



NEVADA LEGISLATURE LEGISLATIVE COMMISSION

(Nevada Revised Statutes [NRS] 218E.150)

MINUTES

November 15, 2024

The fifth meeting of the Legislative Commission for the 2023–2024 Interim was held on Friday, November 15, 2024, at 9 a.m. in Room 165, Nevada Legislature Office Building, 7230 Amigo Street, Las Vegas, Nevada. The meeting was videoconferenced to Room 4100, Legislative Building, 401 South Carson Street, Carson City, Nevada.

The agenda, minutes, meeting materials, and audio or video recording of the meeting are available on the Commission's meeting page. The audio or video recording may also be found at <https://www.leg.state.nv.us/Video/>. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (LCB) (publications@lcb.state.nv.us or 775-684-6835).

COMMISSION MEMBERS PRESENT IN LAS VEGAS:

Senator Nicole J. Cannizzaro, Chair
Senator Marilyn Dondero Loop (Alternate for Senator Melanie Scheible)
Senator Jeff Stone
Assemblymember Venicia Considine (Alternate for Assemblymember Shea M. Backus)
Assemblymember Sandra Jauregui
Assemblymember Howard Watts
Assemblymember Steve Yeager

COMMISSION MEMBERS PRESENT IN CARSON CITY:

Senator Skip Daly
Senator Ira Hansen
Assemblymember Richard DeLong

COMMISSION MEMBERS ATTENDING REMOTELY:

Senator Lisa Krasner
Assemblymember Jill Dickman (Alternate for Assemblymember Alexis Hansen)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Diane C. Thornton, Acting Director
Melisa Aguon, Deputy Director, Administrative Division
Roger Wilkerson, Deputy Director, Administrative Division
Daniel E. Rushin, Chief Financial Officer
Asher A. Killian, Legislative Counsel, Legal Division
Jennifer R. Ruedy, Research Director, Research Division
Wayne Thorley, Senate Fiscal Analyst, Fiscal Analysis Division
Sarah Coffman, Assembly Fiscal Analyst, Fiscal Analysis Division
Daniel L. Crossman, Legislative Auditor, Audit 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

LEGISLATIVE COUNSEL BUREAU STAFF ATTENDING REMOTELY:

Kevin Powers, General Counsel, Legal Division

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I—OPENING REMARKS

Chair Cannizzaro:

Good morning and welcome everyone to the fifth meeting of our Legislative Commission in this Calendar Year 2024, which is rapidly coming to a close.

We will begin with taking our roll call. Madam Secretary, will you please call the roll? We do have seven members attending here in the Nevada Legislature Office Building in Las Vegas. We have three members in Carson City and then two attending virtually. We do have a quorum present with those numbers.

Before we begin, we are going to just go over a few housekeeping items for those of you who are joining us today. I would like to remind anybody who is going to testify today to please state and spell your name so that we can have an accurate record and do so before you begin testifying. Of course, 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 as always, which may be emailed, faxed, 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. So, if there is anything you would like to send us written comments on, you certainly may do so.

AGENDA ITEM II—PUBLIC COMMENT

Chair Cannizzaro:

The first thing that we will get to after those housekeeping items is Item II on our agenda. It is our public comment period. We will have two public comment periods here at the Legislative Commission. We will begin by accepting public comment at this time from persons who are present here in Las Vegas, and then we will move to those who are present with us in Carson City, and then we will go to anyone who is joining us by phone to provide public comments by phone. If you want to wait and testify later, there will be, of course, that second period for public comment. We do keep our comments in public comment limited to not more than two minutes per person; if your remarks go longer, you can always submit the remainder via writing to us.

If there are any people in our audience here in Las Vegas, I will invite you to fill the seats in front of us and take a spot and then we will get started. Also in Carson City, if there is anyone in person who wishes to give public comment, you can go ahead and start filling those seats and we will come to you next. As a reminder, every person who speaks, make sure that you identify yourself for the record every time you speak. Make sure you have signed in on our clipboard here in the room. There is one here in Las Vegas; there is also one in Carson City. Make sure you have done that before you leave today so that we do have accurate information. As a reminder, at the Legislative Commission, we do not take comment when we hear the regulations. If you do have comments to be made about regulations that will be heard today, or any other item on our agenda, public comment is the place for you. We will begin here in Las Vegas. I have three individuals joining us. We will start with you in the middle. Make sure you identify yourself and state and spell your name for our record. Begin when you are ready.

Emily Walton, Representing the Wonderschool:

Hello, Chair Cannizzaro and Committee. My name is Emily Walton. I am with Wonderschool, and I am here in reference to [Agenda Item VII](#), the Interim Education Committee where you will be discussing establishing the Office of Early Childhood Systems. At Wonderschool, we approach the issue of childcare differently, and we work with states, including your own State, to apply common sense solutions that expand economic opportunities and get people back to work. With our technology, we go in and recruit people to start new childcare businesses and to be entrepreneurs in their communities and expand the amount of care available in states. And as we have done this work across the country, work with several different states in the country to do this, we have seen an advantage when states choose to create a separate office that is focused on childcare and early childhood systems in education. A couple of those that we have seen is one that improves the coordination and fiscal efficiency in the state. I am sure you have seen there are several different programs in your State that touch early childhood and putting them in one office and helping them coordinate really increases that efficiency and financial savings to the State. And that also increases the long-term impact that you can see with the investment that you are making in those systems and it in turn increases access to childcare. We work in states like New Mexico and Missouri and Florida, who have decided to centralize some of these systems, and we have seen a real benefit to that.

I do also want to add that in 2018, the Bipartisan Policy Center did an analysis on these governance structures across the country. And since they did that analysis, more than half of states have implemented a new strategy and structure around their early childhood systems, and they have seen just a great benefit to that. I am just here to support that effort in the state. Thank you very much.

Chair Cannizzaro:

Thank you. Whoever would like to begin, please go ahead.

Ashley Kennedy, Representing Clark County:

Hello, my name is Ashley Kennedy. I am representing Clark County today, and I am here to provide comment on Agenda Item IV B related to Regulation 131-22, which is from the Department of Education. First, I want to state that Clark County is in support of the intent of Senate Bill 210. We stated so during the legislative session. We do agree and support that children admitted to a residential treatment facility do need to receive their education. However, we do have concerns with the regulation as written with special attention to Section 10. We do not believe school representatives shall be determining the appropriateness of a residential placement. We believe this should be advised by mental health professionals and worry that this new process will lead to delays for children getting the mental health services that they need. Our goal should always be to stabilize children first. Thank you.

Chair Cannizzaro:

Thank you.

Alison Herzik, Representing Dignity, Health, Saint Rose Dominican:

Good morning, Chair Cannizzaro, and members of the committee. My name is Alison Herzik. On behalf of Dignity Health – St. Rose Dominican and our seven acute care hospitals in southern Nevada, we would like to express our strong support for the adoption of Regulation 004-24 in its current form, which implements Assembly Bill 267 from the

2023 Legislative Session. At the Board of Health adoption hearing in September, St. Rose advocated for an amendment to Section 11. In its previous version, the regulations would have required St. Rose to undergo the development and implementation of an additional training program for newly hired employees. Our request to revise the minimum hours training requirement in Section 11 received unanimous approval from the State Board of Health and allow St. Rose to continue offering its currently approved training without incurring significant financial impacts to the system or reducing the amount or quality of training, which has been offered to all St. Rose patient-facing employees prior to the AB 167 mandate becoming effective. St. Rose currently operates a self-developed cultural competency training program, which was approved under the more comprehensive regulatory framework with the initial 2019 enactment based on its comprehensive coverage of all required elements with a 90-minute time frame. The program has been meticulously designed to meet the needs of our patients while ensuring compliance with all necessary standards for cultural competency education from Nevada's robust statutory and regulatory framework in a manner that will not unduly harm or burden our not-for-profit system.

We take pride in our mission to treat all individuals with dignity and respect, and our training program reflects this ethos by empowering our employees with the necessary skills and knowledge to excel in their roles in accordance with that mission. We would also like to thank the Bureau of Health Care Quality and Compliance and the Division of Public and Behavioral Health for their work on this regulation and their willingness to hear out our concerns during the regulatory process. We appreciate the Commission's consideration of this regulation and look forward to seeing its passage. Thank you.

Chair Cannizzaro:

Thank you. We have a couple more folks here in Las Vegas. We will keep going. Whoever would like to go first.

Brian Wachter, Senior Vice President, Retail Association:

Good morning, Madam Chair, members of the Nevada Legislative Commission. My name is Brian Wachter, and I serve as the Senior Vice President of the Retail Association of Nevada. I am here this morning to discuss Regulation 131-24, which delves into employee safety. When we were in front of you roughly 18 months ago, we were adamantly opposed to the actions that this Commission was about to take. And we are very glad that we got the second chance to be able to meet with the multiple stakeholders that we did over multiple, multiple months in order to arrive at the regulation that is in front of you. We want to appreciate the hard work of the Occupational Safety and Health Administration (OSHA) as well as those members on the Commission that helped us look at crafting language that we think businesses can implement and enact and that are actually going to lead to the health outcomes that your organization was looking for. We just want to say we are in a different position than we were when we were last here and we look forward to being able to protect workers under these regulations in the future.

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

Good morning, Chair Cannizzaro, members of the Legislative Commission. I am Paul Moradkhan, Senior Vice President of Government Affairs for the Vegas Chamber. The Chamber's support of the proposed regulations submitted by Nevada OSHA pertain to outdoor, indoor worker conditions as they relate to heat illness that are found in your [Agenda Item IV B](#), R131-24. These proposed regulations are a culmination of the work that has been done with Nevada OSHA and other stakeholders over the last several years. This is a significant development for the Chamber to support these proposed regulations that are in

front of you today. The Chamber, along with numerous business associations and other chambers, have made the commitment to work with OSHA, labor employees, medical professionals, and by most groups at the end of the 2023 Legislative Session to find a compromise on this important issue. These proposed regulations will create a solid foundation for employee safety as it relates to heat illness throughout the State and within the different energy sectors of Nevada's economy. The Chamber and our trade association partners collaborated to develop rigorous regulations that are a focus on employee safety through an assessment process and relating regulations for employers that can be managed and directed by Nevada OSHA. These regulations are a result of numerous hours and meetings that resulted in regulations that are employee-focused but done in a practical and nonconfusing way that can be implemented by Nevada's employers. These rigorous and comprehensive regulations will be administrated through Nevada OSHA once it is approved by this body and will be in place before next summer.

I would like to thank Nevada OSHA who made the commitment to spend the next several months helping provide education and guidance to employers to help ensure these regulations are properly implemented and followed. We ask that these regulations be adopted as submitted by Nevada OSHA. Thank you for your time and consideration today. Thank you very much, Madam Chair, and members of the Commission.

Chair Cannizzaro:

Thank you.

Dawn Christensen, Vice President of Communications and Corporate Social Responsibility, Nevada Resort Association (NRA):

Good morning. Dawn Christensen, Vice President of Communications and Corporate Social Responsibility for the Nevada Resort Association. Thank you, Chair Cannizzaro, and members of the Commission for the opportunity to comment today. It is very nice to see you all. As has been noted, a tremendous amount of work has gone into the heat standard regulations over the past four years. The Resort Association has been very engaged in the process, and we very much appreciate Nevada OSHA Administrator Carreón and her team for their commitment and collaboration with a very diverse group of stakeholders to arrive at the regulations before you today. The proposed regulations address heat safety measures for employees and are also reasonable and practical for employers. We support the proposed regulations, and we ask that you approve them. Thank you very much.

Emily Osterberg, Representing the Henderson Chamber of Commerce:

Thank you, Chair Cannizzaro, and members of the Commission. My name is Emily Osterberg, and I am here representing the Henderson Chamber of Commerce and over 2,000 members, and we are here in support of Regulation 131-24. The Henderson Chamber has been a part of the working group made up of a wide variety of industries that worked together with Nevada OSHA for the better part of last year to create this heat illness regulation. We want to thank OSHA for their collaboration on this issue. We believe this regulation, as written, addresses the issues of heat illness and takes into account priorities and concerns from both the business community and OSHA. Thank you for your consideration.

Chair Cannizzaro:

I do not see anyone else in Las Vegas in person coming up to the front. We will go to Carson City. Whoever would like to begin, please go ahead. Just make sure you state and spell your name for the record, and you will have two minutes.

Cadence Matijevich, Washoe County Government Affairs:

Good morning, Madam Chair, and members of the Legislative Commission. I am Cadence Matijevich, Washoe County Government Affairs. I am here to respectfully request that you withdraw LCB file R131-22 from consideration today to allow Washoe County's Child Welfare Agency to work with the State Board of Education to address concerns we have with the regulation as currently drafted. We were supportive of the requirements that exist within [Chapter 432B of NRS](#) following passage of SB 210 in the 2021 Session, but we believe that the regulation as currently drafted exceeds the intent of that legislation.

The proposed regulation expands the persons required to participate in a meeting for a child who is going to be placed in a facility for the treatment of mental illness to consider their educational needs to include relatives and fictive kin. Moreover, the proposed regulation expands the function and role of the meeting and of the representatives of the school and proposed additional participants, including relatives and fictive kin, beyond what the statute provides, to include these parties, providing guidance to the court and does not specify how the guidance is to be provided. We are unsure if all of these people have to be noticed for a hearing and believe that this could be very challenging. Presently, if the school representatives to whom the statute applies do not feel that the educational needs of a child can be met, this information can be provided through one of the parties, the agency, the child, or a parent. Having the regulation expand without limitation to fictive kin and relatives into the decision-making process for children who are experiencing mental health issues to a degree that they have been clinically accepted to a treatment program, could effectively bring the process to a halt.

Regularly, when a youth is clinically accepted to a program, the time frame for holding the bed is very short. In this time, the agency must file a petition and schedule a hearing on the determination of whether the child should be placed at the facility and whether it is appropriate. Requiring a meeting of numerous people in the short time before the hearing, which is often scheduled within ten days or sometimes less, to review the educational needs of the child and then having all of these persons provide guidance to the court is unmanageable and could result in continuances and delays, ultimately losing the bed and the child not receiving needed treatment.

Chair Cannizzaro:

We are just past two minutes, so if you want to go ahead and wrap up. Thank you.

Ms. Matijevich:

Thank you, Madam Chair. I will conclude my comments there. I appreciate your consideration.

Chair Cannizzaro:

Thank you. Next in Carson City.

Alexis Motarex, Representing Nevada Chapter of the Associated General Contractors (AGC):

Thank you, Madam Chair, and members of the Legislative Commission. My name is Alexis Motarex with the Nevada Chapter of the Associated General Contractors. I am pleased to be here today to support the adoption of the heat illness mitigation regulation, R131-24. It has been a year's long process, and it is nice to finally be at this point. This regulation will serve to protect employees. It is not overly cumbersome or complicated for employers and is easily enforceable by OSHA. These are the three things that AGC was hoping to accomplish during the discussions we have had regarding the issue. We want to thank the other stakeholders who have been at the table with us with us through this process. And I would especially like to thank Administrator Carreón and Mr. Gardner for patiently working with all parties to find a solution. Thank you.

Jesse A. Wadhams, Esq., Black and Wadhams, Attorneys at Law, Representing the Nevada Hospital Association (NHA):

Good morning members of the Legislative Commission. My name is Jesse Wadhams with the law firm of Black and Wadhams here today, representing the Nevada Hospital Association, speaking on [Agenda Item IV B](#), specifically R004-24 on cultural competency. We appreciate the work that the agency has done on this regulation, particularly Mr. Schubert. As you all know, the regulatory process is very iterative and requires the coordination and collaboration of many stakeholders. The NHA provided commentary and suggestions at each point of the regulatory process. And while we did not get each and every one of our recommendations, the regulation before you today represents a very positive process. We recommend your passage and approval today in order to implement AB 267 of the 2023 Session. Thank you.

Assemblymember Yeager:

Thank you for your public comment, Mr. Wadhams. We will stay up in Carson City; I think we have at least one more at the table.

Jake Matthews, Government Affairs Manager, Children's Advocacy Alliance:

Good morning, Madam Chair, and members of the Legislative Commission. My name is Jake Matthews, Government Affairs Manager for the Children's Advocacy Alliance. We appreciate the Interim Health and Human Services and Education Committees for advancing several of our legislative priorities, which you are considering today. Children's Advocacy Alliance has worked tirelessly with a broad coalition of stakeholders to develop recommendations to make a lasting, measurable, and systemic impact for Nevada's children. Our recommendations include establishing an office of early childhood systems to create a more unified early childhood system across all sectors, including early care and learning, health care, and social services as well as several recommendations to improve mental health outcomes for children, including State level leadership and insurance coverage for early screenings and assessments. We look forward to working with you to pass these measures next session, and we are available to provide any background information if needed. Thank you.

Assemblymember Yeager:

Thank you, Mr. Matthews. We will stay up in Carson City.

***Betsey Crumrine, Deputy Administrator, Division of Child and Family Services,
Department of Health and Human Services:***

Good morning, Madam Chair, and members of the Committee. My name is Betsy Crumrine. I am the Deputy Administrator for the Division of Child and Family Services, and I am here to comment on Regulation 131-22. I just wanted to say that we, too, are in support of the intent of this statute that was passed last session. We have some concerns as currently written, and I have spoken with Christy McGill and hope to have a continued opportunity to be able to work with her around some of the issues that have been previously mentioned in testimony today. Thank you.

Chair Cannizzaro:

Thank you. Next in Carson City.

Tessa Laxalt Robinson, Director of Government Affairs, Nevada Trucking Association:

Tessa Laxalt Robinson, with the Nevada Trucking Association, here to comment in support of R131-24. I just wanted to thank all the stakeholders and staff that have been involved in these strenuous discussions for the greater part of 80 months. We appreciate the fact that this regulation requires individual job hazard analysis, where every task is evaluated for its potential risk as opposed to an arbitrary temperature. Based on those conditions, you determine where the risk may lay and how to best address it. Thank you.

Sarah Collins, Representing the National Electrical Contractors Association of Northern Nevada:

My name is Sarah Collins. I am here representing the National Electrical Contractors Association of Northern Nevada. We, too, want to put our support on the record. It has been a long time coming, and we want to give a shout out to all stakeholders and staff to get us to this point. Thank you.

Chair Cannizzaro:

Thank you. I do not see any other in-person testimony in Carson City. We will move to our phone line and turn it over to Broadcast and Production Services (BPS), Administrative Division, LCB. Please let us go ahead and move forward with testimony via phone. As a reminder for those of you joining us, please make sure that you state and spell your name so that we have an accurate record of your testimony and then you will have two minutes.

BPS:

Thank you, Chair. If you would like to participate in public comment, please press *9 now to take your place in the queue. Caller with the last three digits of 513, please press *6 to unmute yourself. Please continue.

Jessica Munger, Community Member and Program Manager for Silver State Equality:

Good morning. My name is Jessica Munger. I am a community member as well as Program Manager for Silver State Equality, Nevada's statewide LGBTQ+ civil rights organization. Today, I am speaking to encourage the Commission to delay passing Regulation 004-24, establishing provisions relating to cultural competency training as it currently is. This needs more work, specifically because it lacks the mandate of a posted phone number for patients

and consumers to call if there is a problem or to report discrimination. It does not seem to make much sense to have cultural competency standards that do not include a reporting mechanism for patients. This piece specifically needs to be addressed, I think, before it moves forward. A lack of access to health care is a problem for many people across our State for various reasons. And it is a profound problem with even more barriers for LGBTQ+ folks, particularly gender expansive and trans populations. It is a threat to public health to decrease cultural competency standards and accountability measures specifically because it directly means fewer LGBTQ+ folks are accessing the care that they need. This just needs some more thought and work, and I encourage you to pull this. We can have further discussion. Thank you.

Brian Fadie, State Policy Manager, Appliance Standards Awareness Project:

Good morning, Madam Chair, and members of the Committee. My name is Brian Fadie, and I am State Policy Manager with the Appliance Standards Awareness Project, speaking briefly to [Agenda Item IV B](#), Regulation 168-22 on product efficiency standards. I just wanted to thank the Governor's Office of Energy for bringing these regulations forward. Many other states have adopted these product efficiency standards to help save consumers money while also reducing energy waste. In fact, 12 other states have now adopted these standards. I would also note that during the legislative process for the bill that originated these standards, both *Consumer Reports* magazine and Consumer Federation of America supported the rules in part because they save consumers money. So, thank you again for finalizing these efficiency standards. Thank you.

Caitlin Gatchalian, Nevada Representative, Southwest Energy Efficiency Project:

Hello Chair Cannizaro, and members of the Commission. My name is Caitlin Gatchalian, and I am the Nevada Representative for Southwest Energy Efficiency Project or SWEEP for short. We want to thank the Governor's Office of Energy and Director McClinton for bringing the appliance efficiency standards forward, Item IV B Regulation 168-22. These standards are projected to save Nevada \$29 million per year in utility bill savings by 2035. They also help reduce strain on our electric grid by reducing energy waste. SWEEP is excited for this implementation. Thank you.

Ellen Gifford, Member of the Public:

Good morning. My name is Ellen Gifford, and I am grateful for the opportunity in public comment to say thank you to the citizens of Nevada who took the position of Election Board officers for the 2024 General Election. They did a superb job overcoming what seems to have been the lack of consistent training. Some officers processed and surrendered ballots in the proper manner. Some did not. Some officers required observers to disclose their party affiliation before being able to observe. Some did not. Some allowed observers to observe the closing of the polls. Some did not. This resulted in inconsistencies in the election process and statute violations from poll location to poll location. The Election Board officers worked around voting machine malfunctions, poll pad malfunction and replacements, and observers who were brought in from other states to cause disruption at the polling locations and discredit the role of an observer.

I am hoping that during the 2025 Legislative Session, there will be an effort to pass legislation that will ensure consistent, enhanced poll worker training across Nevada; ensure voting machines and equipment are functioning properly before the polls open; and ensure that the right of Nevada citizens to observe is not hampered by their party affiliation or the presence of imported observers. Again, I say thank you to all those who worked at the polls, and I thank you, Commission, for allowing me to speak.

Elisa Scheuer, Representing the Home Ventilating Institute:

Good morning. My name is Elisa Scheuer. I am here on behalf of the Home Ventilating Institute speaking about Item IV B that is Regulation 168-22, which implements the energy efficiency standards for appliances. You just heard from Mr. Fadie who was from the Appliance Standards Awareness Project. We wanted to speak in support, also, of this regulation, with a couple of concerns on the interpretation of the rule before the Commission. This model legislation that has been adopted by about 12 states, I believe, across the country, has some requirements that manufacturers have to fulfill. One is to certify the product to the executive agency that is in charge of enforcing the rule and also to label the product as conforming with the state standards. And in each case, states that have adopted the same standard for residential ventilating fans, as Nevada has, realized that there are not any existing labels for the standard that has been adopted. And so those states have interpreted this labeling requirement as asking for the model number to be printed on the product and to be searchable in a nationwide database, such as the State Appliance Standards Database or the California database to satisfy the labeling and the certification requirements that the manufacturer has to meet. In Nevada's rule, it is simply repeating the legislative language that says the manufacturer must certify and the manufacturer must label, and it does not really give any indication of how those requirements are going to be interpreted or enforced. We stand in complete support of higher energy efficiency standards for appliances. Our concern, I guess, is for clarification on the interpretation of those two requirements. And if that means that the rule needs to be pulled and reworked, we would support that, but also if the Governor's Department [Office] of Energy has already decided that they are going to follow the rest of the states around the country and have certification and labeling by database listing, we would support the rule going forward. Thank you very much.

BPS:

Chair, you have no more callers wishing to participate at this time.

Chair Cannizzaro:

Thank you for everyone who has joined us. As I mentioned, there will be a second period of public comment towards the end of our agenda.

[Jay F. Cafferata, MA, CDE, submitted public comment for the record ([Agenda Item II A](#)).]

[Kyle Davis submitted a letter from Amanda Hilton, President, Nevada Mining Association (NMA), including a memorandum from Dana R. Bennett, Ph.D., President, NMA, for the record ([Agenda Item II B](#)).]

[Matt Matheny submitted a letter from Jacki Donner, Chief Executive Officer (CEO), Home Ventilating Institute, for the record ([Agenda Item II C](#)).]

[Shelly Capurro, NvAHP, Legislative Representative, submitted public comment for the record ([Agenda Item II D](#)).]

[Steven Cohen, Alumni, Lee Business School, submitted public comment for the record ([Agenda Item II E](#)).]

[Allison Genco Herzik submitted a letter from Katherine Vergos, Nevada Market President, and President, CEO, St. Rose Siena Hospital for the record ([Agenda Item II F](#)).]

AGENDA ITEM III—APPROVAL OF THE MINUTES OF THE MEETING HELD ON SEPTEMBER 13, 2024

Chair Cannizzaro:

We will go ahead and move on to Item III on our agenda, which is the approval of minutes.

Members of the Commission, you have in your packet and should have been able to review prior to today's meeting, the draft minutes ([Agenda Item III](#)) for the Legislative Commission meeting held on September 13, 2024. Those minutes are also available on the Legislature's website.

I will ask first if there is any discussion on the minutes for members of the Commission and remind everyone that even if you were not a present individual at that meeting, you certainly have had ample opportunity to review those minutes and the hearing itself and are free to cast a vote on those. Any discussion on the minutes? I am not seeing any discussion.

ASSEMBLYMEMBER YEAGER MOVED TO APPROVE THE MINUTES OF THE SEPTEMBER 13, 2024, MEETING.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

AGENDA ITEM IV—ADMINISTRATIVE REGULATIONS

A. REQUEST BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO CONTINUE A REGULATION NOT ADOPTED WITHIN 2 YEARS AFTER SUBMISSION TO THE LEGISLATIVE COUNSEL (NRS 233B.040)

R131-22: Implements provisions of SB 210 (2021) relating to convening of meetings to review appropriateness of a residential placement.

Access text of regulation electronically at:

<https://www.leg.state.nv.us/Register/2022Register/R131-22A.pdf>

Chair Cannizzaro:

That will take us to Agenda Item IV, which is our review of administrative regulations. We are joined today by our Legislative Counsel, Asher Killian, who is with us here in Las Vegas. We will start first with Item IV A, which is a request by the State Board of Education to continue Regulation 131-22 that was not adopted within two years after submission to the Legislative Counsel as required by subsection 4 of [NRS 233B.040](#). That subsection provides that if the agency does not adopt a proposed regulation within the two years after the date on which that proposed regulation is submitted to the LCB, the executive head of the agency shall appear personally before the Legislative Commission and explain why the proposed regulation has not been adopted within the prescribed two-year period and request an extension of the prescribed time to allow the regulation to continue the process to become a permanent regulation.

Members of the Committee, I know that we certainly heard public comment regarding Regulation 131-22. It does appear certainly in your list of regulations under Item IV B. You also have a copy of that regulation and all of the supporting materials as well. I see our

Superintendent has joined us virtually. I think two things. I would like to have a discussion just in accordance with NRS 233B.040 regarding the continuation of the regulation, and then I also think that it would be appropriate for us to discuss this regulation at this point in time as well. I think, given what we heard in public comment, that it would be prudent for us to also have you discuss, or anybody who you may have with us from the Department of Education, to talk just about the regulation, allow Commission members to ask questions, and then we can make a decision about whether or not this is something that: (a) we will continue the regulation on; and (b) if there are any additional questions about the regulation itself.

Superintendent Ebert, when you are ready, we will turn it over to you to speak first about the continuation of the regulation and why we have not seen this adopted within that two-year time frame.

Jhone M. Ebert, Superintendent of Public Instruction, Department of Education:

Yes, thank you, Chair Cannizzaro, members of the Legislative Commission. My name is Jhone Ebert, and I am the State Superintendent of Public Instruction for Nevada. And we have a proposed regulation. As you noted in the introduction, LCB file number 131-22 that the Nevada State Board of Education adopted three days after the two-year deadline. We do sincerely apologize for the delay in adopting this regulation and the time that it took to bring the regulation to the Legislative Commission. We respectfully request an extension for this regulation instead of beginning the process again so that students in need can receive the necessary services as soon as possible. Over the last two years, this important regulation, in response to the passage of SB 210 during the 2021 Session, has undergone language changes with significant stakeholder feedback. And while there were internal changes within the delay part of all of this, we had internal changes within the Office for a Safe and Respectful Learning Environment and the legislative liaison position, there was a pause in this movement of the regulation moving forward. So that is part of the request for the explanation for the extension.

The other component is that it was first workshopped on September 30, 2021, and then adopted by the State Board of Education on July 31, 2024, without any changes or public comment. It was originally on the June 12, 2024, State Board of Education agenda; however, it was not posted correctly. And so, R133-22 had to move from the June meeting, which would have kept us within the timeline to the July meeting, which moved us three days outside.

In summary, I am here to respectfully request for forgiveness for taking longer than expected to adopt the regulation, as it was three days late. Again, we plan to go through the process as this Commission has set forth those expectations. I want to thank you for your consideration and time, and I do have Deputy Superintendent McGill here as well to answer any questions you may have.

Chair Cannizzaro:

Thank you, Superintendent. I wanted to clarify, because as I understand it, this deadline for submitting back to the Legislative Counsel Bureau was a three-day miss on part of the Department, and it sounds like you have had some turnover there.

Superintendent Ebert:

That is correct.

Chair Cannizzaro:

With respect to purely the continuance that will allow us to continue to discuss this regulation, I think we can take a motion from this Committee, but I want to give the opportunity first, not with respect to the actual substance of the regulation, but just with respect to any questions regarding the information we received for the request for continuance from the Superintendent. If any members of the Commission have any questions on that request to continue.

Assemblymember DeLong:

Thank you, Chair. I have never been through a continuance request. What would happen if this Commission agrees to the continuance?

Chair Cannizzaro:

I will turn this over to our Legislative Counsel, Asher Killian, who is here with us. Mr. Killian, when you are ready.

Asher Killian, Legislative Counsel, Legal Division, LCB:

Thank you, Madam Chair. Asher Killian, Legislative Counsel. If the Legislative Commission were to approve the continuance and this regulation would be allowed to continue in the rulemaking process, the next step would be for the Legislative Commission to consider whether to approve the regulation. This regulation was included on the list under [Agenda Item IV B](#), so it is properly noticed and agendized for the Commission to consider approval of the regulation at this meeting if the Commission wishes to do so. The Commission could also defer it to a future meeting, but the approval of the continuance would allow for that process to continue whether at this meeting or at a future meeting.

Assemblymember DeLong:

Thank you, Asher.

Chair Cannizzaro:

Any additional questions regarding the request to continue?

Senator Stone:

Thank you, Madam Majority Leader. Assuming we give the continuance, is there a drop-dead time after which we have to act? Otherwise, they have to start from scratch, or is this continued until such time that we have a revised regulation that comes back for consideration?

Mr. Killian:

Thank you, Madam Chair. Yes, if this is continued at this meeting, then that is the only statutory deadline that exists so it could continue indefinitely beyond that point for whatever period of time is necessary.

Senator Stone:

Thank you.

Chair Cannizzaro:

I am not seeing or hearing any additional questions with respect to the continuance. Do I have a motion to continue pursuant to subsection 4 of NRS 233B.040?

ASSEMBLYMEMBER YEAGER MOVED TO CONTINUE R131-22 PURSUANT TO SUBSECTION 4 OF NRS 233B.040.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

We will allow for the rulemaking process to continue on for this particular regulation. Members of the Commission, because this regulation was also properly agendaized as a regulation for our consideration today under Item IV B of our agenda, we can consider this regulation, and since we do have the Department with us, we will go ahead and do that.

We heard the Superintendent. If it is you or someone else who maybe needs to answer some of these questions, there were significant concerns brought forward by at least Clark County and Washoe County. We heard some concerns over the hearings that would have to take place, the time frame for doing that, the individuals who would be involved. In the backup items that we have for this regulation, there does not appear to be any information regarding some of those concerns. My first question would be if you were aware of some of these concerns, if that is something that you have been approached about, but maybe did not happen during the rulemaking process. Because when I am looking at the backup materials that we have been provided regarding the prior hearings, there does not seem to be lists of opposition or individuals who have testified on this regulation, so I do not know if those conversations have happened since some of these hearings, or if this is information that you have heard today, or if this was something that was discussed and included in those regulations. I do not know if you can speak about any of those pieces with all of us to address some of those concerns we heard today.

Superintendent Ebert:

Yes. Thank you, Madam Chair. I would like to thank the Commission for allowing for the extension and your grace. Thank you very much. To address your questions just now, I literally just heard about a concern within the last 24 hours. The additional people that testified I did not hear from directly. My understanding is one of them did reach out to Deputy Superintendent McGill. But through the other public hearings and workshops that we had, those concerns were not raised at that moment in time.

Chair Cannizzaro:

Some of these concerns that were raised and the concerns that the counties have with being able to maybe comply with this regulation were not brought to your attention prior to, it sounds like maybe at first yesterday and some of them not until this morning.

Superintendent Ebert:

Yes, that is correct.

Chair Cannizzaro:

Obviously, we engage in rulemaking processes and provide for public notice and the opportunity to be heard so that we can address those sorts of issues in the language of regulations when they are brought to an agency so that there can be either some hearing out of those potential concerns and a decision to proceed with the language that appears before us, irrespective of those concerns, or some sort of consensus and compromise on that language. I do not know if you have any thoughts, Superintendent. I hate to put you on the spot, but hearing some of these concerns, I do not know if that is something that you all maybe thought of in the process of this or would be open to engaging in some of those conversations to address some of those concerns, if at all possible. And just maybe your thoughts on that since it sounds like these are things that we have all recently become aware of.

Superintendent Ebert:

Thank you, Madam Chair, members of the Legislative Commission. We always want to have as much input as possible, and yes, these last pieces were just brought to us. I do believe that we would all benefit from some clarity of what was presented to you this morning. If I may, with your permission, Chair, turn the time over to Deputy Superintendent McGill who can provide some additional information for you to consider.

Chair Cannizzaro:

Absolutely, and I believe we had her on our Zoom. Whenever you are ready, Deputy Superintendent.

Christy McGill, Deputy Superintendent for Educator Effectiveness and Family Engagement, Department of Education:

It is an honor to be here in front of you all. This particular regulation has had a lot of discussion. We have discussed this with our districts, also with the students that have gone through the foster care system, and parents to really try to get everyone's perspective. Like the Superintendent said, we do want to make sure we are doing a great job collaborating. I am just going to go through the regulation proposed that may answer some questions.

First of all, the purpose of this small regulation is to address the planning and monitoring of education for children admitted to facilities providing residential treatment for mental illness. The key term here is "education." This regulation does not prescribe or suggest any kind of treatment, but it does follow good practices of making sure that treatment plans also consider the education. That was the main concern that we were hearing when we were looking at languages from some of our young people that had gone through this process. That a holistic approach was—they felt like it did not happen for them. Before admitting a child in custody of a child welfare agency to such a facility, the relevant school or district must convene a meeting to assess the appropriateness of the placement. That is already in law. This regulation outlines additional components for this meeting and the roles of the attendees. It allows for parents and it allows for people that may be key to looking at these decisions into that meeting. It does not mandate that they must be there, but this is enabling language saying that if the student themselves or the parent or the teacher, in this particular case, needs to have input into that meeting, then they can attend.

The guidance for the court and welfare agencies, Section 10, which I think is the section that is causing some concern, allows certain individuals to attend the meeting, particularly if [inaudible] pupil with a disability. These individuals must provide guidance to the court and

child welfare agency on the appropriateness of the placement, focusing on the ability of the facility to provide an appropriate education. Measures to help the child and then also measures to help that child return to their original school after discharge. Again, focusing on the holistic approach and that team approach to wrap around that child and to make sure that in this time of need, that the other things that the child may need, like their education, are also considered. Furthermore, it has a similar requirement for nondisabled children.

And then lastly, it does monitor a child's progress. The existing law requires the school or district that serve the child to monitor the child's educational process while they are in the treatment facility. Section 10 mandates the invitation of the relevant school or district to attend meetings that review the child's individualized education plan or service plan if that child is of people with a disability. It is simply enabling legislation that mandates the invitation to the progress monitoring of the educational plan of the child and that is the meat of the regulation.

Chair Cannizzaro:

Thank you. At this point, I am going to just check and see if any other members of the Commission have questions regarding R131-22. Assemblymember DeLong.

Assemblymember DeLong:

Thank you, Chair. My understanding is that at least in Washoe County, they did not receive notice of these hearings. It sounds like we did not have full participation of all the agencies and groups that are going to be affected by this regulation. I would like to see that cured.

Chair Cannizzaro:

Thank you. Anyone else have questions regarding this particular regulation?

I will ask what the Department's appetite may be for having some additional conversations with some of these stakeholders in the form of a, however you want to go about this, public meeting to see if maybe that would change the regulation potentially, to find some common ground. But I do think that there is some concern with some of the things that they brought up and how that would be impacted with the language that we have before us today. Is that something that the Department would be willing to do if we sent this regulation back to have some additional hearings and comments and go from there?

Superintendent Ebert:

Thank you, Madam Chair. As always, we love to partner and make sure that we are all on the same page as best we can to be able to service our children. So yes, more than happy to continue to have discussions to make sure that we get the best support for students as intended within SB 210 as well.

Chair Cannizzaro:

I appreciate that graciousness. The rulemaking process by which we adopt all regulations is not new, certainly not to other governmental agencies and is not new to individuals who regularly engage in the same rulemaking process. While I understand that there may be things that happen where we are not aware of something that could be happening with respect to a hearing, I think it is incumbent upon, and certainly as we have heard from some of the counties here, to make sure that they are aware of these sorts of things, and they should be because these bills impact their processes and because these rulemaking

processes are also not unfamiliar, sort of different from a member of the public who might not know that we engage in a very thorough process of having public meetings and taking testimony and soliciting comments and posting these sorts of meetings.

My inclination is that because the Department of Education has been so gracious as to acknowledge that they would be willing to have some further discussions on this, to request that there is some engagement for this regulation by those entities that showed up before us today to express their concerns, to bring those concerns to the next meeting that may be scheduled with the Department of Education. It will be incumbent upon those agencies to make sure that they are at those meetings and participating. And there should be no excuse for not having a notice or not showing up to those. We will allow for that time I think to happen and ask the Department to engage in that conversation to see if there are things that maybe need to be tweaked with the regulation or that may lead us to some more certainty and some understanding about the current language in the regulation. I ask that there be a short timeline for you to do that and then bring it back to us so that we can make a decision about this, knowing that everybody has had a chance to at least have those conversations prior to this Commission approving those regulations. I think that is where I would be inclined to head.

If there are any comments or questions by members of the Commission, that would be my request, to send this back to the agency. I am not hearing anybody. Then at this point, we will go ahead and defer this back to the Department and ask that you engage in some additional work and make sure that when we get this back, we either have resolved some of these issues or have a better understanding of where everyone is so that we can make a decision on this regulation. I look forward to having it back, and again, thank you for your time and your work on this. I see them nodding on Zoom, so we are all in agreement. Thank you.

Superintendent Ebert:

Yes, thank you. We will follow your instructions and return.

Chair Cannizzaro:

Perfect. Thank you.

B. REVIEW OF ADMINISTRATIVE REGULATIONS (NRS 233B.067 AND NRS 233B.0675)

The list of regulations to be considered can be accessed electronically at: https://www.leg.state.nv.us/Register/IndexesRegsReviewed/LCMtg_List_2024_Nov15.pdf. (Please contact the Legal Division of the LCB at 775-684-6830 for a hard copy of the text of the regulations.)

Chair Cannizzaro:

That will bring us, members of the Commission, to the next item on our agenda, which is Item IV B. We have several regulations on our agenda to be looked at by the members today. I did get some requests prior to this meeting from members of the Commission to pull regulations. As a reminder, if there are questions, comments, or concerns about regulations that appear before you, now would be the time to let us know that you wish to have further discussion. If you are an agency who has submitted one of these regulations that has been designated for additional consideration and discussion, you will have to hang around with us until we get to your item. For those items that are not pulled for additional

consideration, we will move to approve those regulations by consent. And if you are one of those lucky agencies that submitted something that we do not need to have further discussion on, you are free to go for the day.

We will begin with going through the list of regulations that I have already received a request to have pulled, and then I will ask the Commission if there are any additional regulations for consideration that we would need to pull. Beginning with R040-23 from the Nevada Transportation Authority; that is one that has been requested to be pulled. We have R120-23 from the Commissioner of Financial Institutions; R004-24 from the State Board of Health; R005-24 from the Board of Applied Behavior Analysis; R096-24 from the State Board of Education; R121-24 from the State Board of Health; and R137-24 from the State Environmental Commission.

Members, are there additional regulations that you would like to have pulled for further consideration? We will start here in Las Vegas. Senator Stone.

Senator Stone:

Thank you, Madam Chair. If we could pull four items: R073-22, R053-24, R136-24, and R189-24. Thank you.

Chair Cannizzaro:

Senator Stone, I am going to have you go through that one more time just to make sure we have all of the correct ones.

Senator Stone:

R073-22, R053-24, R136-24, R189-24.

Chair Cannizzaro:

We have then added to that list: R073-22 for the Board of Dental Examiners of Nevada; R053-24, which is the State Board of Pharmacy; R136-24, which is the State Environmental Commission; and R189-24, which is the State Board of Pharmacy.

I am seeing no additional requests here in Las Vegas. Are there additional requests in Carson City

Senator Daly:

Madam Chair? Not to add one, but unless somebody else wants R040-23, I do not need to pull that one anymore. You can take it off.

Chair Cannizzaro:

That was a request I had from you, so unless I hear another member of the Commission request to have R040-23 for the Nevada Transportation Authority pulled, we will move that off of our list of regulations for further consideration. I do not see anybody clamoring to pull that one.

Any additional regulations to be pulled or to be removed from the pull list in Carson City?

Senator Hansen:

Madam Chair? I want to double check. Did you say R168-22? Is that on the list?

Chair Cannizzaro:

It is not.

Senator Hansen:

I am sorry. I need to add R168-22.

Chair Cannizzaro:

That is for the Director of the Office of Energy.

We will move then virtually. Assemblymember Dickman or Senator Krasner, do you have any additional regulations? I am seeing both of them say no.

I will go ahead and review the entire list of regulations that we will be pulling for additional consideration. If your name is on this list, you need to stay and hang out with us a bit longer. We will begin with R073-22 for the Board of Dental Examiners of Nevada; R168-22 for the Director of the Office of Energy; R120-23 for the Commissioner of Financial Institutions; R004-24 for the State Board of Health; R005-24 for the Board of Applied Behavior Analysis; R053-24 for the State Board of Pharmacy; R096-24 for the State Board of Education; R121-24 for the State Board of Health; R136-24 for the State Environmental Commission; R137-24 for the State Environmental Commission; and finally R189-24 for the State Board of Pharmacy.

Senator Hansen:

One more, Madam Chair.

Chair Cannizzaro:

Yes, Senator Hansen.

Senator Hansen:

R131-24. I had given it to Asher, but it slipped through the cracks, apparently.

Chair Cannizzaro:

We will also pull R131-24, which is the Division of Industrial Relations of the Department of Business and Industry (B&I).

All right, I am seeing no others. At this point in time, I would accept a motion to approve the remaining regulations under Agenda Item IV B with the exception of R131-22, which was the State Board of Education, which we just heard. Do I have a motion?

ASSEMBLYMEMBER YEAGER MOVED TO APPROVE REGULATIONS: R044-21, R039-22, R072-22, R040-23, R055-23, R099-23, R102-23, R104-23, R109-23, R143-23, R145-23, R001-24, R055-24, R062-24, R072-24, R085-24, R091-24, R095-24, R098-24, R120-24, R159-24, R165-24, R168-24, R171-24, and R181-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Those regulations which were not listed to be pulled have been adopted. If you are an agency who submitted one of those, congratulations, you are free to go.

We will begin with R073-22 for the Board of Dental Examiners of Nevada. We will have our representatives from that Board join us. I see some folks approaching here in Las Vegas. We will give them a moment to get settled and then I will turn it over to you, Senator Stone, to ask questions about the regulation, and we will go from there.

Mark Karris, General Counsel, Board of Dental Examiners of Nevada:

Good morning, Chair Cannizzaro, members of the Commission. My name is Mark Karris, General Counsel for the Nevada State Board of Dental Examiners.

Senator Stone:

Good morning, Mr. Karris. Thank you for being here. I reviewed the adopted regulations, and I am concerned about Section 9, which removes authorization for an investigation to go beyond the scope of the complaint into other matters, which appear to constitute a violation. I am a pharmacist by profession and when there is a complaint, at least in our profession, and I think in other professions as well, inspectors usually will come out and they will make observations. Sometimes there is a nexus to another violation that relates to the one that they are being cited for, and I am concerned that if there is an investigator that goes out and sees something that could jeopardize the health and safety of patients that are being seen by that particular doctor or clinic, why would we not want that officer to report back and look at that violation?

Mr. Karris:

Senator, it is not a function of eliminating the opportunity for an investigator to go ahead and report any additional concerns that he or she may have. Rather, within the scope of the complaint that may be present before the Board, there were interested stakeholders who had expressed opinions that oftentimes they did not want to be a subject of a fishing expedition, for lack of a better way of saying it. For the purposes of the Dental Examiners Board, when inspectors go out to take a look at a location, it is typically for the purposes of inspecting for anesthesia permits, in order to grant those, as well as infection control situations. When a complaint has been lodged against the licensee for any type of violation of the Dental Practices Act, the Board thought it incumbent upon them to limit that investigation to whatever that specific complaint was. If in the instance there was information that was then revealed, certainly the Board could receive that information and initiate a subsequent complaint on the basis of whatever that perceived allegation may be.

Senator Stone:

Thank you for clarifying that. I just want to make sure I understand. Let us say there was a complaint about instruments not being appropriately sterilized through an autoclave. And it was discovered that the logging of the autoclave when it goes through its cycles, they did

not have those printouts showing that the autoclave was functioning and maybe it was not functioning. You are saying that they could go back, and they could either amend the complaint or add another complaint so that that issue can be mitigated as well.

Mr. Karris:

Indeed, Senator. If there was an investigation that did reveal something as serious as that, they would not turn a blind eye to it. It may result in a subsequent complaint investigation. But what we wanted, to be responsive to the stakeholders and licensees, is that the Board was not simply going out trying to find issues. If something came to their attention, certainly, we would address it.

Senator Stone:

And with that, Madam Chair, I am comfortable in moving the item.

Chair Cannizzaro:

Thank you. Are there any additional questions or comments from members of the Commission on R073-22? I am not seeing any. Do I have a motion, Senator Stone, to approve R073-22? I have a second from Speaker Yeager. Any discussion on the motion?

SENATOR STONE MOVED TO APPROVED R073-22.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Cannizzaro:

Regulation 073-22 will be adopted. Thank you so much for being here with us today.

Mr. Karris:

Thank you, Chair, members of the Commission. Appreciate it.

Chair Cannizzaro:

We will move to the next item on our list of regulations. It is R168-22 for the Director of the Office of Energy, and we will turn it over to Senator Hansen who requested this item to be pulled.

Senator Hansen:

Thank you, Madam Chair.

Chair Cannizzaro:

Hold on just one moment. We want to make sure we get somebody. Are they there in Carson City?

Senator Hansen:

They are.

Chair Cannizzaro:

Excellent. Ok, then when you are ready.

Senator Hansen:

Thank you, Madam Chair. Bunch of questions on this one. You guys are going to regulate through the Department of Energy in Nevada air purifiers, commercial dishwashers, commercial fryers, commercial hot food holding cabinets, commercial ovens, commercial steam cookers, computers and computer monitors, electric vehicle supply equipment, gas fireplaces, fluorescent lamps, in-line residential ventilating fans, and water coolers. I hate to bring it up, but this last election cycle there was a real major blowback against having the government get involved in every aspect of everybody's life. And when I read this regulation, it is like, do we really need to have the State of Nevada adding? Is there anything in these regulations that are not already covered under federal regulation?

Matthew Brown, Deputy Director, Office of Energy, Office of the Governor (GOE):

Matthew Brown, Deputy Director for the Governor's Office of Energy. We also have Director McClinton online to talk about these regulations. If he is there, I will let him talk. If not, I will continue.

Chair Cannizzaro:

I do not see him joining us on Zoom but give us just a second and see if he pops up. If not, then you will have to go ahead, but give us just a second. I am not seeing Director McClinton, so you can go ahead and proceed.

Mr. Brown:

We are not adopting additional regulations beyond those. We are adopting the regulations that are there for like ENERGY STAR and the ones that have already been established. No, we are not making more regulations beyond those. We are just adopting them, saying those labels that are already there is what Nevada's standards are going to be, those ones that are already put in place.

Senator Hansen:

In other words, these standards are just redundant standards that already exist under . . . Okay, you are nodding your head yes. That is my concern. It is like why are we creating an additional layer of State regulations that are already covered fully under federal regulations? It is like this redundancy in government and having bureaucracies do these sorts of things. Under computer and computer monitors, you have a California Code of Regulations that we are supposed to now use. Is this personal? Is it all computers, not just like government-run computers? Personal laptops now have to comply with the California Code of Regulations under Nevada law if this passes?

Mr. Brown:

Yes. Those are the regulations we are adopting. A majority of those are already put in place through manufacturers. It is more just a confirmation for Nevada to make sure we are adopting those best regulations that are those best practices that are already available.

Senator Hansen:

If this regulation did not pass, all of the things that are in these regulations right now would continue to be in federal or other types of regulation? Correct? The manufacturers are already doing everything that is in this regulation?

Mr. Brown:

Yes, the manufacturers that are meeting those standards are

Chair Cannizzaro:

I am going to interrupt for just a moment because I know we are waiting for somebody, for the Director potentially, to join us. I was just made aware that we do have Miss Ting available online as well if she wanted to chime in or, Mr. Brown, if you wanted to kick it over to her. I just want to give her the opportunity as well since we saw her jump on.

Nicole N. Ting, Deputy Attorney General, GOE:

Thank you so much, Chair, and thank you members of the Commission. There is one thing that I did want to point out under [NRS 701.768](#), the Governor's Office of Energy is mandated to adopt minimum energy efficiency standards. We have to adopt some sort of standards; these standards were worked on with the National Model Standards Collaboration. We put out over 150 solicitations for this. Again, pursuant to statute, we have to adopt some sort of minimum energy efficiency standards. Through our research and collaboration, we have found that these are the standards that we want to adopt, and again, are already being used elsewhere.

Senator Hansen:

I understand. The Nevada Legislature basically forced you guys to adopt a bunch of regulations that we do not need, that are already in existence on federal and other types of layers that the manufacturing community in the United States and elsewhere already are fully in compliance with. Therefore, this regulation—while you are forced to comply with it because we forced you to—does absolutely nothing. We are not changing anything; we are not increasing energy efficiency standards. This regulation is entirely redundant. I admire you for doing the job that we forced you to do, but I think we as a legislative body should certainly go back and review this and say, “Why are we making our Nevada bureaucracies do stuff that is totally unnecessary since it is already being fully done elsewhere?”

I am voting no on this, even though I know your hands are tied by us. It is just ridiculous that we have this dual bureaucracy, dual regulatory things. My fear is at some point we are going to pass some sort of a regulation that actually is more restricted potentially than a federal one, and we can actually hurt people selling products in Nevada. I think we better keep that in mind, too, when we draft these kinds of regulations. And if we are in fact simply being redundant of what is already in federal law, what is the point? Unless we are making it less stringent, maybe we could consider that, but apparently we cannot.

I am sorry. I do not mean to drag you guys up in front of here and basically chew you out for doing what we told you to do, but I think we as a legislative body in this next session should go back and review some of this kind of stuff and get rid of stuff where we create absolutely unnecessary bureaucratic red tape. Thanks, Madam Chair.

Chair Cannizzaro:

Thank you. We are always in the position of having to approve regulations that follow legislation which this Legislature has passed into being. We appreciate the Office of Energy for diligently working on these regulations. I know that when we were listening to public comment, we heard from several individuals that felt as though these regulations were appropriate, that they were not overly burdensome, that they would be easy for small businesses and for other manufacturers and folks to comply with. Certainly, that is always a consideration for this Commission. As I am looking at the supporting materials, I also see that these are not duplicative of other regulations and guidelines and are providing those standards for the State of Nevada. And if we believe that the states should have the ability to regulate things within those states, or to set up minimum standards to keep people safe, or to provide information, or to help then we certainly have the authority and certainly the obligation for those folks who have elected us to do so.

I want to thank the Office of Energy for being here. And as I heard it, these are regulations that will allow for better consumer protections, while at the same time allowing for proper compliance for businesses and manufacturers without being unduly burdensome. I think that is always a good balance to strike when we are talking about regulations.

Are there any additional questions from members of the Commission? I am seeing Senator Stone.

Senator Stone:

Thank you, Madam Chair. And I want to associate my comments with Senator Hansen's. I just want to make sure I understand this right. Is it required that the State codifies these guidance regulations, if you will, so that if Apple wants to sell a laptop here that they are required to look at our efficiency standards to make sure that they can sell their computers here? That is the first question. The second question is, are we setting any standards by what is being adopted that is opposed by a major industry that would alienate any of those products from being sold in Nevada?

Mr. Brown:

Our NRS does state that they have to notify the Office of Compliance. There are databases with all these compliance regulations that we are adopting that are available and are tied to the model number. Those databases are readily available to everyone, to the public, and they are there for us. It is not additional layers where they are going to have to contact the office and be like, "Hey, we now have this appliance that is ready to be sold in Nevada."

Senator Stone:

If I may follow up. Basically, we are enhancing the ease of manufacturers to examine the State's regulations to ensure that they are in compliance with all the efficiency standards that we have adopted. Is this just going to streamline the process for them to find out if the product is available to be sold here in the State based on energy efficiency?

Mr. Brown:

Yes. With the adoption of those best practices that are already available like the ENERGY STAR that are there, the databases are available. That is why we are not requiring additional Nevada-specific labeling because that is more burdensome. Those identifying marks are already there on their labels that are on manufacturing with the model number or ENERGY STAR. Those are compliant with what we are asking them to do.

Senator Stone:

Thank you. I will just follow up with one last comment. In our neighboring state to the west, California, it is not uncommon for them to establish regulations, especially when it has to do with automobiles, that dramatically affect the manufacturing process since a lot of automobiles are sold in California. They often have to change those standards for the entire country in order to sell to one of their largest markets. I hope that in the future if we embark on regulations that are going to have a dramatic impact on the ability to provide for essential items based on energy efficiency standards that are enhanced, if you will, beyond the scope or ability of some of these companies, that we will have the opportunity to further discuss that. I am sure we will if a respective bill is put forward. Thank you very much for your answers.

Chair Cannizzaro:

Any additional questions from members of the Commission? I am seeing Assemblymember DeLong.

Assemblymember DeLong:

Thank you, Chair. I just want to echo and add to the comments and positions expressed by Senator Hansen and Senator Stone. We are adopting regulations that really do nothing, and I do understand that we as a body require them to adopt regulations that do nothing. I will oppose this also on principle. I do have one concern, and I think Senator Stone touched on it, and that is, referencing anything to California is likely to be greater than any federal standard that exists. I do not know why as a state we would want to emulate California.

Chair Cannizzaro:

Speaker Yeager.

Assemblymember Yeager:

Thank you so much, Madam Chair. Maybe this is a rhetorical question, but I am going to ask it anyway. I would assume in this discussion we are talking about energy efficiency, which means appliances, or whatever they are, are going to consume less energy. Is one of the purposes of this regulation to save consumers money on their energy consumption so that no matter what another state does, no matter what the federal government does, Nevada is saying you have got to provide energy efficient appliances and the result of that is consumers will use less energy and bills should go down, whether you are a consumer or a business. If you could just confirm that with me, please.

Mr. Brown:

You are correct.

Chair Cannizzaro:

Thank you. Additional questions? I am seeing none. Do I have a motion?

ASSEMBLYMEMBER YEAGER MOVED TO APPROVE R168-22.

ASSEMBLYMEMBER JAUREGUI SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HANSEN, KRASNER, AND STONE AND ASSEMBLYMEMBERS DELONG AND DICKMAN VOTED NO.)

Chair Cannizzaro:

The motion carries and R168-22 will be adopted. We thank the Office of Energy for being with us today.

We will move on to the next regulation. It is R120-23 for the Commissioner of Financial Institutions. I will turn it over to Senator Daly to begin asking questions.

Senator Daly:

In Section 24, I just want to make sure I understand it correctly. It appears to be the potential waiver of the late fee looks to be in slight conflict with the statute that is referenced, in that we have a November 1 date, and if you put it in after that time, it says you must turn in that fee at that time. But this regulation is saying if they have turned in their renewal through the Nationwide Multistate Licensing System (NMLS) [and Registry], apparently, they just have slightly different dates. So, we are saying you can still be in compliance if you use that system, but you cannot go past now December 31, even though our statute says November 1. Is that just a fair reading of what we are trying to do, and how do we get those two to sync up maybe in the future?

Sandy O’Laughlin, Commissioner, Division of Financial Institutions, B&I:

Good morning. Thank you for the question, Senator Daly. Sandy O’Laughlin, Commissioner for the Financial Institutions Division. And with me is Mary Young, Deputy Commissioner of Financial Institutions Division. This does have to do with the NMLS, so I am going to let Mary go ahead and answer that.

Mary Young, Deputy Commissioner, Division of Financial Institutions, B&I:

Good morning, Mary Young, Deputy Commissioner for the Financial Institutions Division. Yes. When AB 332 was originally passed, the nationwide mortgage licensing system was not able to put this license type onto that system. It took us some time. As we were promulgating these regulations—and unfortunately, it did take us a little bit longer, too, with these regulations to promulgate—the timing of it did not line up for us to get this license type onto that system. We did not want to punish our licensees for any kind of late renewal or licensing process while we were working through that. So, we built this into the regulation to align that and not have anyone get charged late fees that did not necessarily need to have late fees, hopefully.

Senator Daly:

Has it been able to be aligned now, or you put it in because for a period it was not? Has it been corrected? And is their system aligned with ours or who needs to adjust?

Ms. Young:

Correct. The NMLS now allows for student loan servicers to be licensed through that system. They have to go by the November 1 renewal date and then their license will expire December 31. There will be no penalty for any licensees that complies with NMLS for AB 332.

Senator Daly:

Understood. I figured it was something like that, but it just appeared to be in conflict with the statute. But from what you are saying, it is going to align and there is not going to be penalties for people that use that national licensing system. That was my only question, Madam Chair. I just wanted to make sure that they are within their authority, which is what we are supposed to review. I can make a motion if no one else has any questions.

Chair Cannizzaro:

Anyone else have questions or comments on this regulation from the Commission? I am not seeing or hearing anyone. I do have a motion to approve from Senator Daly.

SENATOR DALY MOVED TO APPROVE R120-23.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Regulation 120-23 will be adopted. Thank you so much for being here.

We are going to move on to the next regulation we have for consideration, which is R 004-24 for the State Board of Health. They are joining us here in Las Vegas. I will turn it over to Assemblymember DeLong to begin. We have two regulations, members of the Commission, for the State Board of Health. We are going to consider this first one, R 004-24, and then we will ask you not to go anywhere and we will move on to the other regulation, which is R121-24 for the State Board of Health. But first, R004-24. Assemblymember DeLong. when you are ready,

Assemblymember DeLong:

Do we have anyone in attendance?

Chair Cannizzaro:

They are here in Las Vegas.

Assemblymember DeLong:

Thank you very much, Chair. I appreciate it. I have a question on Section 8. Section 8, number [subsection] 1, at the end of that, we have added text "including, but not limited to [without limitation], where the discrimination results in a person not being treated with dignity or respect." Dignity and respect could be in the eye of the beholder. Those terms do not appear to be defined, and I am just not sure how that is going to be an enforceable regulation that can be consistently applied in any given situation. I would love to hear your thoughts on that.

***Paul Shubert, Bureau Chief, Bureau of Health Care Quality and Compliance,
Division of Public and Behavioral Health (DPBH), Department of Health and
Human Services (DHHS):***

Thank you, Madam Chair, members of the Commission. I am Paul Shubert, Chief of the Bureau of Health Care Quality and Compliance. And through you, Chair, to the Legislator, when we are looking at that kind of language, it certainly is strong language for regulators because we look at the natural definitions of those concepts rather than a specific measurable requirement that we can enforce. It allows us to have discretion, if you will, when we are looking at a situation where a person is complaining about not being treated with dignity or respect and make a determination about whether or not that situation constitutes a violation of the regulation. I really do not have another way of describing it, but that is essentially what we do in terms of looking at a regulation that just has natural language in it.

Assemblymember DeLong:

Chair, if I may follow up.

Chair Cannizzaro:

Before you get to that point, which I was just conferring with Legal Counsel on, it looks as though in subsection 1, which is the beginning of where it is I believe you are pointing to, Assemblymember, in Section 8, there is red strikethrough language that says, "Discrimination" and the strikethrough language is, "that results in a person not being treated with dignity and," and that same language seems to be moved here, which is, "including, without limitation, where the discrimination results in a person not being treated with dignity and respect." In my reading of it—I can certainly call on Legal Counsel to discuss further—but that appears to be sort of moving that language. And then, generally speaking, language like that, typically we would rely on case law from legal filings and court cases to help determine what factors may go into that and what might result in a particular violation. A lot of the time that sort of language would reside within those legal parameters and those legal definitions that are established through the course of litigation before the courts and their opinions. I do not know if, Mr. Killian, you wanted to add anything to that. I just wanted to point that piece out because that was how I was sort of reading that particular section.

Mr. Killian:

Thank you, Madam Chair. That is all correct. I will also point out that the net effect of moving this language from where it appeared to where it would now appear, the original construction of this section would speak only to discrimination that results in a person not being treated with dignity and which is based on one of these protected groups. That construction meant that as long as you treated the person with dignity, it is not a violation,

regardless of how you were discriminating against the person. Moving this language to the end makes it clear that any discrimination, which is on the basis of any of these protected categories, is prohibited and gives us an example rather than as a requirement that one of the ways that discrimination can occur is by not treating a person with dignity or respect. Under the former construction, you could have engaged in discrimination, which was actually rather heinous, so long as the person was treated with dignity, and it would not be a violation. This change to the language corrects that construction.

Chair Cannizzaro:

And it would still have to be discrimination that is based upon one of these legally recognizable claims, which is race color, religion, et cetera.

Mr. Killian:

Yes.

Assemblymember DeLong:

Thank you, Chair. I acknowledge that yes, they move the word “dignity” from the beginning to the end, but they have also added “respect” now. I do not disagree with the regulations, and I will vote for it. I am just pointing out that in this situation we have added two words that are not well-defined, and I just think it is opening us for potential litigation that we could otherwise avoid if we were more clear with our language.

Chair Cannizzaro:

Any additional questions or comments from members of the Commission? Speaker Yeager.

Assemblymember Yeager:

Thank you so much, Madam Chair. I had a question on Section 9 of the regulation. I think we heard a little bit of public testimony on that. What was your intent there? And before you answer, I wanted to explain, I think the way that I read that, is about the public posting of information and what to do if you are discriminated against. The way that I read it—and please confirm this—is there would still be a requirement that a notice be physically posted in the facility as well as on the website. But it does look like there are some strikethroughs of specific places where the notice was supposed to be previously. For instance, public entrance of the facility, waiting room of the facility, public dining room are being stricken. If you could just walk me through what the thought process was, what you are doing in Section 9, and confirm that there would still be a public posting somewhere in the facility.

Mr. Shubert:

Through you, Chair Cannizzaro, to the Legislator. Yes, Section 9 and Section 10 still require posting and contact information for the Division when it refers back to the statutory requirement in [NRS 449.101](#). We did remove some of the places of posting and we specified, which was not previously in the regulation, the size of the posting, and we removed some of those. We recognize that there should be a posting of this information in the facility or multiple postings in the facility. But for a facility to try and post it in every single place in the facility was just overburdening to the industry. Some facilities are small, and they can do that, but some facilities, hospitals, and nursing homes are large and so it was more of a burden on them. We wanted to make sure that there were specific places where they needed to be posted. We wanted to make sure about a specific size. And as

I indicated that within those postings, there are requirements and the statutory requirements for contact information.

Chair Cannizzaro:

Any additional questions or comments from members of the Commission? I am not seeing any. Do I have a motion to approve?

ASSEMBLYMEMBER YEAGER MOVED TO APPROVE R004-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR HANSEN VOTED NO.)

Chair Cannizzaro:

The motion does pass and R004-24 will be approved.

We are going to ask you, Mr. Shubert, to stay here with us because we do have one more regulation that we are going to take out of order for the State Board of Health, so you do not have to go back and forth here with us. We are going to move, members, to R121-24 for the State Board of Health. This was also a request from Assemblymember DeLong. We will kick it over to you, Assemblymember, whenever you are ready.

Assemblymember DeLong:

Thank you, Chair. I have a question on Section 1. I think it is pretty straightforward. I just want to get it on the record. The fee amounts that are identified in Section 1, are they sufficient to cover the workload that has been identified to be completed as a result of implementing those fees?

Leticia Metherell, DPBH, DHHS:

This is Leticia Metherell. Madam Chair, through you to the Assemblymember. Yes, at this point, that is what we have calculated that would cover our operating costs.

Assemblymember DeLong:

Thank you.

Chair Cannizzaro:

Any additional questions or comments from members of the Commission? Seeing and hearing none, Assemblymember, do you have a motion?

ASSEMBLYMEMBER DELONG MOVED TO APPROVE R121-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Regulation 121-24 will be adopted.

Members, we are going to go back to our list. We will next hear R005-24 from the Board of Applied Behavior Analysis. This was also a request from Assemblymember DeLong. We do have someone joining us via Zoom, and I think we are ready to go.

Assemblymember DeLong:

Thank you, Chair. This is a similar question. Section 45 of the regulation identifies a number of fees for various activities. Are these fees sufficient to implement the program and documents that are being requested by the applicants?

Wendy Knorr, Executive Director, Board of Applied Behavior Analysis:

I am Wendy Knorr. I am the Executive Director of the Board. Thank you for allowing us to be here to answer the question. Yes, we have been operating with this fee structure for the last three years and have met our obligations. Our fees do not exceed. We are still under the maximum that has been approved in statute, so we still have a little bit of room, if need be. At this point, we have been able to operate effectively under this fee schedule.

Assemblymember DeLong:

Thank you.

Chair Cannizzaro:

Any additional questions or comments from members of the Commission? Seeing none, Assemblymember, do you have a motion to approve?

ASSEMBLYMEMBER DELONG MOVED TO APPROVE R005-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Regulation 005-24 will be adopted. Thank you so much for being with us.

We will move on to our next regulation. It is R053-24 for the State Board of Pharmacy. We also had another request to pull a State Board of Pharmacy regulation, so we will begin with R053-24. It was a request from Senator Stone. When we are done with this regulation, we will move to R189-24 also for the State Board of Pharmacy. We will open the hearing on R053-24. Do you have anybody in Carson City joining us at that table?

Dave Wuest, Executive Secretary, State Board of Pharmacy:

Yes, Madam Chair. Dave Wuest for the record.

Chair Cannizzaro:

Excellent. Senator Stone, when you are ready.

Senator Stone:

Thank you, Doctor Wuest. Great to see you as always and thank you for being here to answer some questions. I want to commend this regulation. Compounding profession in pharmacy is complex for both State and federal regulations, and you did a great job of articulating references that compounding pharmacists need to keep in their facilities that are up-to-date and certainly going through the federal and State regulations and getting rid of those that are now obsolete. Thank you for the great work you are doing.

The question that I have refers to Section 24 of the regulation, which eliminates the requirement for the procedure relating to the breach of a single-dose container, thereby requiring a procedure only for breach involving multi-dose containers. Is there any delineation made whether the contents of these single-dose or multi-dose vials are preserved or not preserved? Because they should have different dates of having them discarded. If it is a sterile, nonpreserved single-dose container and it is breached—if I am understanding it right—we are not putting any regulations as to when that should be discarded. Maybe it is someplace where I do not see it. I know that with a preserved, you are guaranteed more time as certainly with a multi-dose vial. I believe you had it up to 28 days as long as everything that remains in the environment that maintains the sterility and the temperature, as such. Can you clarify with me with the single-unit doses versus the multiple doses? Why are we deleting any regulations on single-dose vials—which seems to me, might be more important than the multi-dose files—and if there is any distinction between those items that are preserved versus nonpreserved?

Dr. Wuest:

Good morning, Senator Stone. Thank you for your question. Before I start, I would like to say I think this is my last meeting with you for the year, hopefully. And I want to thank you for your time and direction throughout the year. I also want to say that your staff is wonderful, and I want to take a moment to thank Asher, Angi, and Jordan. We really appreciate working with them.

To your question. I think you have it. What we are talking about there with the 28 days is something with the preservative, which would be a multi-dose, which could be used throughout the whole health system, insulin and those kinds of things. With the nonpreserved, it will fall back to United States Pharmacopeial (USP), so that will be determined by the environment for which the drug is manipulated. If it was manipulated in a clean room, as you are very well aware, it might be able to get extended dating. If it is manipulated on a counter, then that would be immediate use. I could see how it is kind of hidden in the regulations, but it would fall back to the national standard for whichever environment you are manipulating the product in.

Senator Stone:

Thank you. And I certainly support the USP standard because it ensures that we discard, especially nonpreserved, items in a timely way so we do not jeopardize the health and safety of our patients. Again, I want to applaud you. A lot of great new information, a lot of great backup for compounding pharmacists that have a lot to deal with ensuring that we deliver quality pharmaceuticals as kind of quasi-manufacturers, if you will. I know you do not like to hear that word, but that is basically what we are as quasi-manufacturers, making

sure that people get the medications they need and deserve and most importantly in a safe and effective manner as possible. So, thank you, Doctor. I will be talking to you on the next item, and I will gladly move this item, Madam Chair.

Chair Cannizzaro:

Before we get to that I want to see if any other members of the Commission have any questions or comments. I am not seeing or hearing any; I do have a motion from Senator Stone to approve R053-24.

SENATOR STONE MOVED TO APPROVE R053-24.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Regulation 053-24 will be adopted.

We will now move out of order to R189-24, also for the State Board of Pharmacy, also a request from Senator Stone. Senator Stone, when you are ready.

Senator Stone:

Thank you again, Doctor Wuest. I certainly understand the motivation behind this agenda item. We often require that people that pick up controlled substances must provide some type of ID that gets recorded so that we can ensure that the true beneficiaries of controlled substances are the people that in fact are receiving them. I understand that people that are not housed do not have the appropriate ID possibly, or people that are released from our State penitentiaries may not have the appropriate ID. My concern is that we are going to use any photo ID that is considered usable without really any standards as to what that ID is. I have some concerns that the wrong people might be getting controlled substances under false pretenses.

Let us say somebody gets a prescription for methadone, or clonazepam, or buprenorphine. Is a pharmacist going to ask, if they do not have an ID, are you unhoused, are you coming from prison? How are we going to establish that criteria so you can take a secondary ID? That is the first question. The second question is if they answer yes, I am unhoused and here is my library card with my picture on it, and it is me, is there indemnification for the pharmacists, and pharmacy techs, or any ancillary employees of the pharmacy to protect them in the event that it is a false ID and these medications get in the hands of the wrong people? I just want to make sure that with pharmacists and staff complying with this regulation, that they are not going to be cited for any kind of trafficking controlled substances.

Dr. Wuest:

Senator Stone, I think a very valid question. I think the Board had the same concern. This was brought to us by the medical professionals that service these people and there was a challenge for people to get it. The first thing I will point out—you kind of already did—this is an all-controlled substance, this is a controlled substance as it relates to treatment for

opioid disorder. It is limited to that for the people that really need the treatment. Secondly, I want to point out that this is a "may" not a "must." The State is not saying that any pharmacist must accept some other form of identification. We leave it to the practitioners, the pharmacists to make that determination. We are not overriding any corporate policy or pharmacy policy that says if they choose to still require a photo ID, they will be able to do that.

As far as is being indemnified, a lot of times, I guess this comes down to trust. We have not clearly spelled it out, but we do not do that on everything that we do. I have been with the Board for 11 years, and we have never taken an action on somebody giving out the wrong prescription to somebody that had an improper ID. As you know, people are devious and that does happen, but we just work with the medical providers through our emails and fax blasts to say these people are—and you probably have seen them—out running around with false IDs, and then we notify the pharmacy so that they do not fill them. I can answer any other questions.

Senator Stone:

Thank you for those answers. To follow up, this is not a mandate that a pharmacist has to dispense based on an alternative ID, that maybe the pharmacist does not think it is sufficient so they can refuse to fill the prescription and send them someplace else. And if they do believe that the ID is valid, and it later turns out to be not valid, I know you say you do not prosecute, but I am hoping it gives a comfort level to pharmacists that they have followed the regulations as possible, and the medications are indeed those types that you would treat opiate addiction patients with, and the Board would look favorably on those pharmacists that did their best in the due diligence in accordance with this regulation and not being cited.

Dr. Wuest:

You are correct on both parts of both points.

Senator Stone:

Thank you. Madam Chair, I am happy to move the item.

Chair Cannizzaro:

Any other questions or comments from members of the Commission? I am not seeing or hearing any, so I do have a motion from Senator Stone to approve.

SENATOR STONE MOVED TO APPROVE R189-24.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Regulation 189-24 will be adopted. Thank you so much for being here with us today.

We are going to go back to our list of regulations and that brings us to R096-24 for the State Board of Education. This was a request from Assemblymember DeLong, so we will turn it over to you, Assemblymember.

Assemblymember DeLong:

Thank you, Chair. I think this will be relatively simple. I just want clarification. In Section 1, subsection 2, you use the word "public school." I just want to make sure that includes all charter schools without regard to how they were formed.

Peter Zutz, Administrator, Office of Assessment Data and Accountability Management, Department of Education:

Great question. Yes, it does include the State Public Charter School Authority (SPCSA) charter schools, the charter schools that are sponsored by the State. Thank you.

Assemblymember DeLong:

Just to follow up on that. What about any charter schools sponsored by a county?

Mr. Zutz:

District-sponsored charter schools are the responsibility of the district.

Assemblymember DeLong:

Another follow-up. In subsection 3, it is prohibiting a school district from establishing or maintaining a separate system for the school district, but we have charter schools that are in the school district. Are you saying they are going to be two different systems? I need some more clarification, please.

Mr. Zutz:

Section 3, the provisions of this section do not prohibit a school district from establishing and maintaining. This is simply at the State level. Our edits fall under the guidance of the State mandate to remove any regulations that no longer comply or align with either State law and/or Department policies. In this case, around student privacy, the edits to this regulation 385.015 are to remove the addition of student Social Security numbers in the statewide system of student information. Thank you.

Assemblymember DeLong:

Thank you very much. That is all I have, Chair.

Chair Cannizzaro:

Any other questions or comments from members of the Commission? I am not seeing or hearing any. Do you have a motion to approve, Assemblymember?

ASSEMBLYMEMBER DELONG MOVED TO APPROVE R096-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Regulation 096-24 will be approved. Thank you so much.

That brings us to our next regulation, R131-24, the Division of Industrial Relations of the Department of Business and Industry. They are joining us here in Las Vegas. I am going to turn it over to Senator Hansen who requested this item to be pulled.

Senator Hansen:

Thank you, Madam Chair. I kind of had a kumbaya session with some of the bigger business groups. I am glad that they have come to some resolution with you guys on some of this. But the reality is, there are about 325,000 employers in Nevada, employing about 1.5 million people. And when I went to your explanation for the need for this adopted regulation, one thing really jumped out at me though. You quote from the Nevada Environmental Justice Coalition and you state that, "Nevada has been found to have some of the highest rates of heat-related workplace fatalities," but you did not show any evidence of workplace fatalities. Can you give me some numbers? How many workplace fatalities that were heat-related occurred in Nevada?

Victoria Carreón, Administrator, Division of Industrial Relations (DIR), B&I:

Victoria Carreón for the record. I am the Administrator of the Division of Industrial Relations. To you Senator Hansen through the Chair. We do not have any specific heat-related fatalities that have been reported to us in recent years. I think that oftentimes there is difficulty actually connecting them to the workplace. Nevada Occupational Safety and Health Administration (OSHA) has not actually investigated any workplace heat-related fatalities in recent years, but I will defer to William Gardner, our Chief of Nevada OSHA for more information.

William Gardner, Chief Administrative Officer, OSHA, DIR, B&I:

William Gardner, Chief of Nevada OSHA, through the Chair to the Senator. When we talk to the coroner's offices and a lot of the stakeholders, a lot of that confusion is that when someone dies and there is a potential that that death is related to heat, that is usually a potential contributing factor, but the heat or the death is usually considered or classified as something else. For example, if someone faints but they fall, they might say that fainting could have been caused by the heat, but they died by the fall. They say a lot of the statistics are skewed in that capacity, so that is the struggle that we have had. On the data side, through the feds, through the stakeholders, that is the struggle we have had in that capacity.

Senator Hansen:

Basically, you are saying none is what you are telling me. The answer is then you have no evidence we had even a single heat-related workplace fatality in your records.

You also state in your explanation that you are averaging only 79 worker compensation claims a year that are heat-related. Yet, when you do the math, if you have 1.5 million employees in Nevada, and let us say they average 200 days per year, that is 300 million work days in Nevada where you could have potential heat-related claims. Yet, you are only averaging 79 compensation claims a year. To me, where is the problem that

we are trying to solve here? Maybe you do not know it, but I am actually in construction, spent my whole life. In fact, I still work in the weather up in the North—cold in the winter, hot in the summer. And we had OSHA training—OSHA 10, OSHA 30, OSHA 40—all of which included a whole section on heat and stress, heat exhaustion, heat stroke. And yet, out of all of the people, 300 million worker days, you only have 79 heat-related claims.

Now I know everybody is kumbayaing, you know NRA, AGC, people like that, but the truth is, they have a gun to their head. Nobody wants this regulation, so they are trying to minimize the damage. But there is also a huge block of people that are not represented in this, and that is the small business community. About 315,000 Nevada employees are small business people. And as I went through the regulation, number one, I do not see the need for it, because frankly, the number of heat-related injuries or claims is so tiny in comparison to the 300 million worker days. And that may be low, by the way, because I am only assuming 200 worker days per worker. We are making this giant regulation; when you have this big of a problem, we are making this big of a regulation.

In the actual regulation, a bigger concern I have is as you go through and you read several pages of things that an employer has to do in order to comply with this, and every single job could potentially have a different need for another assessment. If any employee has a heat-related issue and they go to OSHA and then OSHA comes back to them and they do not have full compliance with every one of the steps in this new regulation, it opens them up to litigation.

As I drove here to Carson today, there were a series of billboards of lawyers who specialize in injury and work-related accidents. And one of them advertises that he has got over \$1.5 billion for his clients. And yet, here we are creating another regulation that is going to force the employees of Nevada to jump through a whole series of hoops. And if they fail to do any of it, it will absolutely open them up for those types of people, those billboard esquires, I guess we could call them, politely. I just do not see the need.

Do you have any evidence at all that with only 79 worker-related claims that there is a problem in Nevada? You mentioned that there has been an increase in stress-related complaints, but then you say you are still only going with 79 compensation claims. Seventy-nine out of 300 million worker days—where is the problem?

Ms. Carreón:

Thank you, Senator Hansen. We believe and the federal government has also established that there is a great deal of underreporting in terms of both injuries as well as complaints related to heat. However, we do know that empirically there is an actual hazard related to the heat, and as you pointed out earlier, it can cause heat exhaustion, heat stroke. Those are very real things. As you also point out, there is a lot of underreporting. In terms of the workers' compensation claims, we believe that those are also probably underreported. As our Chief of OSHA, William Gardner, previously mentioned, oftentimes, the heat may be a secondary cause to a worker's compensation claim, so you may just not be seeing heat as the primary thing that was reported. Hopefully that helps to answer your question.

Senator Hansen:

It kind of does and kind of does not. You mentioned that they are underreporting. How much underreporting? You mentioned federal. Are there statistics? Right now, you have 80 worker compensation claims a year. Is it double—160? Even then it is so minimal in relation to the number of people like myself who are working out of doors all the time.

Roofers—you go down the list of people in construction and workers in general that are exposed to all sorts of weather conditions constantly, yet the number of claims is so minimal. Why are we going to force the 325,000 Nevada employers to now jump through all of these hoops and then face, if they fail to do all of these steps—which in my opinion, are highly egregious, unnecessary, and excessive—if they fail to do it, then subject them to potential litigation or having one of the billboard esquires show up, threaten them, file insurance policy claims, and all that sort of stuff that never seems to end. I just see this as a huge, unnecessary bunch of regulations. Believe me, as a worker myself, a field worker that spent my whole life out in the sun and out in the winter snow working, I am highly sympathetic to people that are exposed to certain situations, but it is so redundant. We already have an OSHA and we have all sorts of government regulations, a plethora of regulations in existence. I do not see where this is even necessary.

While I am sympathetic to you guys trying to come up with something that we probably once again forced on you to the Nevada Legislature, the reality is, as a worker myself and as an employer, I think the 325,000 Nevada employers are not being properly represented in this thing today. And while I am sorry that I am against the National Resort Association, I think this regulation is going to do nothing more than open the State of Nevada and all of the employers of this State to further threats of litigation by the billboard esquires who have advertisements all up and down every major highway in the State telling everybody if they have any sort of worker- or heat-related problem, get a hold of them because they have given \$1.5 billion to their clients.

That is my rant, Madam Chair. I am a strong no on this, and I would certainly encourage all my colleagues to think about both the workers that are already protected, but also the 325,000 Nevada employers who are going to be subject to all these onerous regulations that are unnecessary and redundant. Thank you, Madam Chair.

Chair Cannizzaro:

Thank you, Senator. I do see that I have a hand up from Assemblymember Dickman, so we will turn it over to you. Go ahead and unmute and when you are ready.

Assemblymember Dickman:

Thank you so much, Madam Chair. I have to say I am in really big agreement with the Senator who just spoke, but I have a question. Is there some federal compliance component to this?

Ms. Carreón:

To you, Assemblymember, through the Chair. In terms of federal requirements, there are no federal requirements specific to heat illness related to worker safety. The only thing that exists at the federal level is the general duty clause, which simply says that employers are required to maintain a workplace free of recognized hazards.

Assemblymember Dickman:

Thank you. My concern with this is that this is not going away and what has been proposed here is not as onerous as what was proposed last interim when I was on Legislative Commission. I am torn, but I may be a no. Thank you, Chair.

Chair Cannizzaro:

Assemblymember Jauregui.

Assemblymember Jauregui:

Thank you, Madam Chair. I just want to say thank you for bringing this regulation forward. I worked on heat regulation policy during the last legislative session. I introduced AB 189, which in counties with populations over 700,000, it prohibited them from restricting the hours in which construction work could begin during our summer months because I was hearing from so many construction workers saying we need to start earlier, we cannot do our jobs. Some cities were not allowed to start work until 9 a.m. By the time we get up and start working, or set up and start working, it is 10 a.m., and if you are here at 10 a.m. in the middle of August, you know how hot it is already. We did hear in the Government Affairs Committee, both in the Assembly and the Senate, from many construction workers who showed up that morning to testify about what it was like to work at 9, 10, 11, or 12 p.m. during the summer months. Unfortunately, AB 189 only restricted the hours to residential construction. It did not restrict it to all construction. But one of the comments I heard from that committee when I was there is why are we limiting it to only residential construction when all construction workers deserve the right to be able to work in conditions that are earlier during our extreme heat in summer months.

Thank you for bringing this forward because I think it is something we need to address. I was happy that AB 189 passed unanimously out of Government Affairs, and passed unanimously out of the Assembly, and passed with 19 votes out of the Senate because people cared about worker safety. Thank you for bringing this forward. And with that, Madam Chair, I would like to make a motion to approve the regulation.

Assemblymember DeLong:

I still have a question.

Chair Cannizzaro:

We do have a motion, but before we get to that motion, we will go to Assemblymember DeLong and then ensure that there are no additional questions, and we will go from there. Assemblymember DeLong.

Assemblymember DeLong:

Thank you Chair. I just would like some clarification on which employers are subject to this regulation or would be subject to this regulation.

Ms. Carreón:

Thank you, Assemblymember DeLong. Through the Chair to you. The employers that would be subject to this regulation are those that are already required to do a written workplace safety program, and that is those with more than ten employees.

Assemblymember DeLong:

Across all business sectors?

Ms. Carreón:

That is correct.

Assemblymember DeLong:

Thank you, Chair.

Chair Cannizzaro:

Additional questions or comments from the Commission? Senator Stone.

Senator Stone:

Thank you, Madam Chair. I think one of the questions that was just answered is that it is limited to employers with ten or more employees. In my observations, and certainly in support of my colleague Senator Hansen, who very well-articulated the number of incidents that we have here in Nevada, I think our employers have really stepped up to the plate and obviously do not want their employees to get sick and obviously would not want to put their employees in harm's way of any kind of heat-related incidents without the appropriate mitigations of cooling equipment, electrolyte solutions, and things like that. But I also share the concern for the small businessperson that could be 25 employees or less. It has a more intimate relationship as far as articulating mitigation measures and heat and cold. I appreciate that there has been a lot of compromise that has happened here, especially with the Resort Association. Larger companies need this type of regulation because they do not have that one-on-one contact with their employees. I support all the great work that has been done on this, but I am concerned based on the number of incidents that have been reported, albeit may be underreported that this might be a burden to small businesspeople in a State that can be a little bit litigious. And while the bigger companies can certainly afford litigation defenses for their companies, the smaller businessman or woman can be impacted significantly by this in their compliance. I would like to see maybe employees of 25 or more. That might have made a little bit more sense, but based on what is written, we cannot change that, and reluctantly I am going to be a no as well.

Chair Cannizzaro:

Thank you, Senator Stone. Any additional questions or comments? Speaker Yeager.

Assemblymember Yeager:

Thank you, Madam Chair. I do not have questions, but I wanted to just put a couple of things on the record. A lot has been said about this regulation and about small business. I believe, and I could be corrected if I am wrong, but I think the Vegas Chamber down here represents quite a few small businesses. I think it is not accurate to say that somehow this is only the big businesses that have come forward to agree with this regulation. As the prior Chair of this Commission, we have been dealing with this issue for the better part of two years. I think what we have in front of us is the way the process should work. Everybody got involved and came up with something that works for everybody, recognizing that the principal concern here is worker safety. That is the concern. You guys, to your credit, brought business in and said can we do something here that makes sense for everybody. I want to thank everyone for working on this because it has been a very long time coming on this regulation, and I think this does strike the right balance.

I also just want to note for the record that workers' comp claims are settled differently than other litigation claims. I am not sure what a billboard esquire is; that sounded to me like a little bit of an assault on the First Amendment. Anyone can advertise on billboards, people do it all throughout the State. And just because you are advertising your services does not mean that that makes you bad or we should eliminate that. I do not know what that means, but workers' comp in this State has always been handled through a different litigation system. I would think that we are going to continue with the workers' comp system and that if you are injured on the job, you will go through that process. And then of course, I just want to note no matter what a lawyer may advertise, you do not just sign up for a lawyer and get a paycheck; you have to actually go through litigation. There has to be findings of fact, there has to be jury trials. I am just a little surprised to hear what I consider to be a little bit of an assault on free speech—maybe just the rant of the day.

I just want to say for the record that I appreciate the work that you have all done. I think this strikes the right balance to protect our workers who are out in the heat and the cold and also not make it too burdensome for business. Thank you for the opportunity to say those words, Madam Chair.

Chair Cannizzaro:

Assemblymember Watts.

Assemblymember Watts:

Thank you very much, Madam Chair. I would like to also make sure that we get a couple of other facts on the record. One is that the two fastest warming cities in the United States are Las Vegas and Reno. We know that heat-related illnesses are on the rise across our State. We also know that heat-related deaths are on the rise across the State. And to the point that was brought up, I think during this discussion, we know that some of our reporting systems actually are not adequately capturing the full scope of this problem. This is something that our local governments have been working to address. It is something that workers across the State have been calling for action on from the Legislature and from regulators.

Fundamentally, the fact that all we have is that general duty responsibility. It does not provide certainty to the workers; it does not provide certainty to businesses. And the result of a lot of conversation is finding something that strikes that balance that employers feel that they can implement and provides them with that certainty and also gives the same to workers. This is a major public health issue; this is a major quality-of-life issue. And I appreciate the testimony that we heard not only from some of our largest employers but from chambers of commerce that overwhelmingly represent their membership, represent small businesses. Eighty-five percent, I think, of the Vegas Chamber's members have 50 or fewer employees. I appreciate all the work that has been put forward and the broad support behind this, and I look forward to supporting it. Thank you.

Ms. Carreón:

Madam Chair. Before you move on, we just had a couple of items for clarification. I did want to note on the agenda that it says we are part of the Department of Health and Human Services. However, we are part of the Department of Business and Industry, so that was one correction. And then the other one was on the Informational Statement on page 4, the statements of Paul Moradkhan. There was a typo in here and it says, "There is nothing in law that allows an employee to file a grievance." It actually was supposed to say, "There is

nothing in the law that does not allow an employee to file a grievance.” I just wanted to get those two items on the record. Thank you, Madam Chair.

Chair Cannizzaro:

We appreciate that, and certainly we will make note of those corrections. We will make sure that the minutes from this meeting accurately reflect that you are from the Department of Business and Industry, which I thought that was the case, but we had Health and Human Services.

Any additional questions or comments from members of the Commission?

The only thing that I would add to the comments from my colleagues that is notable about this particular regulation, and for those of you who are looking at the rest of these backup materials, is that there was quite a lot of participation in all of these hearings, substantially more than we generally see and substantially more than I think are typical with many of these hearings that you all conduct. There were folks from very large industries here in the State and representatives from the smallest businesses. The Las Vegas Chamber of Commerce represents a very significant number of small businesses here in the State who are all participatory in this particular process. I just want to commend the Division on managing all of those individuals and coming up with something that is going to work across the board.

We have heard, certainly before this meeting and even today, during public comment that these regulations strike the right balance and are something that will not only protect employees but also give some clear guidance to employers. I think that is always a good place to be on regulations. Having that many folks and that many voices, and some of them, like I mentioned, representing a number of other individuals and industries and businesses, and to be able to put all of that together speaks to the good work that you all have done on this regulation. Thank you.

We do have a motion that was made earlier by Assemblymember Jauregui.

ASSEMBLYMEMBER JAUREGUI MOVED TO APPROVE R131-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

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

Chair Cannizzaro:

The regulation will be adopted. We appreciate your time today. Thank you so much for being here.

That will bring us to the next regulation on our agenda, R136-24 for the State Environmental Commission. That was a request from Senator Stone. We will turn it over to you, Senator, in just a moment. Luckily the next regulation on our agenda is also for the State Environmental Commission. Hopefully they have some overlap in the folks who will be presenting to us, but we will begin with R136-24. I believe we have folks joining us in Carson City. Senator Stone, when you are ready.

Senator Stone:

Thank you again, Madam Chair. I am concerned about Section 7, which revises the name of portable holding tanks to temporary holding tanks and limits the placement and use of temporary holding tanks to a period of not more than 180 days. I assume these are “porta potties,” if you will, that go on construction sites. We have some large construction projects that are going to be coming throughout Nevada, and am I interpreting this wrong that these portable units can only be there for 180 days, or am I misreading something?

Jeffrey Kinder, P.E., Deputy Administrator, Division of Environmental Protection (DEP), State Department of Conservation and Natural Resources (SDCNR):

Jeff Kinder, Deputy Administrator with the Nevada Division of Environmental Protection. Thank you for the question. We changed the name to more accurately reflect what is being used in the industry. That was the name change. The timing is to allow the initial placement. If a project is going to go on longer, they can apply for a holding tank permit and have that tank there for a longer period of time. They are not “porta potties.”

Senator Stone:

Forgive me, I am not in the Environmental Commission Department to understand that. Could you just basically tell us what a portable holding tank is so I understand a little bit better?

Jennifer Carr, P.E., Administrator, DEP, SDCNR:

Good morning. Jennifer Carr, Administrator for the Division of Environmental Protection. Thank you for the opportunity to clarify. These holding tanks are what you would probably envision more like large either above or below ground tanks, more along the size of a septic tank, but they do not have the leach field associated with the facility. It is a large multiple 1,000-gallon receptacle for waste until it can be pumped and hauled off site.

Senator Stone:

So it would be, I assume, a large project—let us say the A Stadium that might be hopefully coming soon—that they would install one of these larger tanks so they would not have to have a lot of porta potties, and they would be allowed 180 days for the convenience of the employees to be able to utilize those facilities. And then if they want an extension, can they get an extension, or does it have to be flushed out and they can get another 180 days? How does that work?

Ms. Carr:

Maybe it would be helpful to give a different kind of example because I am not sure that these tanks are similar to what you have in mind. Another example may be a facility that was up in Elko County somewhere. It was like a gas station and the groundwater came up and their septic system failed. So, they put in one of these large holding tanks on a temporary basis in order to address their wastewater flow until their septic system could be fixed. We are not talking about the porta potty-type things. Large construction projects still can certainly have porta potties for as long as necessary. These are the larger concrete vessels that are not permanent, yet not exactly transient either. They are a temporary situation to solve a problem.

Senator Stone:

Thank you for the clarifications, and I fully support the regulation and would be happy to move it.

Chair Cannizzaro:

Thank you. Any other questions or comments from members of the Commission? I am not seeing or hearing any. I do have a motion to approve R136-24 from Senator Stone.

SENATOR STONE MOVED TO APPROVE R136-24.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Regulation 136-24 will be adopted.

We will now move to R137-24. Assemblymember DeLong had asked for this regulation to be pulled so we will turn it over to you. I think we had some changeover in Carson City. Assemblymember DeLong, whenever you are ready.

Assemblymember DeLong:

Thank you, Chair. I have a question and then a comment on the reg. The question is similar to ones I have asked on others relating to fees. Are these fee increases going to be sufficient to implement the program as planned based on the applications that are submitted?

Danilo Dragoni, Ph. D., Deputy Administrator, DEP, SDCNR:

Good morning. Danilo Dragoni, Deputy Administrator for the Nevada Division of Environmental Protection. Thanks for the questions. The short answer is yes. Before actually presenting this fee increase to the industry and to the stakeholders, we performed analysis on the budget, on the reserve future income, and we believe that these fee increases will be sufficient.

Assemblymember DeLong:

Thank you. I just wanted to get that on the record.

My next is really more of a comment on Section 3 relating to the preapplication submittal of essentially baseline reports for review by Bureau of Mining Regulation and Reclamation (BMRR). You are changing the fee, which I completely understand. It is more of a comment about how the Bureau is actually getting their workload completed and the timing of such. It is very, very slow particularly as it relates to review of groundwater modeling reports as well as geochemical characterization reports. The way this section is written, and I know these are not changes in the regs, but the way it is written right now is you have to provide your design for the project. You have to know your throughput in tons per year or your dewatering rates in acre-feet or gallons per minute. That may not be done in time for

submittal of, let us say, a groundwater flow model to get reviewed by the State to determine its adequacy to use then in the analysis of what does dewatering look like or what does the waste rock management plan look like. So, we have created a set of regulations that limit when those reports can be submitted. I think that just contributes to the delay because it forces all that to happen in a shorter time period. Whereas, if they did not have to have all that information ahead of time, they could submit those reports earlier, then spread out the time frame over which all that has to be done. So that is more of a comment at this point, but I am in support of the regulation. I am glad to hear the fees are going to be sufficient. Thank you very much, and Chair, if there are no other comments, I am happy to make a motion.

Chair Cannizzaro:

Excellent. Any other comments or questions? I am not seeing or hearing any. We have a motion from Assemblymember DeLong to approve R137-24.

ASSEMBLYMEMBER DELONG MOVED TO APPROVE R137-24.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Regulation 137-24 will be adopted.

Members of the Commission, that is the last regulation and that will conclude our work under Item IV B on our agenda.

AGENDA ITEM V—PRESENTATION OF THE LEGISLATIVE COUNSEL BUREAU'S AUDITED ANNUAL FINANCIAL REPORT FOR FISCAL YEAR 2024

Chair Cannizzaro:

We will move over to Item V, which is the presentation of the Legislative Counsel Bureau's audited annual financial report for Fiscal Year 2024. I believe we are joined by our Chief Financial Officer, Dan Rushin. He is with us in Carson City, and we are going to turn it over to him to present this item. We do also have representatives from our external audit firm, Crowe LLP, who will assist him in the presentation. We will go ahead and receive that report at this time.

Daniel E. Rushin, Chief Financial Officer, LCB:

Thank you, Chair Cannizzaro, and members of the Legislative Commission. I am Daniel Rushin, Chief Financial Officer of the Legislative Counsel Bureau. I am here today to present the LCB's annual financial report for the fiscal year ended June 30, 2024. Copies of the report ([Agenda Item V](#)) are in the meeting packet and under Agenda Item V in the meeting materials posted on the Legislature's website. Given that our time is limited and because the document contains a significant amount of information, I will focus on certain key elements of the report and reference page numbers as I go along. Please feel free to stop me at any time if there are questions.

Before I begin, I wanted to state for the record that I prepared this report with financial data that is maintained by the LCB's Accounting Unit. And I would like to take a moment to express my sincere thanks to the LCB's Chief Accountant and to the staff of the Accounting Unit for their efficiency and accuracy in maintaining the financial records of the LCB. I am pleased to report that 2024 now marks the fifth consecutive fiscal year with no deficiencies or audit findings noted in the LCB's annual financial statements by the external auditors. This is due primarily to the high level of competency and professionalism of the LCB's Accounting Unit.

For purposes of governmental financial reporting, a fund is defined as a fiscal and accounting entity that has a self-balancing set of accounts. A fund is established to track specific financial resources, obligations, and related activities for particular purposes following legal, regulatory, or policy requirements. The annual financial report of the LCB includes the standalone financial statements of the three state funds that are administered by the LCB. Those are the Legislative Fund, the Contingency Fund, and the State Printing Office Fund.

The financial section begins on page 1 with the independent auditor's report. The LCB's financial statements were audited by the firm of Crowe LLP. Crowe is a public accounting and consulting firm that provides audit services to multiple local governments throughout Nevada and the United States. It is important to note that Crowe's audit report is unmodified, meaning that the report itself required no modifications. This is in essence a clean audit report and represents the highest level of assurance available from the auditing profession that the LCB's financial statements are fairly presented.

As a governmental entity, the LCB's financial statements are prepared in accordance with the reporting standards and guidance issued by the Governmental Accounting Standards Board, which are referred to as generally accepted accounting principles. These principles require that the LCB prepare two distinct sets of financial statements, the government-wide financial statements and the fund financial statements. These two sets of financial statements each utilize a different measurement focus and basis of accounting. To provide some perspective, a measurement focus identifies what kinds of transactions are reported in the statements, and the basis of accounting identifies when those transactions are reported.

The government-wide financial statements consist of the statement of net position on page 9 and the statement of activities on page 10. These statements present the LCB as a whole, and therefore no distinction is made between the LCB's three funds. Rather, activities are presented as either governmental or business type. The governmental activities include both the Legislative and Contingency Funds, and the business type activities include the State Printing Office. It is important to note that the government-wide statements are prepared using the economic resources measurement focus and the accrual basis of accounting. This approach requires that the statements include all of the LCB's long-term assets and liabilities on the statement of net position and all the related transactions on the statement of activities.

The statement of net position on page 9 presents the LCB's assets, liabilities, and resulting net position at June 30, 2024. This statement is similar to a balance sheet used by nongovernmental entities. Significant long-term assets reported on this statement include the land, buildings, and equipment owned by the LCB. Significant long-term liabilities include those resulting from pension and other postemployment benefits. As this statement shows, when all of the LCB's assets and liabilities are reported, the ending net position at June 30, 2024, totals approximately \$439 million.

The statement of activities on page 10 presents the revenues and expenses of the LCB for the fiscal year as a whole. This statement is similar to an income statement used by nongovernmental entities, although it is in a different format. The majority of the LCB'S revenues consist of general revenues in the form of appropriations. Expenses are categorized based on the functional nature of the related activities. Overall, as this statement reports, the LCB'S net position decreased, that is, expenses exceeded revenues by approximately \$155 million during the year. This decrease was primarily due to the allocations made in the Contingency Fund to other State funds during the fiscal year.

Moving on to the fund financial statements, which as the title implies, present the three funds administered by the LCB individually as separate standalone funds. The fund statements include the balance sheet on page 11 and the statement of revenues, expenditures, and changes in fund balances on page 13. These statements are prepared using the current financial resources measurement focus and the modified accrual basis of accounting. As a result, only the LCB'S current assets and liabilities are included on these statements. These are defined as assets and liabilities that are able to be either used or paid within a year or less. Current assets include balances such as cash and inventory, and current liabilities include balances such as accounts payable and accrued payroll. Noncurrent assets such as capital assets—for example, buildings and lands—are excluded from the fund statements. Also, long-term accrual-based expenses, such as depreciation and pension expense, are excluded as well. Some users find the fund statements more useful than the government-wide as they present the LCB'S activities in the same general format as the State's budget, and the current activities of the Legislative and Contingency Funds are more easily discerned. Because these statements are prepared using different measurement focuses, reconciliations are provided on pages 12 and 14 that show the specific balances that cause the differences between the statements.

On page 11, the balance sheet shows that the Legislative Fund, which accounts for the operations of the LCB, ended the fiscal year with a fund balance of approximately \$166 million. Of this total amount, \$2.1 million is classified as nonspendable, as it relates to inventory and prepaid expenses; \$137 million has been committed for specific purposes, primarily construction and improvement projects. This leaves approximately \$26 million of assigned fund balance for the general operations of the LCB.

The Contingency Fund ended the year with approximately \$160 million of committed fund balance. There is additional detail provided on what comprises committed fund balance for both funds in Note I on page 32 of the report. On page 13, the statement of revenues expenditures and changes in fund balance shows that the Legislative Fund's fund balance increased by approximately \$18.6 million, and the Contingency Fund's fund balance decreased by approximately \$317 million in the fiscal year. The notes to the financial statements, which began on page 18, provide additional detail for the balances reported in the financial statements. For example, Note A summarizes the LCB'S accounting policies; Note D provides details of the LCB'S capital assets; and Note I, as previously mentioned, provides details of the ending fund balances for both of the funds.

Finally, the annual financial report concludes with the compliance section. This section contains an additional audit report that is required by government standards to be issued by the LCB'S external auditors. This report provides an assurance opinion on the LCB'S internal controls over financial reporting; compliance; and provisions with laws, regulations, and contracts. Again, as previously stated, I am pleased to report that this audit report is also unmodified and there are no compliance audit findings reported for Fiscal Year 2022.

At this time, I would like to turn it over to a representative from our external audit firm, Crowe LLP, Joseph Widjaja, who is the Senior Audit Manager for our engagement, for some formal communications that are required to be made under the government auditing standards.

Joseph K. Widjaja, CPA, Audit Senior Manager, Crowe, LLP:

I am Joseph Widjaja, Audit Senior Manager with Crowe LLP. As Dan pointed out, we have issued an unmodified opinion, which is the highest level of assurance that auditors can provide. It means that the financial statements are clean and without any modifications or findings. We have also considered internal controls over financial reporting. And I am pleased to report during the audit, we did not identify any material weaknesses or significant deficiencies in internal controls.

The last thing we need to communicate is that our professional standards require us to make communications to those charged with governance. First of all, with respect to significant accounting policies, management has properly disclosed their policies in footnote number one of the financial report. We have reviewed them, and they appear to be both clear and consistent from prior periods. Also, for management's accounting estimates, we have reviewed them, and we have no issues to report. Lastly, we did not observe any unusual transactions, disagreements with management, or any independence matters.

Before I turn it back to Dan, I would like to appreciate Dan Rushin, the Chief Financial Officer; Jolanta Astronomo, the Chief Accountant; and the rest of the LCB finance team for their time and efforts in getting this audit done. I also wanted to thank Crowe team members for their hard work as well: Nathan Chupp, Elizabeth Sav, and Chulee Weeraphichet. Thank you.

Mr. Rushin:

Are there any questions related to the annual financial report that I can answer?

Chair Cannizzaro:

Members of the Commission, this is an informational item only. Now would be the time if you have any questions to go ahead and ask them. I am not seeing or hearing any. Thank you so much for presenting this to us, Mr. Rushin.

That will conclude Item V on our agenda. We are going to move on to Item VI.

AGENDA ITEM VI—LEGISLATIVE AUDIT

A. SUMMARY OF AUDIT REPORTS PRESENTED TO THE LEGISLATIVE COMMISSION'S AUDIT SUBCOMMITTEE (NRS 218G. 240)

Chair Cannizzaro:

We will start with VI A, which is the summary of audit reports presented to the Legislative Commission's Audit Subcommittee. I will turn this over to our Legislative Auditor, Dan Crossman. He is going to be presenting this item from Carson City. Whenever you are ready, please feel free to go ahead and proceed.

Daniel L. Crossman, Legislative Auditor, Audit Division, LCB:

Good afternoon, Chair Cannizzaro, members of the Legislative Commission. My name is Dan Crossman, Legislative Auditor. Under [Agenda Item VI A](#), you will see a letter from Senator Dondero Loop, who is Chair of the Audit Subcommittee, indicating that on September 10 of this year, a meeting of the Audit Subcommittee of the Legislative Commission was held in which nine audit reports were presented and accepted by the Subcommittee ([Agenda Item VI A](#)). Following that meeting, all Legislators were notified of the release of these reports via email with links to our full reports on our website. During the Audit Subcommittee meeting, we presented a summary of the key findings and the audits that we presented to the Subcommittee. We answered questions of the committee members, and representatives from agencies provided remarks and also answered questions as well.

Today, in the interest of time, I will briefly go over some of the key findings from those reports. Please note that the full reports are also available on our website where many more details are available regarding the work we did and our findings and recommendations. Additionally, if there are any members of the committee that are interested in discussing in detail any of these reports, we would be happy to find a time to do that.

Turning to the next page of VI A, is a summary for the audit of the Department of Motor Vehicles (DMV) Information Security. The purpose of this audit was to determine if the Department had adequate information security controls in place to protect its information processing systems. What we found was the Department has not adequately prioritized critical information technology functions to mitigate service disruptions, ensure timely recovery, and safeguard data. Specifically, our key findings included areas for improvement with annual risk assessments, disposal of certain hard drives systems, patch management processes, hardware change management procedures, and data extraction for sales to outside entities. Policies and procedures governing the IT operations over certain key control areas were often incomplete or not followed. Finally, the DMV can do more to reconcile its inventory system records. While we did note various opportunities for improvement in this area, our audit work did not identify any critical security vulnerabilities at DMV within our testing areas. We made 17 recommendations to the Department to improve information security controls, and all of those recommendations were accepted by the agency.

On the next page is our summary of our audit of the Public Utilities Commission of Nevada (PUCN). The purpose of this audit was to analyze the Commission's internal controls over the reliability and relevance performance measures. We found PUCN can improve controls over the administration of performance measures to improve usefulness and reliability. It can increase the number of outcome measures to provide useful information to management and oversight bodies, such as this body and the Governor, in making budget and policy decisions. We also found reported results for measures were not always accurate. Additional guidance and oversight can improve the reliability of the agency's measures. We had three recommendations for PUCN, which they accepted.

On the next page is our summary of our audit of the Colorado River Commission (CRC) of Nevada Resource and Technology Administration. The purpose of this audit was to determine if CRC was adequately managing certain activities related to its power delivery, hydroelectric power billing, water usage tracking, and assessing certain IT controls. We found CRC can improve its recordkeeping, policies and procedures, and oversight of its operational processes. For example, records used to document electrical switching and inspections were not always complete and sometimes lacked evidence of required review.

Although important to note, our inspections did not identify any major safety or security concerns. We also found water usage calculations to be materially accurate with a minor miscalculation identified. Finally, they can strengthen their oversight of information security risk assessments, continuity of operations, and disaster recovery plans. We made 13 recommendations to the Colorado River Commission, all of which we are accepted.

On the next page is our summary of the audit of the Division of Health Care Financing and Policy Hospice Care Claims and Fiscal Agent Contract. Our objectives were to determine if there were adequate controls over hospice care claims to limit improper provider payments and to determine if the solicitation and oversight of the current fiscal agent contract complied with applicable laws, policies, contract terms, and best practices. We concluded the Division lacked adequate controls to ensure hospice care provider payments complied with federal and State Medicaid policies. Specifically, we found hospice providers billed and received payment for duplicate services for room and board charges. Additionally, providers billed and received payment for rates higher than allowed. Furthermore, the Division paid some claims with service dates after a recipient's date of death. These improper payments occurred because the Division's Medicaid Management Information System (MMIS) system lacked certain critical system controls regarding these services and additional compensating controls had not been developed.

Additionally, we found that better oversight and contracting practices for the fiscal agent services will help ensure State contracting laws and policies are followed. The Division's current fiscal agent contract has been in effect since 2011, and the Division has frequently modified the scope of work, amount, and duration of the fiscal agent contract over its administration of the MMIS system. While continuity with a fiscal agent has various benefits, not regularly soliciting competitive bids for fiscal agent services can impact the State and other vendors are denied the opportunity to compete and offer different solutions or pricing. We made ten recommendations, which were all accepted by the Division.

On the next page is a summary of our review of governmental and private facilities for children inspections, January 2024. This year's report includes the inspections of 22 children's facilities. We had notable findings at four of these. At each of these, we identified certain health, safety, and other welfare issues and contacted the respective licensing agencies to share our concerns with them. As a result of our reviews and based on the licensing agency's actions, various forms of corrective actions were taken for the facilities and homes to ensure standards of care are being met. Through our continued work in this area, we will monitor and follow up with these facilities and the licensing agencies where we had concerns. This report also included a couple of recommendations for legislative consideration to enhance certain training requirements and to require certain staff screening checks at certain types of facilities in statute. There are many more details on this report available on our website.

On the next page is our summary of our review of the Silver State Health Exchange information security. This audit's objective was to determine if the Exchange had adequate information security controls in place to protect the confidentiality, integrity, and availability of its information and information processing systems. Overall, we found some improvements can be made to enhance information security controls. For example, the Exchange user access requests, authorizations, and monitoring practices were incomplete and/or undocumented. In addition, the Exchange does not verify that all users with access to the state-based exchange platform have completed a preaccess background check before being granted access. In addition, multiple users with state-based exchange platform access had not completed the assigned security awareness trainings, and the process to ensure completion was not always effective. Finally, other areas that could be improved include

asset management, asset inventory processes. Again, in this situation, while we noted various opportunities for improvement, our work did not identify any critical security vulnerabilities at the Exchange within our testing areas. We issued 11 recommendations to the Health Exchange, all which were accepted by the Exchange.

On the next page is our summary of the audit of the Chief Information Officer, formerly known as Enterprise Information Technology Services (EITS), customer rate development and contracting practices. The audit's objective was to evaluate the Office's controls over the development of customer rates and the monitoring and solicitation of contracts and lease agreements. We concluded the Office lacked adequate controls to properly track its employee labor distribution and to monitor customer utilization of its services in calculating customer rates. In addition, the Office did not always properly identify or charge customers using its services. Rates are calculated based on the cost to produce the service and the number of entities using that service. Accurate labor distribution and customer utilization information is needed to ensure proper rate development, so the costs of providing services are funded and so appropriate rates are charged to the appropriate users.

The Office did not always use competitive solicitation practices to procure millions of dollars in services. Instead, some procurements were completed as questionable sole-source procurements or contracts were extended for years through amendments. In addition, effective contract monitoring did not take place resulting in payments to vendors without a contract in place and some vendors not being billed for services rendered by the division [Office]. When services are procured without competition or written contracts, there is an increased risk to the State that we could overpay for services, fail to procure the best value, or be unable to enforce desired scopes of work. Our audit report included seven recommendations, all of which we are accepted by the Office.

On the next page is our summary of the audit of the Governor's Office of Economic Development (GOED) pandemic relief and State small business credit initiative assistance programs. Our audit's objective was to evaluate the adequacy of GOED's administration of certain economic and stimulus funding. We concluded GOED did not provide sufficient oversight to ensure businesses were appropriately awarded funds from certain Coronavirus relief programs that it oversaw. While these programs provided important fiscal relief to many businesses, proper oversight is necessary to ensure funds are distributed equitably and used in accordance with federal requirements. Our audit identified that the eligibility was questionable for more than 10 percent of the awardees that received funds from the Pandemic Emergency Technical Support Program, or PETS, and the Commercial Rental Assistance Program, or CRAG. Specifically, businesses were awarded funds from the two programs while owing prepandemic taxes and other debts to the State. Additionally, some did not have an active business license required by the program. Funds were provided to these potentially ineligible businesses despite the demand for awards exceeding funding, especially in the PETS Program. Furthermore, promised monitoring of the program recipients to ensure businesses spent funds appropriately did not occur.

Additionally, GOED can also improve fiscal oversight practices for administering and safeguarding certain financial assistance to small businesses. Additional information necessary to monitor and evaluate the State Small Business Credit Initiatives Program's performance was not always collected, and Program performance evaluations were not always performed. Further reports submitted to the Legislature did not contain all required information for proper oversight. Finally, legislative consideration is needed to ensure any program restructuring maintains its intended legislative oversight and transparency to the public about the use of taxpayer funds. The Governor's Office of Economic Development accepted our 14 recommendations that were made in this report.

Lastly, not in your packet, but I will note that as noted on the cover letter, the statewide single audit for the fiscal year ended June 30, 2022, was presented at that Audit Subcommittee. This report includes the State's combined comprehensive financial statements and a report on the State's compliance with federal awards requirements. This report was filed with the federal government upon completion, became a public record back in February, and was presented to the Subcommittee in September. This audit report is produced by the independent accounting firm of EideBailly and is also available on our website.

As I mentioned at the beginning of my presentation, we are available any time to discuss these reports in any detail as desired by the members of the Subcommittee, or by this Committee, or any of the Legislators. These agencies' 60-day plans of corrective action for these reports issued in September are due on December 9 of this year, and the 6-month report on the implementation status of the recommendations is due on June 9, 2025.

That would conclude my presentation on these audit reports issued and accepted by the Audit Subcommittee on September 10. As noted on the cover letter, the Audit Subcommittee recommends the Legislative Commission accept these nine reports under Item VI A. Thank you.

Chair Cannizzaro:

Thank you, Mr. Crossman. Do we have any questions or discussion about the audit reports that were just presented from any members of the Commission? I am not seeing or hearing any. I would take a motion to accept the report as submitted to the Legislative Commission.

ASSEMBLYMEMBER YEAGER MOVED TO ACCEPT THE AUDIT REPORTS PRESENTED TO THE LEGISLATIVE COMMISSION'S AUDIT SUBCOMMITTEE.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

The reports as submitted will be accepted by this Commission.

B. SUMMARY OF 6-MONTH STATUS REPORTS ON THE IMPLEMENTATION OF THE AUDIT RECOMMENDATIONS BY THE LEGISLATIVE AUDITOR AS SUBMITTED TO THE LEGISLATIVE COMMISSION'S AUDIT SUBCOMMITTEE (NRS 218G.270)

Chair Cannizzaro:

We will now move on to Item VI B, which is the summary of 6-month status reports on the implementation of the audit recommendations by the Legislative Auditor as submitted to the Legislative Commission's Audit Subcommittee. Mr. Crossman, this is also an item that you will be presenting to us. Whenever you are ready, you can go ahead and proceed.

Mr. Crossman:

This will be quicker than the last item. By way of review, the six months after the audited agencies have submitted a plan of corrective action, the Division of Internal Audits in the Governor's Finance Office works with these agencies to report on the status of implementation of our recommendations. We review their assessment, and when we feel it is warranted, we may request additional information from those agencies. The 6-month follow-up process and the Governor's Finance Office's responsibilities are defined in statute. The process was designed this way many years ago to provide the Legislative Auditor's independence in the recommendation implementation process and to provide for the Executive Branch's appropriate oversight of its agencies in assisting them with those corrective actions.

Under Agenda Item VI B you will see another letter from Senator Dondero Loop, Chair of the Audit Subcommittee, which indicated that six, 6-month reports were reviewed and accepted at the September 10, 2024, Audit Subcommittee meeting ([Agenda Item VI B](#)). The letter shows the implementation status of the 53 recommendations that were made on those audits. At the time of the 6-month reports being issued by the Governor's Finance Office, 5 recommendations were fully implemented, 46 partially, and 2 had no action. On page 2 of this letter, we show the status of recommendations as of the meeting on September 10. This additional time allowed agencies to make substantial progress towards implementing the recommendations. After follow-up and discussion with the agencies and reviewing updated information, you can see that our assessment ended with only two recommendations not being fully implemented.

We continue to track these recommendations with these agencies as they move forward with their corrective action plans, and we also can ask them to return to a subsequent Subcommittee meeting to update the Subcommittee on their progress.

Chair, the Audit Subcommittee recommends that the Legislative Commission accept these six, 6-month reports. Thank you.

Chair Cannizzaro:

Thank you, Mr. Crossman. Are there any questions or comments from any members of the Commission regarding the 6-month reports? Seeing and hearing none, then I would accept a motion to accept the status reports as submitted to the Commission.

ASSEMBLYMEMBER YEAGER MOVED TO APPROVE THE 6-MONTH MONTH STATUS REPORTS ON THE IMPLEMENTATION OF THE AUDIT RECOMMENDATIONS BY THE LEGISLATIVE AUDITOR AS SUBMITTED TO THE LEGISLATIVE COMMISSION'S AUDIT SUBCOMMITTEE.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Thank you so much, Mr. Crossman.

AGENDA ITEM VII—REPORTS OF CERTAIN 2023–2024 INTERIM COMMITTEES TO THE LEGISLATIVE COMMISSION

Joint Interim Standing Committee on Commerce and Labor (NRS 218E.320)

Joint Interim Standing Committee on Education (NRS 218E.320)

Joint Interim Standing Committee on Government Affairs (NRS 218E.320)

Joint Interim Standing Committee on Growth and Infrastructure (NRS 218E.320)

Joint Interim Standing Committee on Health and Human Services (NRS 218E.320)

Joint Interim Standing Committee on Judiciary (NRS 218E.320)

Joint Interim Standing Committee on Legislative Operations and Elections (NRS 218E.320)

Joint Interim Standing Committee on Natural Resources and Subcommittee on Public Lands (NRS 218E.320 and NRS 218E.510)

Joint Interim Standing Committee on Revenue (NRS 218E.320)

Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System (NRS 218E.555)

Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs (NRS 218E.750)

Nevada Silver Haired Legislative Forum (NRS 427A.320)

Chair Cannizzaro:

That will conclude our legislative audit business, which brings us to Item VII on our agenda, reports of certain 2023–2024 interim committees. We are joined today by our Research Director, Jennifer Ruedy, who will be presenting this item from Carson City. I would note for members of the Commission that these are reports that we are hearing from business that was done by the interim committee. This is not an item that we will be voting on to do any of the things that the interim committees have suggested. Your vote on this item after the presentation is merely a vote to accept the reports of what the committees had done and not necessarily a vote of support for any of the items that the committees may have voted on out of committee. I will turn it over to Ms. Ruedy who can present this to us and then we will move on to our action on this item.

Jennifer R. Ruedy, Research Director, Research Division, LCB:

Thank you, Chair Cannizzaro. This is Jennifer Ruedy, Research Director of the LCB's Research Division. Thank you for the explanation. For this item, the Commission members should have copies of the 133-page document ([Agenda Item VII](#)) available online as part of the meeting materials. The document includes an abstract and summary of recommendations for 12 interim committees that are required to report back to the Legislative Commission at the close of the interim. There are detailed final reports available online for most of these committees already. And if anybody would like more information

than the abstracts that are included in this 133-page report, I am happy to get one of those final reports to you. Thank you.

Chair Cannizzaro:

Thank you. And I will note that we do have a packet before all of us that is also available for everyone to take a look at the work from those committees if you have any additional questions. Any questions or comments from members of the Commission regarding this particular item? I am not seeing any. I would accept a motion to approve the reports that have been submitted to all of us.

ASSEMBLYMEMBER YEAGER MOVED TO APPROVE REPORTS OF CERTAIN
2023-2024 INTERIM COMMITTEES TO THE LEGISLATIVE COMMISSION.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

We will accept those reports and thank Ms. Ruedy for her work on that.

**AGENDA ITEM VIII—APPOINTMENT OF MEMBERS TO COMMITTEES AND
SIMILAR ENTITIES**

Chair Cannizzaro:

That brings us, members, to Item VIII, which is the appointment of members to committees and similar entities. We have our Acting Legislative Director, Diane Thornton, here who will assist us with the appointment of the members to various committees and similar entities. I am going to turn it over to her. Proceed when you are ready.

Diane C. Thornton, Acting Director, LCB:

Thank you, Madam Chair. Diane Thornton for the record. This information should be before the Committee ([Agenda Item VIII](#)). On Item VIII there are three bodies for whom there are appointments recommended. The first is the Advisory Council on Mortgage Investments and Mortgage Lending for which a member's removal and replacement is under consideration. The recommended appointment is Adam Gregory to fill the term through February 27, 2026.

The second is the Gaming Policy Committee for which one Senator and one Assemblymember are appointed by the Commission. The reappointments of Senate Majority Leader Cannizzaro and Speaker Yeager are for under consideration.

The final appointments before you are related to the National Conference of Commissioners on Uniform State Laws, otherwise known as the Uniform Law Commission. The body has two members who are faculty members at the Boyd School of Law. The reappointments of these two law professors, Keith Rowley and Kay Kindred, are before you today. Thank you, Chair, and I am happy to answer any questions on these recommendations.

Chair Cannizzaro:

Thank you, and members, you do have a list of those appointments on the sheet on your desks. Any questions or comments from members of the Commission regarding these proposed appointments? Seeing none, I would accept a motion to approve these appointments as recommended.

ASSEMBLYMEMBER YEAGER MOVED TO APPROVE THE APPOINTMENT OF ADAM GREGORY TO THE ADVISORY COUNCIL ON MORTGAGE INVESTMENTS AND MORTGAGE LENDING; SENATE MAJORITY LEADER CANNIZZARO AND SPEAKER YEAGER TO THE GAMING POLICY COMMITTEE; AND PROFESSORS KEITH ROWLEY AND KAY KINDRED TO THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

The individuals for each of those commissions and committees will be appointed.

AGENDA ITEM IX—APPROVAL OF EARLY SESSION HIRES FOR THE 2025 LEGISLATIVE SESSION

Chair Cannizzaro:

That takes us then to [Agenda Item IX](#), which is the approval of early session hires for the 2025 Legislative Session.

I would remind members of the Commission this is a very standard agenda item for us at this point in time during the interim because we do have to get folks up and running for the upcoming legislative session. I do believe that our Acting Director, Diane Thornton, will be able to answer any questions that you may have about this particular request from our staff. I will turn it over to her to walk us through this item and then we will take any questions.

Acting Director Thornton:

Thank you, Madam Chair. Before you is a categorized list of positions that the LCB is seeking to fill for session hires ([Agenda Item IX](#)). This includes a paralegal and an editor for the Legal Division for 12 months. In addition, there is a Senior Principal Policy Analyst position for the Research Division for 12 months. I can answer any questions. Thank you.

Chair Cannizzaro:

Thank you. Any questions or comments from members of the Commission?

Assemblymember DeLong:

When will these positions commence?

Acting Director Thornton:

Thank you, Senator, for the question. As soon as these are approved, we can follow through with the session hires.

Assemblymember DeLong:

Thank you.

Chair Cannizzaro:

Any additional questions for members of the Commission?

ASSEMBLYMEMBER YEAGER MOVED TO APPROVE EARLY SESSION HIRES FOR THE 2025 LEGISLATIVE SESSION: A PARALEGAL AND EDITOR FOR THE LEGAL DIVISION AND A SENIOR PRINCIPAL POLICY ANALYST FOR THE RESEARCH DIVISION.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

These session hires will be approved.

AGENDA ITEM X—LITIGATION

Report Regarding Litigation

Chair Cannizzaro:

That brings us to Item X. I believe we are being joined by our General Counsel, Kevin Powers, who will provide us with a report regarding litigation and he is on Zoom. Mr. Powers, whenever you are ready.

Kevin C. Powers, General Counsel, Legal Division, LCB:

Thank you, Madam Chair. Kevin Powers, General Counsel, LCB Legal Division. I have three cases to report to the Legislative Commission today.

The first case is *Strong Public Schools Nevada v. State of Nevada*, which is in the First Judicial District Court in Carson City. This is the case in which the plaintiffs filed a complaint for declaratory and injunctive relief raising several State constitutional claims challenging certain provisions of SB 1 of the 35th Special Session in 2023. That bill is the Southern Nevada Tourism Innovation Act and relates to the financing of a Major League Baseball stadium project in Clark County, Nevada.

On September 6, 2024, the District Court entered an order granting the motions to dismiss filed by the Attorney General's (AG) Office and the LCB Legal Division on behalf of the Legislature. Both of those motions to dismiss were for claiming that there was a lack of subject matter jurisdiction. The District Court agreed that the plaintiffs did not have standing to bring their claims and that their claims were not right for adjudication. Thereby,

they did not have subject matter jurisdiction. Because the District Court dismissed for lack of subject matter jurisdiction, the District Court did not rule on the merits of the State 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 *Elko County v. State of Nevada*. That is in the First Judicial District Court in Carson City. The complaint in this case is a challenge to certain provisions of AB 519 of the 2023 Regular Session, which provides for the financing of certain capital improvement projects by county school districts. Elko County is only challenging certain sections of AB 519. Under those challenge provisions, the Board of County Commissioners of the county whose population is 52,500 or more and less than 57,500 is required to levy local property taxes at a rate of not less than 1 cent and not more than 25 cents of each \$100 of assessed valuation of taxable property within the county. And this tax money would be used for financing capital projects of county school districts, including, without limitation, capital projects for schools located on qualified tribal land.

Elko County is claiming that Sections 2 and 8 of AB 519 are unconstitutional because they are special in local laws that violate Article IV, Sections 20, 21, and 25 of the *Nevada Constitution*. However, to note again, as I did in the last report, Elko County is not challenging the constitutionality of any other provisions of the bill. For example, Section 10 of AB 519, which appropriates \$64.5 million to the Elko County School District for the construction of a school on the Duck Valley Indian Reservation to replace the Owyhee Combined School is not being challenged. In the lawsuit, Elko County is not challenging the constitutionality of that appropriation, so it is not subject to the litigation. In the District Court proceedings, the LCB Legal filed a motion to dismiss on behalf of the Legislature and the AG's Office filed a motion dismissed on behalf of the State executive defendants. In response, Elko County filed a counter motion for summary judgment.

The District Court has scheduled a hearing on the party's motions for December 18, 2024, at 2 p.m. At the hearing, the District Court will consider these dispositive motions and determine most likely the question of whether or not Elko County's claims of unconstitutionality have merit. Therefore, after that District Court decision is determined, I will certainly be reporting on that case at the next Legislative Commission meeting following any such determination by the District Court.

The final case to report on is *Nevada Policy Research (NPR) Institute v. Miller*, which was in the Nevada Supreme Court. In this case NPR claims that State legislators are prohibited by the separation of powers provision in the *Nevada Constitution* from holding any positions of public employment with the State Executive Branch or with local governments. As a reminder, LCB Legal is representing the Legislature as an intervenor defendant to protect the official interests of the Legislature as an organizational client.

We have had a significant development in this case. On October 31, 2024, the Nevada Supreme Court issued a published opinion designated as 140 Nevada Advance Opinion 69. In a 4-3 decision, the Court decided the merits of the separation of powers issue. First, the Court held that with certain possible exceptions, the separation of powers provision does not prohibit Legislators from holding positions of public employment with local governments because local government employees are distinguishable from employees of the State government departments for separation of powers purposes, and local executive department employees are not within the State Executive Department. Therefore, the Court concluded that the separation of powers provision was not violated by Assemblymember Miller's employment as a teacher with the Clark County School District, Assemblymember Torres's employment as a teacher with the Clark County Public Charter

School, and Senator Ohrenschall's employment as a Deputy Public Defender with the Clark County Public Defender.

With regard to local public employees, those local government employees are not prohibited from serving in the Legislature, with one possible exception. The court left open the possibility that there could be exceptions for certain positions of local government employees such as deputy district attorneys, as stated by the court, whether a deputy district attorney, simultaneous, dual service in the Legislature violates the separation of powers is not presented in this case, given the current parties to this appeal and the Court limits our consideration of the issues of dual employment pertaining to the current respondents. So again, local government employees, with possible exceptions of county prosecutors, can serve in the Legislature.

Second, the Court held that except for positions of employment with the Nevada System of Higher Education (NSHE), the separation of powers provision prohibits Legislators from holding positions of public employment with the State Executive Branch or the State Judicial Branch because being subject to two masters, according to the Court, creates a risk of coercive influence between departments that would violate the purpose of the separation of powers provision to prevent even the slightest encroachment between departments and to militate against the risk of even indirect coercive influence between departments. To emphasize again, with the exception of the NSHE employees, the separation of powers provision prohibits Legislators from holding positions of public employment with the State Executive Branch or with the State Judicial Branch.

Finally, the Court held that the separation of powers provision does not prohibit Legislators from holding positions of public employment with the Nevada System of Higher Education. Therefore, the Court concluded that the separation of powers provision was not violated by Senator Neal's employment as an adjunct professor with the Nevada State University and the College of Southern Nevada. In reaching its holding regarding NSHE employees, the Court determined that NSHE is not within the State Executive Branch because the Board of Regents, "had a unique constitutional status," and "is not controlled by or organized within the Executive Department." As explained by the Court, we conclude that the Board of Regents has an independent constitutional authorization and constitutional power discrete from the other departments of State government and the Board of Regents is protected from otherwise empowered constitutional actors improperly intruding into its essential functions. Further, neither *Nevada's Constitution* nor its statute suggest the Board of Regents in corporation within a department of State government. And therefore, we conclude that NSHE is not within the Executive Department. As a result, the Court determined that NSHE institutions do not exercise the type of constitutional power that pursuant to the separation of powers provision must be separated from and protected from either encroaching on or being encroached on by the constitutional powers to the other three departments of State government. Therefore, the Court determined that NSHE employees could continue to serve in the Legislature, and they are not prohibited by the separation of powers provision from doing so. Because the Court decided the merits of the separation of powers issue, this case is now closed.

And my final comment on the matter is that I first drafted an opinion on this matter in the fall of 2000. Twenty-four years later, we have a decision on the merits. I am not speaking one way or another on whether I agree or disagree with the decision on the merits, but I can say that it is beneficial to have a decision on the merits and that I will never have to hopefully litigate this issue again. Thank you, Madam Chair. I am certainly open to any questions.

Chair Cannizzaro:

Thank you, Mr. Powers. Do any members of the Commission have any questions for Mr. Powers? I would note that this item is also an informational item, so we will not be taking any action on this item, but if any members of the Commission have any questions or comments, now would be the time.

Hearing none, we thank you, Mr. Powers, for your presentation and share on your behalf that same hope that with the decision on the merits, this will be the last time you have to present that to us.

AGENDA ITEM XI—PUBLIC COMMENT

Chair Cannizzaro:

Members of the Commission, this takes us to our second period of public comment. It is Item XI on our agenda.

For anyone who is joining us in person here in Las Vegas or in Carson City who would like to give public comment, you can go ahead and fill the seats at the dais. We will begin here in Las Vegas, but I am not seeing anyone come up to the table, and I do not believe I see anyone in Carson City. The room looks pretty empty there, so we will go ahead and move to our phones. As a reminder for anyone testifying via phone with us today, you will need to state and spell your name so that we have an accurate record, and we will keep comments limited to two minutes. Anything over and above that you can always submit in writing to us. I will turn it over to BPS. Do we have any callers on the phone wishing to give public comment?

BPS:

Thank you, Chair. Your public line is open and working, but you have no callers at this time.

We will close this second period of public comment.

AGENDA ITEM XII—ADJOURNMENT

There being no further business to come before the Commission, the meeting was adjourned at 12:37 p.m.

Respectfully submitted,

Janet Coons
Research Policy Assistant

APPROVED BY:

Senator Nicole J. Cannizzaro, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item II A	Jay F. Cafferata, MA, CDE	Public Comment
Agenda Item II B	Kyle Davis	Letter from Amanda Hilton, President, Nevada Mining Association (NMA), including a memorandum from Dana R. Bennett, Ph.D., President, NMA
Agenda Item II C	Matt Matheny	Letter from Jacki Donner, Chief Executive Officer (CEO), Home Ventilating Institute
Agenda Item II D	Shelly Capurro, NvAHP, Legislative Representative	Public Comment
Agenda Item II E	Steven Cohen, Alumni, Lee Business School	Public Comment
Agenda Item II F	Allison Genco Herzik	Letter from Katherine Vergos, Nevada Market President, and President, CEO, St. Rose Siena Hospital
Agenda Item III	Legal Division, Legislative Counsel Bureau (LCB)	Draft minutes of the meeting held on September 13, 2024
Agenda Item IV A	Legal Division, LCB	R131-22 for Extension
Agenda Item IV B	Legal Division, LCB	Review of Administrative Regulations
Agenda Item V	Daniel E. Rushin, Chief Financial Officer, LCB	LCB's audited annual financial report for Fiscal Year 2024
Agenda Item VI A	Daniel L. Crossman, Legislative Auditor, Audit Division, LCB	Summary of audit reports presented to the Legislative Commission's Audit Subcommittee

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item VI B	Daniel L. Crossman, Legislative Auditor, Audit Division, LCB	Summary of 6-month status reports
Agenda Item VII	Jennifer R. Ruedy, Research Director, Research Division, LCB	Reports of 2023–2024 Interim Committees
Agenda Item VIII	Diane C. Thornton, Acting Director, LCB	Appointment of members to committees
Agenda Item IX	Diane C. Thornton, Acting Director, LCB	Early session hires for the 2025 Legislative Session

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