by the 27th of September in order for it to be deemed received by the 30th?

Mr. Hardy:

In response to the question, the timeframes were not contemplated as being changed by this service. What we tried to do was make things simpler, not more complex, a simpler opportunity to have an electronic system where everybody has availability to opt into or out of the system. If we are accepting service, this gives us that timeframe to file that. We

are going to input it. We, the Department of Administration's Hearings and Appeals Division, are going to input that ourselves for purposes of filing it into our electronic filing system for someone that has opted out of the system, i.e. a pro se litigant. Therefore, this allows everyone the same opportunity and options to review any of the electronic filings. No contemplation is being given to either subtract or add to any deadlines that need to be adhered to.

Senator Daly:

And I know that may not have been your intent, it may not have been your contemplation of various things. I'm just looking at the plain language. I have a person who's opted out, right? You have a three-day delay. If I'm trying to be safe and not take any chances, my time just got cut down by 3 days because you don't deem it to be received. When you eliminated the old language where I could leave it at the office of the party or his or her counsel with the clerk or other person in charge thereof, or if there is no one in charge, leaving in a conspicuous place therein, when you eliminate that option for me and then you have a three-day delay before you deem it received, intentionally or not, in my view changed the timeline, and if I'm an attorney zealously representing my client, I'm going to say you turned it in late. The other attorney should be saying, hey, you just got cut off by 3 days if you're going to follow the plain language of the way I read this, the letter of the law. Intended or not, I think that's the consequence of this language change in conjunction with the two pieces.

Mr. Hardy:

Understood. I can tell you that we've workshopped this regulation with all of the stakeholders, with attorneys from both sides that appear in the tribunal of workers' compensation. They had input in the drafting of this, they had input in the contemplation of this, they had input in telling us what they wanted and what they didn't want, and both sides agreed to this language at all steps of the way when we originally drafted it and then alternately changed it at the behest of the stakeholders. This was not done surreptitiously by either side. This was not done without everyone being made aware of how we were going to implement the plan, and so if there is a zealous representative that looks at this and sees an opportunity to take advantage for their client, that was not contemplated, it was not discussed. We had plaintiff lawyers, we had defense lawyers, we had the insurance industry, we had the administrators, we had every stakeholder that appears in this tribunal discussing every aspect of this on, I think it was a minimum of four different occasions, and received input from all stakeholders and everyone was satisfied that this language was acceptable.

Senator Daly:

And I understand that, and understand the process, understand the legislative process, and I know we have hearings during the regular legislative session. We have all the stakeholders, we have two houses and we still get things wrong. Sometimes we miss it. Maybe Mr. Killian can chime in and say with the elimination of the language in subsection

2(b) and then the three-day delay existing language, trying to go electronic in 3(c), is there an opportunity for somebody to manipulate it, intended or not? I'm not an attorney, but I could clearly make that argument that it would be, and if that's it, just because everybody missed it or nobody else looked at it the same way, that's why we come to the Legislative Commission, that's why we have people read the regulations, that's why we have a dozen people here with various degrees of experience looking at these things, and we ask these questions because we don't want to have it adversely affect some worker who's injured because his attorney thought it'd be okay to turn it in on the fifteenth day and you don't deem it received until 3 days after that. I don't want to see that happen, and that's why I'm asking the question and sticking to my guns on this, and maybe Mr. Killian can shed some light.

Vice Chair Harris:

Mr. Killian.

Mr. Killian:

Thank you, Madam Chair. So, I believe the Senator's reading is correct in that the existing language did not state when service would have been complete if a copy had been left at the office. I think the point of service that would have been read in there would have been at the point of leaving delivery would have been complete. This change creates a situation where, since it can no longer be left at the office of the person and be deemed complete when it was left, but instead would either have to be personally delivered and service would be completed upon delivery or left at the Office of the Hearings Division and service completed 3 days after being left at the Hearings Division. Yes, it does create a situation where, if service had to be left, there would be a deemed delay in when service became effective that may not have existed under the existing regulations. That may be a relatively uncommon scenario, but it is at least technically possible.

Senator Daly:

And thank you for that. I'm glad I'm not imagining things. But I think that potential loophole needs to be corrected, and I understand all of the people that looked at it and various things and they're looking at all of the other sections and really weren't thinking about it in this scenario, which is why we have the Legislative Commission. I hope that we would ask them to go back and make that correction, Madam Chair.

Vice Chair Harris:

All right. Can I ask Commission members if there are any additional questions at this time?

Senator Hansen:

Madam Chair, I do.

Vice Chair Harris:

Senator Hansen.

Senator Hansen:

Not so much question as a comment. Having dealt with these issues in my business, I think Senator Daly has brought up a very legitimate possible loophole that needs to be closed. I would agree with him, and I think this needs to go back and they need to get that language cleaned up. I think Mr. Killian's point is absolutely spot on, so I would urge us all to send this back for a revision. Thank you, Madam Chair.

Vice Chair Harris:

Okay. Any additional questions from Commission members at this time? Seeing none, I will accept a motion.

ASSEMBLYWOMAN JAUREGUI MOVED TO APPROVE REGULATION R102-23.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION DID NOT PASS (SENATORS DALY, HANSEN, KRASNER AND STONE, ASSEMBLYMAN O'NEILL AND ASSEMBLYWOMEN ANDERSON AND DICKMAN VOTED NO).

Vice Chair Harris:

And the motion fails, so therefore the regulation then is not approved. Thank you.

Assemblywoman Anderson:

Chair, may I ask a question procedurally?

Vice Chair Harris:

Absolutely.

Assemblywoman Anderson:

Thank you so much. Since I voted on the prevailing side, is there a way that I could possibly ask for a reconsideration and instead ask for it to be deferred so that way it can possibly be worked upon to clean it up?

Vice Chair Harris:

Assemblywoman Anderson, thank you for the question. The vote of not approving has the same effect of deferring the regulation, sending it back so the agency can revise regulations and bring them back to the Commission at any time.

Assemblywoman Anderson:

Thank you for that clarification.

Vice Chair Harris:

You're welcome. We will now turn to R003-24 ([Agenda Item IV-D A-1](#)), which is a regulation repealing provisions relating to advertisements and alcoholic beverage awareness programs.

Senator Hansen:

Madam Chair, did we skip over?

Vice Chair Harris:

And I believe Senator Daly—oh, we did skip over R002-24. I will go back to that one after this one, Senator Hansen. My apologies.

Senator Hansen:

Thank you.

Vice Chair Harris:

All right, Senator Daly.

Senator Daly:

Thank you, Madam Chair. Actually, I've got the answer to my question on this, so I don't have one. Prepared to make a motion whenever you're ready.

Vice Chair Harris:

Did you want to make a motion?

SENATOR DALY MOVED TO APPROVE REGULATION R003-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We will turn to R002-24 ([Agenda Item IV-D A-1](#)), which is a regulation revising provisions relating to supervision. Hopefully we have Ms. Arnold with us as well back on the Zoom, and Senator Hansen, I'll turn it to you.

Senator Hansen:

Madam Chair, that one wasn't mine. Mine is R032-24, dealing with liens.

Vice Chair Harris:

All right. My apologies, Senator Hansen. I thought you felt I'd skipped you and you were on R002-23. That was already approved then with the motion to approve all the regulations that were not pulled. Let's go ahead and turn then to R032-24 ([Agenda Item IV-D A-1](#)), which is a regulation revising provisions relating to notices. I will now turn it back to you, Senator Hansen.

Senator Hansen:

Thank you, Madam Chair. Are some folks from the Contractors' Board down there or online, perhaps? Aha, there they are.

Vice Chair Harris:

They're taking their seats and they're ready for you.

Senator Hansen:

First of all, the regulation overall is really excellent. I just had a couple of questions. For those of us that are contractors, mechanics' liens are one of the most effective things that

are out there to help collect debts. The question I have—right now, as I understand it, I don't think this law changes that either, from the last day that a contractor or a worker, for that matter, performs labor, they have a 90-day window to provide a pre-lien notice. Is that still in force with this regulation, or what is the rule on that? I don't know, maybe it's changed since I had to do one of these a while back.

Terry Wike (Director of Investigations, State Contractors' Board):

Thank you, Madam Chair, members of the Committee, Senator Hansen for the question. I'm the Director of Investigations for the Nevada State Contractors' Board, and no, this does not change the 90 days.

Senator Hansen:

Okay, and then on mechanics' liens, this only deals with contractors and subcontractors, correct? And only single-family type of work? The reason I ask is one of the beautiful things about a mechanics' lien is you can literally be an ordinary mechanic, a laborer, and you can go down to the county recorder's office, I think for \$15 you can file a mechanics' lien. Does this in any way do anything with that ability, or is it strictly limited to licensed contractors?

Mr. Wike:

This is limited to licensed contractors regarding property improvements.

Senator Hansen:

Good. Well, thank you. I think this regulation is really good because that's been a problem because they make it—like you say in your thing, lien law is complex. It shouldn't be as complex as it is, and this regulation, what I can tell, makes it less onerous, makes it more understandable for all the parties involved and also removes some potential legal barriers that can be used to prevent somebody from getting paid for their legitimate work. With that, Madam Chair, I'd be happy to make a motion unless somebody else has some questions on this regulation.

Vice Chair Harris:

Are there any additional questions from members? Okay, not seeing any, I'll accept a motion, Senator.

SENATOR HANSEN MOVED TO APPROVE REGULATION R032-24.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We will now go to R031-24 ([Agenda Item IV-D A-1](#)), which is also from the State Contractors' Board, which is a regulation revising provisions relating to applications. Senator Daly, I believe you had a question on this regulation.

Senator Daly:

I did. Thank you, Madam Chair. So, the question was, and I don't have it up in front of me right now, but I do have my notes. In section 1(2)(f) regarding the renewal and the person's in the middle of a complaint process, what happens if the contractor has to renew his license in the middle of the dispute that has not been fully adjusted? When do they owe the fine? That make sense?

Bree Welch (Licensing Supervisor, State Contractors' Board):

Bree Welch, Licensing Supervisor, Nevada State Contractors' Board. Can you direct me where you're looking at, please?

Senator Daly:

I believe it would be section 1(2)(f). I'm going to bring it up here in just a minute. So it says, except as otherwise provided by a court order, payment for any unpaid fines imposed by the applicant by the Board pursuant to Chapter 624, cost owed to the applicant—the way I understood this, if I'm remembering it correctly, was a person is in the middle of an adjudication of a disputed or a contested case, and it says except unless there's a court order, they have to pay the fines, the costs and various things. If they haven't come to the conclusion yet and they don't owe the money yet and they have to renew their license in the middle of that process, when do they have to pay the fine, or do they just not get to renew their license?

Ms. Welch:

Thank you for the question. This provision, the way I understand it is it relates to new license applications. If you get an applicant who is applying for licensure in Nevada that had, let's say, a prior revocation and still owes fines and investigative costs related to that disciplinary action, then this gives us the authority to withdraw the application or reject the

application since we're still owed money. It could be the same for if there's residential recovery fund payouts. So, the renewal process, if the contractor is licensed, they would go through the disciplinary hearing process. This doesn't impact that process at all.

Senator Daly:

So this only would apply to someone who used to have a license, got in trouble, got a fine, did whatever, that license is suspended, revoked or just not renewed, whatever, and now he's reapplying under a different business, potentially, and then he would have to pay that old fine before he could go forward? It would only apply in that circumstance?

Ms. Welch:

Correct. It doesn't necessarily have to be a prior applicant; it could be somebody who possibly was working unlicensed that maybe got fined with us. If they owe our Board any money regarding fines, investigative costs, that sort of thing, we would require them to pay that before they submit an application.

Senator Daly:

Understood, and thank you. That's not the way I was reading it. I was reading that it applied to anyone, not just new applicants, and go out and catch all of the unlicensed contractors you can, that's what I recommend. That was my question, and I think they cleared it up. Thank you.

Vice Chair Harris:

Commission members, any additional questions? Okay, Senator Daly, would you like to make a motion?

SENATOR DALY MOVED TO APPROVE REGULATION R031-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Thank you. We will now go back to R006-24 ([Agenda Item IV-D A-1](#)), which is a regulation revising various provisions relating to disability services. Hopefully we have Ms. Wickland

from Aging and Disability Services. Okay, lovely. Senator Daly, go ahead and ask your question when you're ready.

Senator Daly:

Is this R026-24? I'm sorry, I missed it.

Vice Chair Harris:

It is. Oh, I'm sorry; my apologies. R026-24.

Senator Daly:

You had me for a second. So, in section 24 on the hearings—I believe it's in section 24 regarding the hearings, I wanted to get some clarification on how exactly that was going to work. Are people actually going to get a chance to go in front of a hearing officer or do they just submit the documentation and some person makes a decision and then they're told of the decision and there was never actually a hearing?

Megan Wickland (Health Program Manager, Aging and Disability Services Division, Department of Health and Human Services):

This is Megan Wickland, Health Program Manager with the Aging and Disability Services Division. We don't have a hearing officer. The process is, if the provider wants to appeal, they submit their appeal to our Division and that goes to our Administrator who reviews all the supporting documentation that's submitted by the provider as well as our quality assurance program staff, and we certainly do have our deputy attorney generals (DAGs) involved as well to review that information to ensure that we are in alignment with policy and regulations.

Senator Daly:

And I appreciate that, and I was just looking at it and reviewing again. I know if there's a safety or health issue or whatever, you guys take action and you say you can appeal it later, but you're doing that on the premise of protecting health and safety of people that are receiving services. I don't disagree with that at all; go back and appeal and do all of this stuff. I was just trying to find out, so a decision gets made, now I can appeal that decision, and it just goes through a review process. I have to just submit my paperwork in form of a brief or whatever, but you never actually get a hearing?

Ms. Wickland:

Correct. There is no hearing process. It's a review process.

Senator Daly:

And it's been that way forever or whatever? It's been that way for as long as you guys—

Ms. Wickland:

Yes, this is how we've been doing that process is through a review. Typically when there is an appeal with our providers, they typically have an attorney involved and we have our DAGs involved as well to review all the supporting documentation related to why we are moving forward with revoking their certification.

Senator Daly:

And I just wanted to understand that there wasn't really a hearing, I mean, in most cases, and I know under several other sections of the law you can't take action until after they've been afforded an opportunity for a hearing. So, this may be a little bit different, especially with vulnerable people receiving services, and you have a higher duty to do that protection. So, if this has been what it is, I'm sure they have judicial review rights, or I'm assuming they do have the right to go to judicial review.

Ms. Wickland:

I'm going to have Jennifer Frischmann help answer that question. Thank you.

Jennifer Frischmann (Quality Assurance Manager, Aging and Disability Services Division, Department of Health and Human Services):

Jennifer Frischmann, Quality Assurance Manager with Aging and Disability Services. As Ms. Wickland stated, our Administrator receives all of the information from both the provider—if they have their attorney, we work through our deputy attorney general. That information then goes to the Administrator. If they disagree with that, the next step is appealing that in district court, so it is a quasi-judicial process, yes.

Senator Daly:

Okay. Thank you, and it just seemed odd to me that there was a process they went through and there was never actually a hearing, but if that's the way you guys have been doing it and they have their right to go to court in the end, so be it. It just seemed different than what I've normally seen.

Ms. Frischmann:

I would also like to clarify that if this is a Medicaid provider, they are afforded full hearing rights, and that does go before an administrative law judge.

Senator Daly:

Okay, very good. Those were my only questions. It just seemed odd to me, Madam Chair, but if that's their process, it seems to be working. Thank you for the clarification. If there's no other questions when you come back, I'll make a motion.

Vice Chair Harris:

Thank you. Commission members, additional questions? Okay, Senator Daly.

SENATOR DALY MOVED TO APPROVE REGULATION R026-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We will now turn to R033-24 ([Agenda Item IV-D A-1](#)), which is a regulation revising various provisions relating to health care. Hopefully we have Ms. Bradley with us. It looks like we do in Carson City. I'll turn it over to Assemblywoman Dickman to ask a question.

Assemblywoman Dickman:

Thank you so much, Madam Chair. I think it's probably going to be an easy question to answer, but I'm just trying to understand why we're abolishing the locum tenens licensure for physician assistants, and maybe it's somewhere explained in the reg, but I couldn't find it if it is.

Sarah Bradley (Deputy Executive Director, Board of Medical Examiners):

We're abolishing it because we have not issued one in any time that anyone at the Board can remember. Our Executive Director has been there since 2001, so we don't believe that that is a license type that we need to have anymore. We do locum tenens for physicians, but physician assistants, we have not issued them.

Assemblywoman Dickman:

Thank you so much for that, because I just think of the shortages we have in all areas of medical personnel, but apparently we don't have a need there. Thank you so much for that explanation, and I'd be happy to make a motion if no one else has questions.

Vice Chair Harris:

Are there any additional questions? All right, Assemblywoman Dickman.

ASSEMBLYWOMAN DICKMAN MOVED TO APPROVE REGULATION R033-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Thank you, Ms. Bradley. We will now turn to R041-24 ([Agenda Item IV-D A-1](#)), which is a regulation revising provisions relating to the tax on live entertainment. I believe we have someone from the Nevada Tax Commission, looks like Ms. Nevarez-Goodson. Assemblywoman Backus, I believe you had a question on this regulation.

Assemblywoman Backus:

I did. Thank you so much, Chair. My question pertains to the change. It just was a little confusing to me that when we're looking at what needs to be maintained in records—I'm looking at section 1(3)(b)(2), which may be the only change to this regulation. It has the full amount charged for that service, and then it says without deduction for any service cost, interest, losses, tips or gratuities or any other expense. I would imagine when we're looking at amounts charged, sometimes that does not take into some of these other items, and so it was a little confusing to me that we're asking one thing to keep records of amounts charged, but then it's almost like asking to also include other items, and I just want to make sure that's not the intent with this.

Ms. Nevarez-Goodson:

Thank you, Madam Chair. I'm looking at the language. The intent of this was really just to confirm that the amount of tax that would apply to that would not account for any deductions, but I'm looking again at your question with respect to the records issue. If you could just give me one moment. Like I said, I think the intent of this regulation was really just to clarify for the persons paying the tax that they would be charged the full amount of the service without respect to any deductions, but I think I see your point that this section deals with records specifically. I suppose if I may, Madam Chair, I think the better answer here would just be that while we do require taxpayers to maintain all of the records and documentation, we could see circumstances in which a person responsible for the tax might try to apply a deduction. We would want documentation to prove what that

deduction was so that we could then assess that tax against that deduction, because they wouldn't be able to claim it. Not sure if that would help answer that question, but that is my understanding of that provision.

Assemblywoman Backus:

Thank you, Chair, for the follow up. I guess where I was struggling is when we're looking at gross revenue or net revenue, I just have never seen tips taken into consideration, and so I would imagine when we have a charge, unless—and maybe I'm just not familiar with this, live entertainment in particular, but you don't usually see tips included. Usually that seems to be an extra as compared to the amount charged, and that's what was throwing me off because I was more thinking that the tips and gratuities is not something that would be usually a deduction, and so that's kind of what threw me off with this.

Ms. Nevarez-Goodson:

Thank you, Madam Chair. If you look at this particular subsection, subsection 3 deals specifically with respect to the charge, the live entertainment tax charge for escort services, and in this particular instance it's a charge as against a service, and so when we have a service industry, we do see things like tips and gratuities, and so our intention here was to confirm that the full amount of the charge for the service would not include deductions for those types of tips or gratuities.

Vice Chair Harris:

Senator Hansen.

Senator Hansen:

Thanks, Madam Chair. Well, the good thing, we know that since prostitution is illegal in Clark County, we're not dealing with any issues like that right now, and we know that these are not cash transactions; they're all done with credit cards, I assume, so it's really easy to audit these. Is that correct? I'm sorry, the lady from Nevada Tax Commission. How do you audit this?

Ms. Nevarez-Goodson:

Thank you for the question. One thing I would point out with respect to this particular application of live entertainment tax is the definition of escort service does not include prostitution or services for sexual activities. Escort services are specifically defined not to include that, and so we don't have a charge on prostitution in the State of Nevada.

Senator Hansen:

Good, since it would be illegal. But yeah, I know, I know that none of these escort services have anything to do with prostitution. I'm convinced of that. The services that are provided

in your existing regulation, it says person or persons. Are these escort services required to keep the names of the individuals that they're providing these services for? Normally in a business transaction, like if I got audited, there'd be two sides to that: my customer who said he paid this amount and then me claiming this was my income to an auditor like yourself.

Ms. Nevarez-Goodson:

Thank you, Madam Chair. Candidly, I don't know the answer to that. What I would say though is that we do require very robust records when we are doing audits of taxpayer records, and so it could be that we could have those records, but what I would say is NRS 360.255 would require us to protect the confidentiality of any such records that we received, and that's our confidentiality provision if that's a concern that you might have.

Senator Hansen:

Okay, I do have a question for legal, Madam Chair, if I could. Right now, as a state contractor I can lose my contracting license if I don't pay child support, for example. Is there any legal way that the Department of Taxation could use their authority to go after escort services that are caught with underage escorts or any kind of sex trafficking? Or if prostitution is officially going to be—we're going to pretend that this has nothing to do with prostitution, if they are in fact caught in acts of prostitution that there's some way the Department of Taxation or some government agency could go after their licensing?

Mr. Killian:

Thank you, Madam Chair. It would certainly be within the Legislature's power to create laws that would have those kinds of consequences. I'm not familiar with whether any of those laws currently exist. I'd have to do a little bit of research and get back to you. But it would be within the Legislature's power.

Senator Hansen:

Yeah, no, because it's nothing to do with contracting, but if I as a contractor get a divorce and I don't pay my child support, I can lose my contracting license. So, I think the principle would be similar. Last thing, for legal again: right now both of the two major contenders for the President of the United States have said they're going to eliminate any taxation on tips. Would this law as passed right now, because it clearly says tips in it, would that be in conflict with potential changes in tip laws if one of those two people win?

Mr. Killian:

Thank you, Madam Chair. Federal law would only be able to control the contours of federal taxation. Federal law would not be able to prescribe for the states what the states are allowed to tax directly. In this situation, NAC, I believe it's 368A.140 provides that for escort services, if the taxable event is a live entertainment provided by an escort who is

escorting a person, the Department shall apply the tax rate to the total amount expressed in terms of money of consideration paid for the service. Under current regulation, the taxable amount is the full amount of money paid, not excluding any sort of tips or gratuities or any other amount. So, that is what the law currently is in Nevada. If there were a change in the federal tax code, that would not require Nevada to change its tax laws to comply with the federal government's decisions on the federal tax code.

Senator Hansen:

Okay, and last question. I don't think this is so much for legal, but if the services—I guess the question is, what services—if we're not talking prostitution, what services are being provided by these escort services that are completely legal? Going out to dinner? I'm just kind of wondering how we're getting up, skirting around what everybody knows is the elephant in the room, and that is these escort services are providing prostitution. I mean, that's what they do, and yeah, I know there may be some that don't, but the vast majority clearly are in that business. So, I'm kind of wondering, is there a legal definition of the services that'd be taxed? Because obviously if they're providing for cash transactions acts of prostitution, you couldn't legally tax that since it's an illegal act, correct?

Ms. Nevarez-Goodson:

If that question is for me, yes; NRS 368A.058 does define expressly the term escort service to include a person who, for a fee, commission, profit, payment or other monetary consideration, furnishes, refers or offers to furnish or refer an escort to a patron, offers to introduce a patron to an escort or who provides an escort to a patron. The term does not include a person who advertises that an escort will provide sexual conduct to a patron or who solicits offers to provide or provides acts of sexual conduct to a patron.

Senator Hansen:

So technically when these people are doing the audit that you're requiring, any money that they've received that are done through prostitution would not legally be—they wouldn't be required to provide any of that information. It'd be very interesting to see what the total amounts you guys get from these services actually is compared to their actual gross revenue, because you could certainly find, I'll bet, that the actual legitimate things that you just mentioned that they do, they provide, versus what they actually provide are substantially different, and we're talking a huge cash economy there. The number of people that are paying with a credit card I'll bet is pretty slim. Anyway, I'm sorry if I ran this one into the ground a little bit, Madam Chair, but I'm fine with taxing these. I think we should tax the heck out of them, but I also think that at some point we better quit being hypocritical and criticizing rural Nevada where prostitution is legalized, while in Clark County you have these phony escort services that are clearly doing what you guys claim you don't do. Thanks, Madam Chair.

Vice Chair Harris:

Any other questions from Commission members? All right, not seeing any, Assemblywoman Backus, would you like to make a motion?

ASSEMBLYWOMAN BACKUS MOVED TO APPROVE REGULATION R041-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

We'll now turn to R059-24 ([Agenda Item IV-D A-1](#)), which is a regulation repealing provisions relating to reporting requirements for dropouts. I believe we have Mr. Zutz with us. Hopefully I said that correctly. Assemblywoman Anderson, when you're ready, go ahead and ask your question.

Assemblywoman Anderson:

Thank you, Chair. Just to make sure that I'm understanding the reason why this is being repealed is because of the language that was from AB 400 in particular. This information is still going to be utilized, however, for the School Funding Commission, or is it utilized for other areas?

Peter Zutz (Department of Education):

Thank you for that question. I'm going to be very frank and transparent. I wasn't expecting a question on the PCFP (Pupil-Centered Funding Plan). I was expecting to be asked a question why do we want this removed. However, we'd be happy to come back and provide that information to the counsel or Committee. Thank you.

Assemblywoman Anderson:

Thank you, because I think it's pretty clear that the reason why you wanted it to be removed is because it's a repeat of what happened with AB 400, if I'm understanding the background information. But I do still want to make sure that there's some place where that information is going to be reported and how it is going to be utilized.

Mr. Zutz:

Thank you for clarifying the question for me. I apologize, I didn't understand initially. Yes, in fact the reason we're requesting this NAC be deleted is because it's duplicated in federal law. We are required annually to report the dropout rate disaggregated by race and ethnicity for all students in grades 6 through 12. That information is reported on the report card, is available to all public scrutiny, and just to say it, the NAC we're asking to remove is less stringent. NAC requires grade 8 through 12, so our federal law gathers two more grades, 6 and 7 in our annual reporting. So yes, that would be available for use within the Department or otherwise. Thank you.

Assemblywoman Anderson:

Thank you for that clarification. Chair, I don't know if there's any other questions or not.

Vice Chair Harris:

It does not appear so.

ASSEMBLYWOMAN ANDERSON MOVED TO APPROVE REGULATION R059-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Thank you, Mr. Zutz. We will now turn to R075-24 ([Agenda Item IV-D A-1](#)), which is a regulation repealing provisions relating to operating permits. Hopefully we have Mr. Tucker available for questions up in Carson City. It looks like we do. Senator Hansen, go ahead and ask your question when you're ready.

Senator Hansen:

Thanks. Real basic question: you are removing a defense for emergencies from existing state law. That seems really—in an emergency situation, sometimes things have to be done, but if one of these businesses or whatever you guys are regulating in an emergency situation violates that, that will no longer be an acceptable excuse for violating the standard?

Danilo Dragoni (Deputy Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):

I'm Deputy Administrator for the Nevada Division of Environmental Protection. Mr. Tucker is with me in case I don't know how to answer. That's correct. Thanks for the question. However, removing this affirmative defense from our regulation does not change the way the Division has always been proceeding with this kind of compliance and enforcement case. Removing the affirmative defense does not take away the ability of the Division to exercise compliance and enforcement discretion. In fact, as far as I know, no facility has never been claiming affirmative defense for the past 20 years because the approach has always been dialogue, compliance first and enforcement after. So, in situations where we would have an actual emergency, we would always exercise discretion. We will never really punish or provide penalties or enforce a facility that, for unforeseeable causes, had gone in noncompliance.

Senator Hansen:

Okay. Well that pretty much answered that. In 20 years you haven't had a single one of these cases anyway, and if, in fact, something like that did happen, you have I guess you could call it prosecutorial discretion. Okay, all right. That's my whole question, Madam Chair. Thank you.

Vice Chair Harris:

Are there any additional questions? Okay, seeing none, Senator Hansen, if you'd like to make a motion, we'll take it at this time.

SENATOR HANSEN MOVED TO APPROVE REGULATION R075-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Thank you. Next up, R078-24 ([Agenda Item IV-D A-2](#)), which is a regulation establishing provisions relating to grants. I believe we have Ms. Colleen Platt available to answer questions here. Senator Daly, whenever you're ready.

Senator Daly:

Thank you, Madam Chair. First of all, I'm for the grant process and the Housing Division and all this stuff doing this. Just a comment more than anything, a real question and maybe you can take it back to your people and they can keep it in the back of their mind when they're doing this. So, in section 1, subsection 5, it says in determining whether to approve or reject an application for a grant from the supportive housing grant program, the Division will consider the following criteria. So, I have two comments there. The first one says the experience of the applicant in developing supporting housing and affordable housing and providing supporting services. My experience with that being the first criteria is it tends to favor—since we're a smaller state, not as many resources, it tends to favor someone from another state, someone who has much more experience. You may have a local guy capable of doing it, but the criteria comes down to, oh, well they don't have experience or as much experience. I see the same thing, and this is the tendency that I've seen on the construction side under construction manager at risk. One of the considerations is, how much experience do they have at construction manager risk? They may have built everything under the sun, design build, hard bids, but they didn't do it under construction manager risk so they're just not qualified. I remember, and some people may remember, Helms Construction. They're out of business now, but they were one of the largest construction, dirt-moving, engineering companies in Northern Nevada and they were not allowed to do golf course work because they didn't have enough experience, and they said, well, how do I get experience building golf courses? Well, you've got to build some golf courses to get that experience, right? So, I just think that it's well-meaning, misguided, doesn't really get you the outcome you want, especially if you're looking for a local provider who may be perfectly capable but just doesn't have the experience, and then they're precluded from getting the experience so they can put it on their resume in the future.

Second comment, and maybe it's a question. Number (i) under the same category as the criteria, any other criteria the Division determines to be applicable. When are you going to disclose? Is there going to be some RFP (request for proposal) or something that says, hey, these are the other things that aren't listed there that we're adding in is it—I just don't want it to be someone's discretion, and I get to pick my cousin's brother or something because I added in this other criteria that says the cousin's brother is preferred. So how do you disclose that?

Christine Hess (Chief Financial Officer, Housing Division, Department of Business and Industry):

Good afternoon, Madam Chair and members of the Committee. Christine Hess, CFO (Chief Financial Officer) with the Housing Division here. Thank you, Senator Daly. I always love your questions, and you really ask some great ones, and I know it's pushing in the afternoon so I don't want to take the Committee's time, but you do reach a passion of mine here at the Division and of ours here at the Division, and I love the way that the team reviews these. So, first of all, regarding your comment and the experience component of determining eligibility, one of the things at the Housing Division that we

encourage is partnering with more experienced developers. That in and of itself would be qualifying, and in the case of affordable housing—so I'm going to talk subsidized housing. When you have tax credits and things like that or other federal funding sources, it really is a risk from a compliance perspective to the state, whether it's compliance regarding federal funds or state funds, when there's no experience, right? That experience can look a lot of different ways. You can again partner, whether it's with a finance consultant or with a partner developer, maybe for your first one, and we do see that happening. In this particular case, it's even more important. Supportive housing, we don't have a lot of it here in Nevada, but we do need a lot of it and it's even more specialized. So, regarding this first criteria, I will tell you, right now we do have some supportive housing development that's being funded by the Home Means Nevada Initiative, and the great news is they're being funded by HOME-ARP (HOME American Rescue Plan) and the Community Housing Fund. I met with two projects just this week and they are being done by local developers, local nonprofits and nonprofit service providers. So, while we're not deep right in our bench, we certainly have some leaders in the state.

Additionally, when it comes to the tax credit program, we do give a couple extra points for in-state developers. That does not mean however that we aren't seeing a lot of out-of-state developers come, but at the Housing Division, we also are excited to see the competition and also see our in-state members really rise to the occasion with the designs they're putting forward, the costs they're reviewing, the structures that they're looking at. I do appreciate that comment. Certainly we definitely want to encourage emerging developers but also still lift up the industry and provide quality housing. So, what I think you'll see from the Housing Division, which would be consistent across our programs, is not an X-no on an application, but more a conversation to encourage the partnership with more experienced developers. That would be one remark to your first question, but certainly I'm going to bring that back to the team, so thank you.

Regarding any other criteria the Division determines to be applicable, we're so excited to launch this program. The program guidance has also already undergone a public workshop. A couple of the criteria, for example, that we listed in our original program guidance that was a draft, a working draft in May, that we are finalizing now as we prepare to hopefully, with the approval of these regs, open a pre-application and then application period, would be, for example, the Housing Division will evaluate each application for a grant in accordance with the overall program criteria and including—so we list two additional—the number of supportive housing units supported, the number of individuals supported. So, certainly nothing shocking to the group, but things that have been seen in advance.

Senator Daly:

And thank you for that. On the first part, very thoughtful answer. I understand there's a lot of criterias and various things. With your response, the notes I wrote down is, experience of the candidate is stupid, so maybe that was a little harsh. I'm kidding you, just so you have it in your mind and when you're thinking about it and the partnering, because there are risks on the other side. I understand, and it's one criteria. However, it's right at the

top, right? And then, also understand that things change. I just wanted to make sure that any additional criteria are going to be disclosed at the beginning of the application process so that everyone's on the same scorecard and being evaluated under the same known criteria, and I think you answered both of those. I just always worry about that. Well, you have to have experience in order to do this, and the only way to get experience is to do this, and it becomes a Catch-22.

Ms. Hess:

Madam Chair, Senator Daly, if I may just follow up, and apologies I didn't also address this initially. One of the amazing parts of Assembly Bill 310 that established this fund is it did set aside \$2.2 million of the \$32.2 million appropriated for capacity building, training and evaluation. So, Senator Daly, to your point, I think the Legislature and Assemblywoman Monroe-Moreno in her leadership in bringing this forward does recognize the significance of building capacity of our future leaders and future developers. That will also be launching this fall, and so we'll be looking forward to building that capacity formally through this program.

Senator Daly:

Those were all my questions, Madam Chair. When you're ready to come back, I'll make a motion.

Vice Chair Harris:

Any additional questions from Commission members? All right, Senator Daly, back to you.

SENATOR DALY MOVED TO APPROVE REGULATION R078-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Thank you, Ms. Hess. We will now turn to R082-24 ([Agenda Item IV-D A-1](#)), which is a regulation revising various provisions relating to information services, and hopefully we have someone from the Office of the Chief Information Officer within the Office of the Governor. Looks like we do. Senator Daly, I'll turn it to you for your question.

Senator Daly:

Thank you, Madam Chair, and I just again want to get some reassurances, if you will. I know in like the very first section, section 1 underlined and bolded and all that, it says that people have to comply with the provisions of the State Information Security Policies, Standards and Procedures. If I read this correctly and got all the way through it, that's a national-type group that sets and recommends policies to the state and then you guys review it, and if there's provisions in there that aren't suitable for the state—so it's an adoption by reference. Obviously I haven't read that, but then with the deletion of several sections down below always causes me some concern. Where are the guardrails or some of those processes that are in the deleted sections, of which there's what like 15 of them? Are some of those things covered there? I couldn't see it clearly. I wanted to make sure that they are, that there are some guardrails on what we're doing. I know this is an old office with a new name and some new authority from 431 last session, and I know there was a lot of concern and various things over the guardrails on that. I just want to make sure that they're in place, and I was on the Audit Subcommittee just the other day and there were some concerns over some of the things that were happening, maybe not under your watch, but concerns over some of the things that had happened there. I just want to make sure we have the guardrails and accountability and those types of things in place.

Timothy Galluzi (Chief Information Officer, State of Nevada):

Good afternoon, everyone. I have the honor of serving as the Chief Information Officer for the State of Nevada. To answer your question about the State Information Security Policies, Standards and Procedures, that is not a federal guideline. That manual is actually curated, built, maintained and created by the State Information Security Committee, which has representatives of information security officers from across the executive branch. This is done so we bring all of the experts that have a vested interest in the security of their executive branch agencies to the table to hear what not only their needs are from their agencies, but to hear from that expertise. That committee is guided by CIS controls, so the Center for Internet Security, and that was—actually I believe that was passed in the 2011 Session that forced, or not forced, but dictated that our state information security policies and standards would be aligned to a national standard, and the CIS controls were that national standard that we aligned all of our security standards to. So, in a way, yes, we are aligned to those federal standards.

To give a bit of historical context on this regulation change, this regulation NAC 242 has not been updated since 2012, and that was when there was the last significant change in this organization was when it was the Department of IT (Information Technology), and the only changes that were done at the time was some minor name changes and who led the organization, and so there was some clarifying changes within the reg at the time. So, there was no substantive changes with the organizational structure and whatnot to align the regulation to the new operations. To really surmise, there is still controls in place and we do have robust information security governance that's in place. We also in the past year have stood up a statewide IT governance that goes beyond just the cyber security and information security policies and standards that we're actually going to be looking at

IT policies, IT standards that are outside of the purview of cyber security and information security, and so we'll probably be back here to kind of codify that governance structure in a future regulation change.

Senator Daly:

Thank you for some of that clarification. I just wanted to maybe put it in my mind, if I heard what you said correctly. So, we have a state commission, the board of the experts of the executive branch agencies, or at least some of the major ones, are represented; they've developed a policy that's in alignment with federal, national or accepted standards that go across all of the states. May not be exactly, but so that if there's a change in those other standards, then you would look at if it's suitable for Nevada updating our manual to stay in alignment, and that's where, when you're deleting what a project is and those types of things, I just wanted to make sure that it's still going to operate similar to where you're at, and that obviously everybody has something at stake in making sure that the computer systems that we all rely on are updated and secure. So, I just wanted to clarify some of that so I understood it better. It's kind of like we have Nevada OSHA (Occupational Safety and Health Administration). We still have to follow and comport with the federal rules. We have our own book. We can have higher standards than what that book says, but we can't have lower standards, so it's similar to that relationship.

Mr. Galluzi:

To answer your question, yes, we are still in alignment with those CIS controls. A lot of the deletion, it was duplicative language from language that exists in NRS that really wasn't appropriate to exist in NAC as well, so a lot of this was also cleanup.

Senator Daly:

Very good. Thank you. That was all I had, Madam Chair.

Vice Chair Harris:

Okay, I don't see any questions. Senator Daly, if you're comfortable, we'll accept a motion at this time.

SENATOR DALY MOVED TO APPROVE REGULATION R082-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Next up is R086-24 ([Agenda Item IV-D A-1](#)), which is a regulation revising provisions relating to payrolling. I believe hopefully we have Ms. Nelson with us to answer questions. Senator Daly, I will turn it over to you.

Senator Daly:

Thank you, Madam Chair, and you guys were probably hoping for a lower number. We take them in order and you had to wait all the way to the end. Quick question, and I read this thing like three times and I was trying to understand the payrolling. Not sure I still got it, but in section 1, subsection 2(a), so when the employee unit pays a standard contribution rate or is assigned the contribution rate in classes 10 to 18 inclusive, blah blah blah, so who's the assigning party and can it be lower than class 10 to 18 or could it be just the standard contribution? I don't know what that is. So, how are you determining what that is when you then can potentially assign a rate, and who assigns and what criteria do they use? Can it be less than the 10?

Troy Jordan (Deputy Director, Department of Employment, Training and Rehabilitation):

Troy Jordan, Deputy Director of DETR (Department of Employment, Training and Rehabilitation). Those rates are actually what we call rate buckets, and they're assigned through the statutory process by Chief Economist David Schmidt. The reason we started with 10 for this regulation is that we're loosening this up a bit, but the rate number 10 is the new business rate, meaning that they would pay the same as a new business if they created a company to do their payrolling. That's why 10 was chosen. These businesses are assigned based on their history to each individual bucket. For example, there are very few in 18, there are very few in 1, but the average tax rate currently is 1.65 percent, and that would be in bucket 10—or excuse me, that is not bucket 10, that is the average tax rate. Bucket 10 is the new tax rate of 2.95.

Senator Daly:

So if I've got this right on the payrolling, it's like using Manpower or somebody like that for whatever it is, and if they send somebody out to be in a secretary pool or whatever, they're going to have a different experience rating based on the company they're sending it to. If they send it to a company that has a horrible experience rating, maybe paying more, and I know there's other language in this regulation that says they can't pay less than what that other company that was actually provided the service. I know you have some of that where people try to use a different classification, call the person a secretary pool when they're out doing construction, which is going to have a completely different experience rating, and that's where I was trying to get to. So, who's going to make that assignment? Is it going to be based on you guys have to go then and follow up? Who was the services actually provided to and what is their rating, at least can't be less than that? But when I see the unit pays the standard contribution rate, I don't know what that is, or

a rate assigned to them, and you said starting at 10 to 18. So, it's never going to be less than 10, or is it going to be the standard contribution rate?

Mr. Jordan:

As I understand it, to take advantage of this provision in this regulation to allow this, they can't have a rating less than 10.

Senator Daly:

Okay, trying to get to it and the nuances of these things, and I know people have gamed this system for a long time and I know you guys are out there trying to make sure people are doing it properly and correctly. I just wanted to make sure there wasn't a loophole here for them, someone to take advantage, and then the follow up that they have to pay, at least the rate of the company they're providing the service to, is a secondary follow up on your end. Those were my questions, Madam Chair. I think I got satisfactory answers. I'm glad it won't be less than 10 at the very least.

Vice Chair Harris:

All right, Senator Daly. I don't see any questions, so we'll accept a motion at this time.

SENATOR DALY MOVED TO APPROVE REGULATION R086-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Okay, onto the last regulation that was pulled for the day. That is R093-24 ([Agenda Item IV-D A-1](#)), a regulation revising provisions regarding scholarship organization reporting dates. I will turn it over to you, Assemblywoman Anderson.

Assemblywoman Anderson:

Thank you, Chair. My question has to do with the decision to extend the calendar, because this is the date almost to 6 months after the timeframe of when those events would be taking place. So, just wondering if that is consistent with other reports that are necessary for education areas, whether it is for the charter school or for other traditional

school districts. Since this is asking actually to extend the timeframe of a report from 3 months after the new year to 6 months, so just wondering if that is in fact consistent?

Barbara Bidell (Education Programs Professional, Office of Student and School Supports, Department of Education):

I am the Education Programs Professional in the Nevada Department of Education's Office of Student and School Supports, supporting private schools. Unfortunately, Assemblywoman, I don't know the answer to that question. I will let you know that the reason why we have asked for the extension would be to include the assessment reports in that. We get a lot of questions regarding the assessments, and the assessments are not due until June 15. Also, it is mandated by NRS 388D.280 that it is a calendar year report, but we also include the fiscal year or school year report because we get a lot of requests for that data as well. So, we'd like to include that in this report. That's the reasoning behind it, not so much for the calendar year report. You are correct in that the mandate is for the calendar year report, but we get a lot of requests for this other data. Also, the calendar year report does not jive with the demographics report and things like that, because those are also school year reports.

Assemblywoman Anderson:

Okay. Thank you for that clarification. So then, my follow-up question then is, is this information ever utilized by the Interim Finance Committee in their August reports or their August meetings? Because if so, not having that information until after July 31 would take away the date that is usually these reports are required by us for use during that August meeting. I don't know if that made sense or not. I'm hoping it did.

Ms. Bidell:

We have never had such a request.

Assemblywoman Anderson:

Thank you very much then for that clarification. So, none of this information, whether it has been for the test scores or for how much these scholarships have been utilized, have ever been asked by the Interim Finance Committee? It's other organizations that are asking for this? That's where my confusion is coming from.

Ms. Bidell:

That is correct. We do get data requests from outside organizations, from other agencies, things like that, but we have not had anything from—

Assemblywoman Anderson:

Thank you. That's the end of my questions, and it's satisfactory. I'm not a big fan of it, however I will accept those answers. So, Chair, when you are ready, more than happy to make a motion as needed.

Vice Chair Harris:

Yes, please.

ASSEMBLYWOMAN ANDERSON MOVED TO APPROVE REGULATION R093-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

That completes our consideration of administrative regulations today. Thank you, Commission members, and thank you to the representatives of the agencies who were with us to provide information. The next item is item V, which is appointment of members to committees and similar entities. Commission members, the documentation for this item is on the dais in front of you ([Agenda Item V](#)). We have again Mr. Asher Killian to assist us with the appointment of members to various committees and similar entities. Mr. Killian, please proceed.

Mr. Killian:

Thank you, Madam Chair, and in the interest of time as we approach the evening of Friday the 13th, I will be as brief as possible. There is one change to the list in front of you. On item A, the recommendation is that only the first bullet point be considered and not the second and third bullet point, so only the reappointment of Johnathan Gedde.

There are five bodies for the Legislative Commission to consider appointments to. These are the Advisory Council on Mortgage Investments and Mortgage Lending, the Commission on Nuclear Projects, the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and Marlette Lake Water System, the National Conference of Commissioners on Uniform State Laws and the Nevada Silver Haired Legislative Forum. The recommended members for appointment are listed on the sheet

in front of you, and I'm happy to answer any questions you may have about any of those bodies or any of those suggested members.

Vice Chair Harris:

Thank you, Mr. Killian. Do any members of the Commission have any questions or is there any discussion on this item? Okay, not seeing any, we will accept a motion.

ASSEMBLYMAN YEAGER MOVED TO APPROVE THE APPOINTMENT OF MEMBERS TO COMMITTEES AS STATED.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Next on the agenda is item VI, which is the approval of early session hires for the 2025 Legislative Session ([Agenda Item VI](#)). This is a pretty standard item for us at this time in the interim, but I believe our Legislative Counsel, Mr. Killian, will be able to answer any questions that you may have about this request from our staff. Are there any questions or discussion on this particular item? Is there a motion for approval?

ASSEMBLYMAN YEAGER MOVED TO APPROVE THE EARLY SESSION HIRES FOR THE 2025 LEGISLATIVE SESSION.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

The next item on the agenda is consideration of the Legislative Commission resolution celebrating the establishment of Taiwan and recognizing the anniversary of the sister-state relationship between the State of Nevada and Taiwan ([Agenda Item VII](#)). Our Legislative Counsel, Mr. Killian, will present this item.

Mr. Killian:

Thank you, Madam Chair. The text of this resolution is in your packet and available on the public website. This is a resolution that this body traditionally approves each year to be presented, this time in celebration of the 113th National Day and the 39th anniversary of our sister-state relationship with Taiwan. I'm happy to answer any questions that the Commission may have.

Vice Chair Harris:

Commission members, any questions on this item? Assemblyman O'Neill, please.

Assemblyman P.K. O'Neill (Assembly District No. 40):

Hopefully just a quick question. How will we deliver the resolution? I'm in favor of it. I'm just curious how or what medium will we use to deliver it. Chair, you may have heard that comment by my fellow Assemblyperson. The reason why I am asking that is I have recently received an invitation to attend a dinner event at the Taiwanese Consulate in San Francisco.

Vice Chair Harris:

Assemblyman O'Neill, I believe the resolution could probably hitch a ride with you. That's traditionally how we deliver it. That's my understanding from our staff. We would have it arrive at the Consulate in San Francisco.

Assemblyman O'Neill:

That's why I was curious. Do we have somebody else, the Speaker or—I don't know the formality; I apologize.

Vice Chair Harris:

Assemblyman O'Neill, I'm not aware of whether there's anyone who traditionally delivers the resolution, but I'm sure we can arrange with staff after the meeting for you to do so, if you'd like.

Assemblyman O'Neill:

I think I'd like, actually. I would be interested in doing it. I've developed a relationship with some of the Taiwanese government recently, so it would be interesting to me, and I'd appreciate it, if that's acceptable to the body as a whole.

Vice Chair Harris:

Assemblyman, would you like to make a motion?

Assemblyman O'Neill:

If you could help me phrase that one? I would make a recommendation that we pass and receive the resolution for our celebration with our sister state and that—I don't know if it would be appropriate that I'd volunteer to deliver it.

ASSEMBLYMAN O'NEILL MOVED TO APPROVE THE RESOLUTION RECOGNIZING THE 113TH ANNIVERSARY OF THE ESTABLISHMENT OF TAIWAN AND RECOGNIZING THE 39TH ANNIVERSARY OF THE SISTER-STATE RELATIONSHIP BETWEEN THE STATE OF NEVADA AND TAIWAN.

SENATOR STONE SECONDED THE MOTION.

Vice Chair Harris:

Okay, we have a motion to approve the resolution and designate Assemblyman O'Neill as the courier. Any discussion on the motion? Speaker Yeager.

Assemblyman Yeager:

Thank you, Madam Chair, Vice Chair. Assemblyman O'Neill, just want to say thank you for volunteering to do that. I think traditionally if we had members who were going to that celebration that you've been invited to, they would deliver it. My request would just be that you take some photos and send it back to us so we can confirm that you have successfully delivered the proclamation and celebrated Taiwan.

Assemblyman O'Neill:

And Chair, if I may say to our illustrious Speaker, I would love to do that. Unfortunately, since it would just be me, it's difficult to take photographs of myself. Maybe possibly Assemblywoman Anderson would like to attend also, but I will make sure there are pictures taken.

Vice Chair Harris:

Thank you, Assemblyman O'Neill.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Harris:

Next up, our General Counsel, Kevin Powers, will provide us with a report regarding litigation. This is item VIII. I believe Mr. Powers is presenting remotely. Mr. Powers, go ahead and begin when you're ready.

Kevin Powers (General Counsel, Legal Division, Legislative Counsel Bureau):

Thank you, Madam Chair. I have three cases to report on today, and we'll move quickly given the lateness of the hour. The first case is *National Taxpayers Union v. Lombardo*. That's in the First Judicial District Court in Carson City. On January 2, 2024, the plaintiffs filed a complaint that raised several constitutional claims challenging specific provisions of Senate Bill 420 of the 2021 Regular Session. Those provisions of the bill relate to the health benefit plan known as the Public Option codified in NRS Chapter 695K. Even though the Public Option provisions were enacted during the 2021 Regular Session, those provisions do not become effective and operative until January 1, 2026. In the District Court proceedings, LCB Legal filed a motion to dismiss on behalf of the Legislature, and the AG's (Attorney General) Office filed a motion to dismiss on behalf of the state executive defendants. In the motions to dismiss, the defendants argue that the complaint should be dismissed for lack of subject matter jurisdiction because the plaintiffs did not comply with the requirements of NRS Chapter 41 to bring a lawsuit against the state government. The defendants also argue that the plaintiffs did not have standing to bring their constitutional claims and that their claims were not ripe for adjudication.

On July 30, 2024, the District Court entered an order granting the motions dismissed for lack of subject matter jurisdiction. The District Court agreed with the defendants' arguments, both on failing to bring the lawsuit under the requirements of NRS Chapter 41 and also based on standing and ripeness. Because the District Court dismissed for lack of subject matter jurisdiction, the District Court did not rule on the merits of the constitutional claims. The plaintiffs did not file a notice of appeal within the period prescribed by the Nevada Rules of Appellate Procedure, therefore this case is closed.

The next case to report on is *Strong Public Schools Nevada v. State of Nevada*. On February 5, 2024, the plaintiffs filed a complaint that raised several state constitutional claims challenging certain provisions of Senate Bill 1 of the 35th Special Session, 2023. This bill is the Southern Nevada Tourism Innovation Act, and it relates to the financing of a Major League Baseball stadium project in Clark County, Nevada. In the District Court proceedings, LCB Legal filed a motion to dismiss on behalf of the Legislature and the AG's Office filed a motion to dismiss on behalf of the state executive defendants. In the motions to dismiss, the defendants argued that the complaint should be dismissed for lack of subject matter jurisdiction, because the plaintiffs did not have standing to bring their state constitutional claims and also because the claims were not ripe for adjudication.

On September 6, 2024, the District Court entered an order granting the motions to dismiss for lack of subject matter jurisdiction. The District Court agreed that there was no standing

and the claims were not ripe for adjudication. Because the District Court dismissed for lack of subject matter jurisdiction, the District Court did not reach the merits of the state constitutional claims. If the plaintiffs want to appeal from the District Court's decision, they must file a notice of appeal by October 10, 2024.

The last case to report on is a case that I have not reported on before. It is *Elko County v. State of Nevada*. On February 26, 2024, the plaintiffs filed a complaint for declaratory relief that raises several state constitutional claims challenging certain provisions of Assembly Bill 519 of the 2023 Regular Session. That bill provides for the financing of certain capital improvement projects by county school districts. Because this lawsuit challenges only certain provisions of AB 519, I believe it will be helpful to provide an overview of which specific provisions are being challenged. Elko County is challenging only sections 2 and 8 of AB 519. Under section 2, the board of county commissioners of a county whose population is 52,500 or more and less than 57,500 is required to levy local property taxes in an amount not less than 1 cent and not more than 25 cents on each \$100 of assessed valuation within the county for the purpose of financing capital projects of county school districts, including capital projects for schools located on tribal lands. Under the challenged provisions of section 8, if such a board of county commissioners fails to adopt such an ordinance by June 30, 2024, the local property taxes would be levied by operational law at the maximum rate of 25 cents per \$100 of assessed valuation, and then those local property taxes would be collected and administered in the same manner as other taxes. Now, with regard to section 2 and section 8, Elko County is arguing that those sections are unconstitutional because they are special and local laws that violate Article 4, Sections 20, 21 and 25 of the Nevada Constitution. We must emphasize that Elko County is not challenging the constitutionality of any other provisions of the bill. For example, the bill has an appropriation of \$64.5 million for the Elko County School District for the construction of a school on the Duck Valley Indian Reservation, which would replace the Owyhee Combined School. In the lawsuit, Elko County is not challenging the constitutionality of this appropriation. Again, the limitation of the challenge is to sections 2 and 8 of AB 519.

In the District Court proceedings, LCB Legal filed a motion to dismiss on behalf of the Legislature and the AG's office filed a motion to dismiss on behalf of the state executive defendants. In response, Elko County filed a counter motion for summary judgment. The parties have completed briefing on their respective motions and the District Court will determine whether it will hear oral arguments on the motions or whether it will decide the motions on the briefs without oral arguments.

Thank you, Madam Chair. That is the overview of the three cases. I am certainly open for any questions.

Vice Chair Harris:

Thank you, Mr. Powers. I think we have one from Speaker Yeager.

Assemblyman Yeager:

Thank you, Mr. Powers. Always appreciate your update. On the last case that you talked about, the Elko County case, do you know how that lawsuit was instituted, meaning do you know was it a vote by the Elko County Commission? Who authorized that suit? Are you aware of that?

Mr. Powers:

Thank you, Mr. Speaker. Specifically, I'm not aware of whether or not Elko County, their Board of County Commissioners, voted to approve filing the lawsuit. That is the general procedure that needs to be made in a county if you're going to authorize filing a lawsuit, then generally the board of county commissioners, by their majority vote, has to approve the filing of that lawsuit. That has to be done in a public open meeting, so there would be a record of when and where the Board of County Commissioners approved such a lawsuit. If they did not, that would be problematic. Thank you, Mr. Speaker.

Assemblyman Yeager:

Thank you, Mr. Powers, and then one other question. I know we never know what a court is going to do, but if in this particular case Elko prevailed in the lawsuit, what would the impact be of that decision in terms of that assembly bill that was passed in reference to building the school out there? Are you able to make any conclusions about what would happen?

Mr. Powers:

Thank you, Mr. Speaker. Yes, as I mentioned, Elko County is only challenging the provisions in sections 2 and 8 that deal with levying the tax for ongoing capital improvement projects. Elko County is not challenging the appropriation for the Owyhee replacement school, so that appropriation of \$64.5 million would still be in place. We have argued in the litigation that any provisions of the legislation, should they be struck down, should be severed from the other provisions of the bill. Generally there's a rule in favor of severability, and the courts usually follow that rule of severability. So, even if sections 2 and 8 are stricken, then the other sections of the bill should go forward. That would mean the appropriation for the Owyhee school replacement would still go forward.

In addition, section 3 of the bill allows certain counties of a certain population, which would include Elko County, to impose taxes for school improvement projects. So, even if section 2 was struck down, Elko County could potentially proceed under section 3 to provide any additional funding that would be necessary for the replacement of the Owyhee school. Right now, there's the \$64.5 million appropriation. If more money was necessary, then Elko County could finance it through section 3, or they can use any other money in their capital improvement projects. I hope that answers the Speaker's question. Thank you.

Assemblyman Yeager:

It does. Thank you so much, Mr. Powers.

Vice Chair Harris:

Senator Dondero Loop.

Senator Dondero Loop:

Thank you, Madam Chair. Mr. Powers, is it possible for us to have an update at some point? I just am concerned about if the challenge goes one way or the other and what will happen with the school, and so if we could have an update as this goes on, let us know, because I recognize that they're not challenging the \$65 million, but if the other piece happens, there could be not enough money for the school. Am I right?

Mr. Powers:

Thank you, Madam Chair. Because that's a fiscal question, I couldn't answer it, and I think only Elko County or the State Department of Education would know the consequence of losing that second revenue stream under sections 2 and 8 of the bill. Again, if the costs of the replacement school exceed the appropriation from the Legislature, Elko County School District still has other funds in their capital improvement project fund right now. Elko County does have those funds, so the Elko County School District could tap into those funds to provide additional money if there's any cost overruns beyond the \$64.5 million. Again, there's another provision of the bill that could allow for Elko County to impose other bond levies to finance any additional cost overruns. I anticipate that if there are cost overruns and we're in the Legislative Session that Elko County would be coming to the Legislature as well. But obviously, as your legal counsel, we'll be keeping you up to date on the progress of this, the litigation and any decision by the District Court that would strike any part of the bill. Thank you, Madam Chair.

Senator Dondero Loop:

Thank you.

Vice Chair Harris:

All right. Any additional questions for Mr. Powers?

Senator Hansen:

I have one, Madam Chair.

Vice Chair Harris:

Senator Hansen.

Senator Hansen:

Thank you. Of course, this bill is near and dear to my heart for a variety of reasons, and the whole tax thing was frankly a problem in the bill, but we worked our way around it and convinced them to go forward with it. The question I have for Kevin is, is there anything in law that would have prevented, once the bill was passed and signed by the Governor, the Elko County Commission simply revoking the tax that they had passed?

Mr. Powers:

Thank you, Madam Chair. If there's a legal duty in a statute for a board of county commissioners to impose a tax and they fail to do so, or if they enact the tax and they later repeal the tax, under either of those scenarios the recourse would be for someone with a standing and interest to bring a lawsuit against the board of county commissioners, and it would be a lawsuit for either injunctive relief or writ relief asking the court to order the board of county commissioners to perform their duty under the law. Under those circumstances, if the statute was clear and there were no defenses that Elko County could raise, the court would enter an injunction or writ of mandamus directing the Board to perform their statutory duty. If the Board failed to perform its statutory duty, all those Board members would be subject to whatever remedy is authorized by the law. Those remedies could be contempt findings, violations and even being jailed for failure to perform their statutory duties. Thank you, Madam Chair.

Senator Hansen:

Okay. Well, let me follow up on that. Then is that tax now permanent? The County Commission can never go back and modify it or eliminate it? There must be a time—10 years down the road, they're still going to have this tax on the books and they can't do anything about it?

Mr. Powers:

Thank you, Madam Chair. The way section 2 reads is that the board of county commissioners has to impose the tax and has between 1 cent and 25 cents on \$100 of assessed valuation. At the moment, Elko County has chosen to impose the tax at the 25-cent maximum amount. The Board of County Commissioners of Elko County is required to continue to impose that tax until the legislation is changed. However, they do have the discretion under the law to lower the tax down to anywhere to 1 cent on \$100 of assessed valuation. So, even though the tax has to remain in place until the legislation has changed, the Board of County Commissioners has the discretionary authority to assess the amount of the tax between that 1-cent and 25-cent level. Thank you, Madam Chair.

Senator Hansen:

Okay, well, that raises a bunch of other interesting questions, especially since it's limited to a county between 52 and 57 or whatever it was, which is pretty specific. But anyway, thank you, Madam Chair. I don't want to go too far in the weeds on this one, but yeah, I actually hope LCB is successful in this, although I have to admit, when that provision in the bill was there, we were very worried that was going to be a death sentence, but Governor Lombardo, to his credit, went ahead and signed the bill because recognizing that the greater good for the children of Owyhee, the Duck Valley Indian Reservation took precedent over what ended up being a tiny tax that they already had the revenue for. That's the interesting part about it too. Elko County did not raise the tax, they simply reallocated an existing tax that was already in place. Anyway, thanks, Madam Chair.

Vice Chair Harris:

All right. Any additional questions for Mr. Powers? Okay, this is not an action item, and so we will thank Mr. Powers and move on to item IX, which is our second period of public comment. We'll be accepting public comment at this time from persons present here in the Nevada Legislature Office Building in Las Vegas, then from those attending the meeting at the Legislative Building in Carson City and then from persons wishing to provide public comment by phone. Please remember that comments will be limited to not more than two minutes per person. If there are any people in our audience here in Las Vegas who wish to provide public comment at this time, please come forward to the table in front of the dais. Not seeing anyone, we'll go ahead and go up to Carson City. All right, you can go ahead and begin when you're ready. Just remember to identify yourself and ensure that you sign in on the clipboard.

Ms. Pierczynski:

Thank you, Madam Chair and members of the Committee. We'd like to thank you, Madam Chair and members of the Committee, for sending R099-23 back for more work. Many of you made some very pertinent comments, and Senator Dondero Loop alluded to something that's very important, and that is when kids start high school and they're set on a certain graduation path and they know what they have to do to get that diploma, that should not be changed, and we will go back and work on this regulation again and try to get that straightened out. We appreciate it. We've been working on this since April. Thanks.

Vice Chair Harris:

All right. Anyone else in Carson City for public comment? Not seeing anyone, we can move to public comment by phone. If you've called in and would like to speak during this part of the meeting, you'll be notified by our Broadcast and Production Services staff when you've been connected and it's your turn to speak. Please remember that comments will be limited to not more than two minutes per person, and you're welcome to submit any additional comments in writing and they will be added to the record for this meeting. I'm

going to turn it over now to our staff of the Broadcast and Production Services to queue up anyone calling in to speak. BPS, is there anyone on the line?

Broadcast and Production Services Staff:

Thank you, Chair. The public line is open and working, however there are no callers at this time.

Vice Chair Harris:

Aw shucks. Okay, seeing no further business to come before the Legislative Commission, this meeting is adjourned. Thank you, everybody.

RESPECTFULLY SUBMITTED:

Jordan Haas, Secretary

APPROVED BY:

Senator Dallas Harris, Vice Chair

Date: _____

Agenda Item	Witness/Agency	Description
<u>Agenda Item III</u>	Jordan Haas, Commission Secretary	Draft Minutes of the Meeting Held on July 18, 2024
<u>Agenda Item IV-A</u>	Asher Killian, Legislative Counsel	Early Review of R076-23
<u>Agenda Item IV-B</u>	Asher Killian, Legislative Counsel	Request for Continuance of R029-22
<u>Agenda Item IV-C</u>	Asher Killian, Legislative Counsel	Request for Continuance of R100-22
<u>Agenda Item IV-D A-1</u>	Asher Killian, Legislative Counsel	Administrative Regulations for Review
<u>Agenda Item IV-D A-2</u>	Asher Killian, Legislative Counsel	R078-24 for Review
<u>Agenda Item V</u>	Asher Killian, Legislative Counsel	Appointment of Members to Committees and Similar Entities
<u>Agenda Item VI</u>	Asher Killian, Legislative Counsel	Approval of Early Session Hires
<u>Agenda Item VII</u>	Asher Killian, Legislative Counsel	Resolution Celebrating the Establishment of Taiwan and Recognizing the Anniversary of the Sister-State Relationship Between the State of Nevada and Taiwan

Additional Public Comment	
Exhibit 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: https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2023/Meeting/34545