NEVADA LEGISLATURE
LEGISLATIVE COMMISSION

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

December 19, 2024

The sixth meeting of the Legislative Commission for the 2023–2024 Interim was held on Thursday, December 19, 2024, at 9 a.m. in Room 4100, Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 165, Nevada Legislature Office Building, 7230 Amigo Street, Las Vegas, 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 CARSON CITY:

Senator Nicole Cannizzaro, Chair
Senator Skip Daly
Senator Ira Hansen
Assemblymember Rich DeLong
Assemblymember Alexis Hansen

COMMISSION MEMBERS PRESENT IN LAS VEGAS:

Senator Melanie Scheible
Senator Jeff Stone
Assemblymember Shea Backus
Assemblymember Duy Nguyen (Alternate for Assemblymember Sandra Jauregui)
Assemblymember Howard Watts
Assemblymember Steve Yeager

COMMISSION MEMBER ATTENDING REMOTELY:

Senator Lisa Krasner

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Diane C. Thornton, Acting Director

Patrick Guinan, Deputy Director of Strategic Planning, Director's Office
Kathleen N. Capron, Administrator, Director's Office
Tarron L. Collins, Office Services Coordinator, Director's Office
Asher A. Killian, Legislative Counsel, Legal Division
Kevin C. Powers, General Counsel, Legal Division
Jaime K. Black, Chief Employment Counsel, Employment Law Unit (ELU), Legal Division
Tara C. Zimmerman, Senior Principal Deputy Employment Counsel, ELU, Legal Division
Jennifer Ruedy, Research Director, Research Division
Daniel L. Crossman, Legislative Auditor, Audit Division
Daniel E. Rushin, Chief Financial Officer, Administrative Division
Angela Hartzler, Secretary, Legal Division
Jordan Haas, Secretary, Legal Division

Items taken out of sequence during the meeting have been placed in agenda order. [Remarks in brackets provided for clarification.]

AGENDA ITEM I—OPENING REMARKS

Chair Cannizzaro:

Good morning and welcome to the sixth meeting of the Legislative Commission in Calendar Year 2024. We will begin with our roll call. [Roll call was taken.] We have a quorum present.

Before we begin, we are going to go over just a few housekeeping items. For anybody who is coming up to testify either here or in Las Vegas or with us remotely, please make sure that you state and spell your name for the record before you begin testifying so that we can keep an accurate record. If anybody here would like to receive a copy of the Commission's agendas, minutes, or reports, you may be added to our mailing list by following the links on the Legislature's website or by providing information to our staff. Contact information for staff is also listed on the Legislature's website. In addition, we do accept written comments, which may be emailed, faxed, or mailed before, during, or after the meeting. If there are things you would like for us to know, you can always submit those to us in writing. The information on where to send those written comments is also on the website and listed on the agenda for this meeting.

AGENDA ITEM II—PUBLIC COMMENT

Chair Cannizzaro:

We are going to move on to Item II of our agenda, which is our public comment period. We will have two public comment periods today. This one will be our first set of public comments. We will begin for people who want to give public comment here in Carson City. You are welcome to go ahead and fill the seats here. If there is anybody in Las Vegas who wants to give public comment, you can fill those seats at the tables, and then we will move to our phone public comment. If you prefer to wait and speak until later in the meeting, we will have that second period of public comment at the end of the meeting.

This is the time for you to talk to us about any of the items that might be on our agenda today. Public comments will be limited to two minutes. If you have more than two minutes to speak, you can always submit the remainder of your comments to us in writing. We ask every person who testifies to identify yourself for the record every time you speak. Make sure that you sign in on the clipboards if you are here in Carson City or down in Las Vegas.

We will go ahead and get started. It does not look like we have any eager participants for public comment here in the audience in Carson City. I do not see anybody taking up seats in Las Vegas. We will go ahead and move to our phone lines. BPS [Broadcast and Production Services], do we have anybody wishing to give public comment with us via phone?

Broadcast and Production Services Unit, Administrative Division, LCB:

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

Chair Cannizzaro:

Just as a reminder, we will go to that second period of public comment.

AGENDA ITEM III—APPROVAL OF THE MINUTES OF THE MEETING ON NOVEMBER 15, 2024

Chair Cannizzaro:

We will move to Item III, which is approval of the minutes. Commission members, you have in your packet the draft minutes for the Legislative Commission hearing that was held on November 15, 2024 (Agenda Item III). These draft minutes are also available on the Legislature's website. Let me ask first if there is any discussion on the minutes from members of the Commission. I am not seeing or hearing any. At this time, I would accept a motion to approve the minutes of the Legislative Commission.

> SENATOR DALY MOVED TO APPROVE THE MINUTES OF THE MEETING ON NOVEMBER 15, 2024.
>
> ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

*****

AGENDA ITEM IV—ADMINISTRATIVE REGULATIONS

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_Dec19.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 take us to Item IV, which is our review of the administrative regulations. We have our Legislative Counsel, Asher Killian, who is with us today in Las Vegas to assist us with this item.

We have before us today 32 regulations (Agenda Item IV) that were submitted for approval pursuant to NRS 233B.067. These regulations are all contained in the notebook provided to members and are posted on the Legislature's website under the tab for this meeting, which you will find by hitting the View Events button in the upper right-hand corner of the Legislature's website homepage. There is also a public copy of the notebook on the sign-in table in Carson City and also in Las Vegas.

We will go through the regulations, and if there are any regulations that members of the Commission wish to pull for some additional consideration or questioning of the agencies, then we will go ahead and do that. Whatever is left on our remaining regulations that have not been requested to be pulled, we will consider under a consent agenda motion for approval, and then we will move individually to each of the regulations requested to be pulled and have the agencies join us so that members can ask questions.

I have a list of several regulations that have been requested to be pulled. I am going to go ahead and go through that list and then we will do another round of requests for members of the Commission just to make sure that we got everything that everyone would like to have pulled. Regulations that I have already received requests to have pulled from

members of the Commission are as follows: R041-23 for the Nevada Transportation Authority (NTA); R042-23 for the Nevada Transportation Authority; R044-23 for the Nevada Transportation Authority; R069-24 for the Department of Public Safety (DPS); R080-24 for the State Public Charter School Authority (SPCSA); R083-24 for the Board of Dental Examiners of Nevada; R132-24 for the Commissioner of Insurance; R133-24 for the State Environmental Commission; R161-24 for the State Environmental Commission; R173-24 for the Director of the Department of Health and Human Services (DHHS). I think that is the last of the regulations that have been requested to be pulled.

I will start here in Carson City. Are there any additional regulations for folks to pull? I am seeing some heads shake no. We will move to Las Vegas. Members of the Commission, if you have additional regulations that you would like to have pulled for further consideration, please let us know if you would like to add anything to that list.

Assemblymember Yeager:

I do not think any members here have anything additional to pull.

Chair Cannizzaro:

Senator Krasner, I see you joining us via video. I see you shaking your head no.

For those regulations that are requested to be pulled for further discussion, if you are here on any of these regulations, you get to stay with us for a little bit longer. Let us make sure we all have this: R041-23 for the Nevada Transportation Authority; R042-23 for the Nevada Transportation Authority; R044-23 for the Nevada Transportation Authority; R069-24 for the Department of Public Safety; R080-24 for the State Public Charter School Authority; R083-24 for the Board of Dental Examiners of Nevada; R132-24 for the Commissioner of Insurance; R133-24 for the State Environmental Commission; R161-24 for the State Environmental Commission; and R173-24 for the Director of the Department of Health and Human Services.

I would accept a motion to approve the remaining regulations on our agenda.

> SENATOR DALY MOVED TO APPROVE THE FOLLOWING REGULATIONS: R043-23, R052-23, R111-23, R009-24, R011-24, R034-24, R036-24, R037-24, R067-24, R070-24, R100-24, R106-24, R118-24, R122-24, R138-24, R139-24, R140-24, R144-24, R154-24, R187-24, R191-24, AND R194-24.
>
> SENATOR STONE SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

The remaining regulations on our agenda are approved.

I will give anybody who is here on those regulations that were not requested to be pulled just a moment to go ahead and enjoy the rest of their day. Thank you for being here with us.

We are going to begin with the Nevada Transportation Authority; we are going to start with Regulation 041-23. We will let them join us, and then I will turn it over to Senator Daly. I think we have somebody joining us on video.

Yoneet Wilburn, Administrative Attorney, NTA, Department of Business and Industry (B&I):

This is Yoneet Wilburn, Administrative Attorney for the Nevada Transportation Authority.

Senator Daly:

Thank you, Madam Chair.

When I read this regulation, to me, it seems like a flawed solution to a problem that may or may not exist. How often does the State not review or take action on an application that is put in outside of the 90 days? Is this a problem? Are you not getting it to them in 90 days?

Ms. Wilburn:

Here is the thing—because we have a compliance period, because we have a background check—it is not that we are not approving it within 90 days, we do take action on it as soon as we get it. We are hampered by the fact that most of these people have to have background checks. We are hampered by the fact that we are waiting on fingerprints from compliance. We are acting on the application as soon as we get the application; it is just the moving parts because there are so many parts to the application. We act on it as soon as we get it.

Senator Daly:

Under this, if you do not get the background check within the time period, there is some delay, or whatever the reason, and then it is automatically approved. So then, what is the problem?

Ms. Wilburn:

I believe it says "does not act." I was not the Administrative Attorney when these were written and when these were added in. It means does not act, but what this means to me, as I read it as an attorney, is that the application just sits in a folder and nothing is done on it. And that is not the case; that does not happen. I think this was put there as a safeguard, not necessarily to approve applications that do not happen. And the problem is we do have applications that are sitting in our … I am not going to say that. We have an application recently that just had a hearing from three years ago. Now granted, that was during COVID [Coronavirus Disease of 2019]. We do get the application. The problem is we send out emails to the applicant to provide us with certain things, and they do not give us information back. I believe that was put in there because people are pissed that their applications have been—excuse my language—sitting there for so long, but that is on the part of the applicant, not necessarily the issue of the Authority.

Senator Daly:

I understand and I hear your answer, but when I read "does not act on the application," you are saying that we do act on it, we send out a notice that says we need more information. To me, that is like before you can take final action, right? To me, when I read it, if you do not act on it, it means that you have not adjudicated whatever the issue is. I just think that

the language is flawed and leaves it to interpretation. Because if I was on the other side of this, I would say you have not acted on my application. It does not matter that you sent me a notice; that you needed more information; it does not matter that I did not respond; it does not matter that you have not gotten the background check. You have not taken action. It does not say final action, but you have not taken action. This does not say "taken any action." It just creates a loophole, to me, that says you have to do this in 90 days, and you have to approve me if action is not taken, final action.

Ms. Wilburn:

Correct, but the word "final" is not on there. So that is why I think maybe you are getting stuck in it. It says, "does not act." Where us running them on a background check, us doing compliance, us asking them for stuff is us acting on the application.

Senator Daly:

I hear your words, and I understand the intent, but the words actually say, "does not act on the application." What does "act on the application" mean? Is that defined somewhere? Or is that just what you are telling me—that I got it, I acknowledge it, I sent him an email back that says we received it, and that is the "act" that then eliminates this 90 days? This does not say that. Because here is the scenario—if there is a problem and the 90 days go by, or you send out the notice that says we need more information, we are waiting on your background check. To me, when you say, "does not act," it means you have not adjudicated; you have not made a decision. That is the way I read it. And I think that is a reasonable interpretation of you having not made a decision in 90 days, I am automatically approved. That means a person can be approved before they have got the background check in, that they could be approved before they answered your question that you may have at the 15 days, and they could be approved pending you are saying we are not going to do it, waiting for board action to dismiss it. Because if you can automatically approve it, you should be able to automatically dismiss it, and that is not in here.

I just think that it is flawed the way it is written and creates a loophole that people can come to you and say in 90 days you have not acted, which means you have not made a decision on my application, so I am automatically approved. I think that is a reasonable interpretation under the plain language. It is right there. I cannot support this.

Ms. Wilburn:

And just to say, you are reading that with subsection 1, correct?

Senator Daly:

Subsection 1, "initial issuance" …

Ms. Wilburn:

"Initial issuance, expansion or modification of a certificate of public convenience and necessity [CPCN]." It is not just a catchall phrase of any application. The application has to fall within subsection 1.

Senator Daly:

So, they would be automatically approved if they had a change in ownership.

Ms. Wilburn:

Correct, if they were not acted on within 90 days. I sign CPCNs pretty much every day, certificate of public convenience and necessity. I sign them every day. The ones that have the issues are the ones that are extremely complicated and when they are not giving us the information that we need. This is not just a catchall for any application we receive. It is for a tow carrier that falls within subsection 1.

Senator Daly:

I still think the language could be more clear on what it is.

Ms. Wilburn:

What would you prefer?

Senator Daly:

I know it says subsection 1, but if you have not taken the action, and they have not given you the information, you still have to wait for the board to take official action to dismiss, and all of that could get gummed up in your 90 days. That is all I am saying. And you said there is probably not a problem. If a person is not getting the information, that is their problem.

Ms. Wilburn:

Correct, because essentially, as an attorney, I would say we have acted on it. You have not been forthcoming and have not given us what we need, so we can deny it right there, outright. We do not have to approve it. This would be if we are not acting on the application, if the part is on us, on the Authority itself, not on the applicant themselves. If the Authority is acting, but the applicant is not, that is not going to be approved. The Authority has to not act on it. So, I think the wording is pretty clear because it shows that the Authority ourselves is not acting on it, not that the Authority has acted, but the applicant is not providing this stuff. As an attorney, I would argue that all day long, that the Authority has acted, the applicant is not being compliant; therefore, it is not approved.

Senator Daly:

How often does the board meet? Once a month?

Ms. Wilburn:

Yes. And like I said, I sign CPCNs every day. There are a lot of these that do not have to go through meetings and hearings and such. We just wait for the parts to come in and we sign them. I understand what you are saying. You feel like it is vague. I do not believe it is. As an attorney, I believe this would hold up in court. I believe the wording is very concise and clear that the Authority is the one that does not have to act on it, meaning the Authority has an application and it just sits on someone's desk for 90 days, which is inappropriate and that should not happen, and that does not happen.

Senator Daly:

And I know you just said that this is not a blanket deal, but under subsection 1, the very first words are, "[An] The application for the initial issuance." Initial issuance of …

Ms. Wilburn:

Correct.

Senator Daly:

So, it is a brand-new person; it is initial issuance. So, you do have to go through all of this stuff, and if there has not been action taken, whatever that means, or by who.

Ms. Wilburn:

By the Authority. By the Authority. It is very specific. The language is if there is not action taken by the Authority; it is very specific. It does not just say action taken. It says the Authority does not act, and the Authority is defined [inaudible].

Senator Daly:

It does not say that.

Ms. Wilburn:

Yes, it does.

Senator Daly:

It says if the Authority does not take action on the application …

Ms. Wilburn:

No, it says if the Authority does not act. It is talking about the Authority, which is the Nevada Transportation Authority, does not act, meaning we have not sent background checks, we have not had fingerprints.

Senator Daly:

How does the application finally get approved? Does the Authority have to finally approve all of the actions and all of these applications? Or is it delegated to somebody?

Ms. Wilburn:

For example, the CPCN that comes through that I sign, the Chairman signs it. That is not necessarily we issued a CPCN, meaning we have an applications manager, we have a financial analyst. They go through the financials of the company; the application manager goes through the application to make sure everything is contained within. Compliance goes through to make sure everything is done on a compliance side. And then, once that is all done, it just gets approved. The Chair signs off on it, the CPCN. Everybody dots the T’s and I's and we carry the application. And then it gets approved at the final agenda; it gets thrown on, and we have those meetings once a month.

Senator Daly:

So, the Authority has to take the final action? The Authority has the final action to approve it.

Ms. Wilburn:

Yes, the Authority themselves. Yes.

Senator Daly:

And if that is not done in 90 days, what happens?

Ms. Wilburn:

Well, but see, that is what I am saying—the words "final approval" are not in there. It says "does not act." I know you are getting caught in there, but it does not say "final approval."

Chair Cannizzaro:

Ok. It is pretty tough for us to have minutes if we keep getting interrupted while folks are talking. Just like in court with court reporters, we have to make sure we are not talking over each other because it is tough for us to understand the questions that were asked and the answers that were given.

I want to pause this for just a moment because I do think that we might be able to get just a little bit of insight from our Legislative Counsel, who is with us in Las Vegas. Mr. Killian, I do not know if you can weigh in on some of this language. I think the concern is the way in which this is written. I think that Senator Daly's read of it is that this seems to suggest that if a final decision has not been made on an application, regardless of whether that application is complete or not, regardless of whether or not there are still ongoings with the Authority, that potentially that application could be deemed approved. And I think that the Authority's position seems to be that because this does not say a "final approval," it just says "action," that that could be subject to multiple interpretations. I do not know if you have any indication on this with respect to the language and how that may be interpreted. I will ask Mr. Killian to weigh in and then we can continue the conversation.

Asher A. Killian, Legislative Counsel, Legal Division, LCB:

Thank you, Madam Chair. So just as a threshold manner, I want to note the existence of subsection 3 of the existing language of this regulation, which is what gives the Authority the power to, if it notices an omission or deficiency or if there is some issue with the application, to demand a cure within 15 working days. And if the cure is not received, then the Deputy Commissioner is required to move the application or the filing be dismissed at the next meeting of the Authority. This new language in subsection 4 would have to be read together with that language in subsection 3 that creates the power to dismiss swiftly if information is asked for and the information is not received.

But turning to the actual question you asked, the language "does not act," as we have noticed from the conversation so far today, is amenable to two different readings. One of those readings is, "does not take any action." The other reading is, "does not engage in a final action." I would suggest that the Legislative Commission has two options at this point. One is, at this hearing, the Legislative Commission is establishing the record for what it believes this language means and what it believes the intent of this language is. The Legislative Commission could choose to approve the regulation as it currently exists, given the discussion that has occurred to establish the record of what this language is intended to mean. The other option available to the Commission is to send the regulation back to the agency to clarify this language, to make it more clear that the intent is either explicitly referring to taking any action whatsoever with respect to the application or taking a final

action to approve the application. To allow the agency itself to revise the language to appropriately reflect either the intent being expressed by the agency's attorney or the intent being expressed by Senator Daly. The more clear way to do that would be to send it back to the agency to make that clearly expressed in writing, but the Legislative Commission could approve it as it exists and rely upon the discussion at this meeting to establish what the intent of this language was.

Chair Cannizzaro:

Thank you, Mr. Killian. I appreciate that. One thing that was discussed is that sometimes the Authority will receive an application, and they will be waiting for other items to come in. I wonder what this language looks like and the effect thereof if the Authority is just still waiting for folks to submit items and thus taking no action, but still not having a complete application. That is where my concern would be with some of this. I do not know that this language is clear in that, even despite some of the conversation here today. That is maybe more of a thought than a question. I do not know if Senator Daly had additional questions he wanted to have answered. I do think that there may be some issues with how this has been phrased.

Senator Daly:

Not really a question any further at this point, maybe just a comment. I did read subsection 3 about the 15 days if they sent that in. To me, when does the 90 days start to toll? The way I read this, it is on the date the application is received or filed with the Authority. All of the other steps and everything has to be done, and it is not clear on final action.

I understand getting information on the record as to intent. I do that regularly with some of these regulations and then I am satisfied. On this particular one, though—you guys have heard me say this before—I understand what the intent is, but I think the final line is what do the words actually say. And the words are not clear, and I do not believe line up with the intent. I think it should be made more clear with the redraft is my personal thought, and then we would have no doubt.

Ms. Wilburn:

Now, I will say that this also is in accordance with [NRS] 706.386 through 706.411, which outlines everything that a person needs to do. It is not just in a vacuum, I guess, because you have to read it with all of these other statutes as well. For example, [inaudible] says everything that an applicant must do in order to issue this application. In order for the application to even come through, you have to comply with [NRS] 706.386 to 706.411, and then we can start acting upon it. If the application does not contain all of these things, it does not even get sent into subsection 1 because you have not complied with these other statutes that you need to comply with. While I understand that the Counsel is reading it as that, I believe there are a lot more moving parts, so that the language is actually clear as you read the statute. And that is what I will say. I do not know much more of what the Counsel would like to hear.

Chair Cannizzaro:

I am going to ask, at this point, if there are any additional questions from members of the Commission. I am not seeing or hearing any.

At this point, there is sufficiently, I think, enough difference of interpretation in the language and whether or not this constitutes a complete application or merely the beginning of that process, whether the board has to take a final approval action or whether they can take any action whatsoever to fulfill the requirements of what this subsection is intending to get at. I understand the thought that we want to have sort of expeditious action when people are applying for these. But this language, because I do believe it is subject to a few different interpretations of which we have heard here, there needs to be some clarity about whether or not this does constitute a complete application. There has been some different testimony today under whether somebody has to fulfill the entire requirements of what is required for an application before the board can take action or whether or not the board telling someone that they are missing something constitutes an action, whereby that sort of supposes that they have not submitted a complete application.

I think that this language could just be refined to give a little bit more clarity as to what could be deemed approved by the board, what constitutes an action. And so, at this point, I am inclined to ask for this regulation to go back to the agency just for a little bit more reworking on this language so that there is some clarity. I also fear that given the discussion today and the multiple ways in which we are all sort of reading this, that even if there was a singular intent with this language, there is also not a sufficiently clear record to sort of outline what that legislative intent is if there was ever some sort of review by a judicial body or otherwise to look into what this language was supposed to be imparting. What I am going to ask for this particular regulation is for the agency to just sort of rework that language so it is a little bit clearer.

Senator Daly:

Thank you, Madam Chair. Just one comment. I was just thinking along the discussion that we are saying and what Counsel for the Transportation Authority has said is maybe that language needs to say, "After all of the other steps in the process and all information has been received, if the board does not take final action in 90 days, then it can be deemed approved." It would be much cleaner, easy to understand, and then clear that you have got to do all of the other things first, then your 90 days starts, if the board does not take action.

Chair Cannizzaro:

We are going to move on.

Can you please identify yourself for the record when you speak just so we can have a clear transcript here?

Ms. Wilburn:

I apologize. Just a final thought under [NRS] 706.391. I just want to make this very clear that subsection 2 says, "Except as otherwise provided in subsection 6, the Authority shall grant the certificate or modification if it finds that: … ," and it outlines every single step that they must do in order to get this application approved. These are inclusive in the modification we are seeking for the legislation in front of you right now. I do believe that it is clear once you read in context with every other section that is referred to in the legislation that is in front of you right now.

Chair Cannizzaro:

I think that this language in subsection 4 that is being proposed needs to just further reflect that so that there is not any confusion. And if you need to relate that back to any of these

other subsections, I think that would be appropriate, but this needs to be reworked before we can move on to taking any action to approve this particular regulation. We are going to send it back to the Authority to rework that language and hope to see it back at a future Legislative Commission meeting.

We have two more for the Nevada Transportation Authority. We are going to open up the hearing on the next regulation, which is R042-23. This is also a request of Senator Daly. I will turn it over to him for questions on this regulation.

Senator Daly:

Thank you, Madam Chair. On the next two, much easier questions.

Maybe it is just because I am not understanding the term or did not see all the rest of the statutes and regulations that you are familiar with, is the term "recovering" when it says "the cost of recovering the vehicle"—I think it is in subsection 2(b)—is "recovering" a defined term someplace else? I am hoping it is. And what are we referring to? The cost for them if it went down a ravine to tow it up out of the ravine and if they damaged any of their property, getting it out of there that they could then charge that cost? Am I understanding that correctly?

Ms. Wilburn:

I am pulling up [NRS] 706 here.

Chair Cannizzaro:

And if you can just identify yourself every time you speak so that we have it.

Ms. Wilburn:

I apologize. Yoneet Wilburn, Administrative Attorney for the Nevada Transportation Authority.

Let me see if the word "recovery" itself; I do not see it exactly defined. But I believe with the tow car, the standard meaning is picking up the car, recovering the vehicle. So, towing it itself and any damage it costs, because towing a vehicle, if it is not hooked up correctly, if it is too big, if it is whatever, if it hits the tow carrier.

Senator Daly:

I think you answered my question. It may or may not be defined. But I think, unlike the last words, "recovering of the vehicle," I think, is pretty common understanding. It was just I wanted to make sure because now we are including this new language "caused to the property of the operator." So, if he damages his vehicle trying to recover the vehicle out of wherever it is, that that cost can be passed on. But I think I got it. I am satisfied.

Chair Cannizzaro:

Any additional questions on R042-23 from members of the Commission? Seeing none, do I have a motion to approve R042-23?

ASSEMBLYMEMBER DALY MOVED TO APPROVE R042-23.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

Regulation 042-23 will be approved.

That will bring us to our next regulation, also for the Nevada Transportation Authority. It is R044-23, and I am going to turn it over to Senator Daly.

Senator Daly:

Thank you again, Madam Chair. This one will be easier as well. It is just something I am not understanding the way I am supposed to because you are changing the 48 hours to 96 hours. And in the digest, the part about why you need the regulation, it says it is going to give the person whose car was towed more time. Help explain. It says, "Cargo and personal property left unclaimed 96 hours before final disposition is to be made of the associated vehicle may be sold or otherwise disposed of by the operator of a tow car." So, moving that timeline back, that if it is unclaimed now, 96 hours, so twice as long, does not seem to me to give the person whose car was towed more time. Maybe I am just misunderstanding it. If you can explain to me how that is advantageous to the person whose car was towed. Because the way I am looking at it is, they used to have to hold it until 48 hours before finding disposition, now they only have to hold it until 96 hours. Can you help me clarify where I am reading that backwards?

Ms. Wilburn:

I believe you are reading it backwards. We used to only have to give them 48 hours; now we are giving them 96. So instead of only two days, the individual whose car was towed now gets four days to claim any cargo and personal property that was left unclaimed. The tow operator has to hold on to this for another two days to allow in case … Say someone is out of town and they get back on day three and they get the notice, they can go over to the tow company and pull all of the cargo and personal property. We are trying to work with the tow operator and not have them keep hold of the car for too long because of the cargo and personal property. Also, understanding that there are situations where an individual whose car was towed cannot get to the tow carrier within 48 hours. We are trying to allow them to have an additional two days to get there to claim their property. It is increasing the time for the general public, not decreasing it, which is what I believe I heard you say.

Senator Daly:

Yeah. And I am sure if my colleagues are all understanding it that way, that is good. I am not disputing what you are saying. I read it like four or five times, which is why I put it on my list to ask the question so I could get clarification.

Ready to make a motion whenever you are if there are no other questions.

Chair Cannizzaro:

Do any members of the Commission have any additional questions? I am not seeing any or hearing any.

ASSEMBLYMEMBER DALY MOVED TO APPROVE R044-23.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

Regulation 044-23 will be adopted.

Ms. Wilburn:

Thank you so much to the Commission and for allowing me time.

Chair Cannizzaro:

Thank you for joining us today. We appreciate it.

The next item on our agenda is R069-24 for the Department of Public Safety, and we have them joining us via Zoom. This was also a request from Senator Daly. Senator Daly, I will let you take the lead.

Senator Daly:

Thank you, Madam Chair.

I am on page 3, and it is part of the repealed sections. In sub 5, you are deleting the part, "The Division will ensure that the emergency contact information received pursuant to subsection 3 is used solely to assist a law enforcement agency in responding to a call for emergency services." I am not sure if the information that you are receiving, emergency contact information, is just for other vendors, or hospitals, emergency services, or if it is other types of contact information. And if it now can be used for other purposes than solely to assist law enforcement agencies, what other types of purposes, or is this confidentiality section covered somewhere else in statute for this or in regulation? And this is just old language to be repealed? What types of information are included in emergency contact information to start with?

Erica Souza-Llamas, Administrator, Records, Communications and Compliance Division, DPS:

Good morning. Erica Souza-Llamas for the record. I also have Carol Handegard here with me. She is our Communication Bureau Chief for the Nevada State Police Dispatch, who can help answer any questions that I cannot.

To my knowledge, we do not even receive actual contact information for the telecommunications providers. We do have procedures in place. We do not use this information. We do not release it to anybody, to my knowledge, outside of law enforcement.

We would not be releasing this for any other purpose unless it was being requested by a law enforcement agency or officers within our own Department.

Senator Daly:

Thank you. When I read the explanation on why this was needed, it says internal policies have been developed to address this, at least I am hoping. What are those internal policies and where are they housed? How easily are they changed? Again, I hear you saying we do not give it out except to law enforcement. And these are companies' information on how to get to old telecommunications companies. Is that correct? It is not individuals' information here.

Ms. Souza-Llamas:

You are correct. This is just the telecommunications companies. It is not individual information. If we do not know the carrier of a phone that is being requested to be pinged, we do have internal procedures in place. Removing the regulations allows the Department to remain flexible to meet the requirements of the statute. As we all know, technology changes very quickly. And these regulations are well over ten years old. Technology has advanced since then. We do have procedures in place. We do use online services to help look up telephone company carrier contact information. We do maintain an internal database that contains cell phone carriers throughout the United States and not just Nevada. We have Impact; it is a resource that we use that provides carrier emergency numbers if we do not have the current information in our database. And when we obtain the current updated information, we update our database with the current contact information at that point. And the local law enforcement agencies also have their own procedures for this in place. And if they are having issues contacting or getting through to one of the telecommunications carriers, they will call Nevada State Police Dispatch, and we will provide them with the information we have.

Senator Daly:

Is the policy that you have developed in a State administrative manual? I have no other questions.

Ms. Souza-Llamas:

It is written, and it is placed on our internal line so that all of our staff have easy access to it. And it is very easy to update as we need to.

Chair Cannizzaro:

Are there any other members of the Commission that have questions on this regulation? I am not hearing or seeing any. I do have a motion to approve R069-24.

ASSEMBLYMEMBER DALY MOVED TO APPROVE R069-24.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

That brings us to our next item on our agenda. It is R080-24 for the State Public Charter School Authority. They are joining us here in Carson City, so we will let them get situated, and then I am going to turn it over to Senator Daly.

Assemblymember Yeager:

Chair, just so you know, we do have someone down here in Las Vegas to answer questions.

Chair Cannizzaro:

Thank you.

Senator Daly:

Thank you, Madam Chair. My questions, I have several. I believe I am in Section 4, and I think I am looking at the deleted sections in subsection 9. Actually, it was the old subsection 9; I think it is subsection 7 now. When we delete a lot of this language, is some of it covered in other areas? Because if I am reading it correctly, regarding deleting language, if they are receiving "funding from the United States Department of Education to plan or implement the charter school in the immediately preceding 5 years, the charter school agrees not to combine its campus with the campus of another charter school that has not received such funding." There was a prohibition there. To me, it seems like they were not able to double-dip, right? If they were getting the funding or received it within the last five years, they cannot combine with the school that is still receiving it. By eliminating that language, would that allow them to combine those fundings and basically get paid twice?

Melissa Mackedon, Executive Director, SPCSA:

Melissa Mackedon for the record. With me today, I have Doctor Katie Broughton, Director of Authorizing, and General Counsel, Samantha King Powell, is in Vegas.

To our knowledge, there has never been a charter school in Nevada who has received funding from the United States Department of Education. We believe that this entire [sub]section 9, we have broader authority in other areas that allow us to handle each of these scenarios appropriately as outlined.

Senator Daly:

How did this language get originally put in? I know it may never have happened, but there was obviously a concern, or you would not have put the language in at some point, or somebody would not have put the language in. Just because it has not happened in the past, does not mean that it will not happen in the future.

Ms. Mackedon:

I will be honest with you, that was before my tenure. But I can say that if it is the will of the Committee to leave that language in, particularly [subsection] 9(a) [of Section 4], the SPCSA has no issue with that whatsoever.

Senator Daly:

Understood. Of course, it would have to go back and be redone.

Next question is on the same part of the deleted language for [subsection 9](b)(1) [of Section 4]. It requires each campus of the charter school, this is when/if the charter school is requesting conversion from a single campus to multiple campuses. The old language says, "Require each campus of the charter school to have a distinct academic leader who reports to the administrative head of the charter school and is responsible for the staff." To me, that sounds like a principal. You are deleting language that says if they are going to go from a single school to multi schools, there would not be a requirement to have a principal at each school. At least it is here, being deleted.

Ms. Mackedon:

This is duplicative. We already have this authority in other areas of the statute. The charter school amendment already requires them to identify and deal with all of the things listed here. [Subsections 9(b)](1), (2), (3), (4), and (5) [of Section 4], plus a whole bunch of other things, are already required in the charter application. So again, a lot of this is just duplicative, an effort to clean up the regulations and streamline them as part of Governor Lombardo's executive order.

Senator Daly:

I understand we have had several regulations come through as a result of that executive order. Sometimes just trying to clean things up, there are things that are left unclear, and sometimes they are not always a good idea.

Katie Broughton, Ph.D., Director of Authorizing, SPCSA:

I am Katie Broughton. Can I just add one additional thing? The provision here is that each school will have a principal, in practice, who reports to an administrative head. It would be like if there were three campuses, each would have a principal and there would be someone like an executive director. And oftentimes, each school just has a principal and there may not be somebody who oversees the whole network. We do not often see applications that contemplate not having any administrator on site.

Senator Daly:

Understood. And the administrator, to me, if you are having multiple campuses, you can have somebody that is a head of that, that is maybe reporting back to the governing board of the charter school with multiple campuses. So having that administrator or the academic leader … I understand it may be covered in other places. If we do go back and keep some other language, if you could put it in your explanation of why the thing is needed—these things are already covered and show us where it is so we can go look it up—then it will make things run much smoother, I am certain.

Same thing with [subsection 9](b)(2) [of Section 4]—allows a pupil from one campus to matriculate to the other. It seems to me, you know, limits of students on that. I think you probably have language in other places on students being able to go forward. Again, the same thing I just said, if we knew where that was and you pointed it to us, we would not have some of these questions.

Same thing with [subsection 9](b)(3) [of Section 4]—it appears to me that it reduces students' rights when some of these things take place on the student to be able to move from place to place.

[Subsection 9](b)(4) [of Section 4] removes the need to identify grades and locations. I am hoping that is in your application someplace else, and I know that it is.

[Subsection 9](b)(5) [of Section 4] would be removing the authorization of the "State Public Charter School Authority to reconstitute, restart or close each campus of the charter school separately based on the performance of each campus." And that is when you are expanding from one to more sites. To me, why would you not want to be able to … Instead of saying we are going to lump you all together, we are going to close all your schools, we can say this one is not performing, we are going to make you take corrective action. Unless again, the authority is resting someplace else, which is not clear in this.

Ms. Mackedon:

Yes. In specifically [subsection (b)] (2 through 5) [of Section 4], the authority exists elsewhere. And in fact, we have done that, where we have closed the elementary school portion of a school versus just the middle school or high school. We have not had the situation where one campus was underperforming and another was not and we needed to close it, but we certainly already have the authority to do that as it sits now.

Senator Daly:

In subsection 10, same Section 4, deleted language where you eliminate a charter school is coming in with the 18 months. They may not submit anecdotal evidence or testimony related to data not reflected in the statewide system of accountability for public schools and performance. So clearly, the language was before, if I am going to be changing from one school to multiple schools, they would have to actually have data that is in the system that can be verified and expressly prohibited anecdotal information that says our latest up-to-date figures, which have not been verified, are this. Is anecdotal evidence going to be allowed with the deletion of that? It should not be.

Ms. Mackedon:

Senator Daly, you said Section 10?

Senator Daly:

It is a subsection of Section 4. I am sorry, deleted language.

Ms. Mackedon:

It is duplicative language that we already have broader authority to handle.

Senator Daly:

I understand. The devils are always in the details. Where is it? What does that language say? Is it subject to maybe multiple interpretations, et cetera, similar to the questions we had earlier? You are saying that it is covered under more broad authority, but it may not be spelled out. So it may be that someone comes in with anecdotal evidence, where it was expressly prohibited here, you could do it under broad authority. But if it is not spelled out, then we do not want to have that type of information be included when we are considering this stuff. I think it is problematic. You say we have it under broader authority somewhere. What does that actual broader authority say? And does it actually say that you cannot give anecdotal evidence by deleting this? All good questions, unless you have an answer there.

Dr. Broughton:

I cannot cite the specific [*Nevada Administrative Code*] NAC, but essentially our NAC does not allow any school that is one or two stars to amend their contract, so there would be no provision for anecdotal evidence at any time.

Senator Daly:

That does not really get to the point when you are going from one school to several schools. They would not be able to amend it. But if they did have the lower star ratings, they could do that and theoretically not be prohibited from putting this language in. That make sense?

Under Section 6, several concerns with deleted language. Section 6 has it going from a six-year fixed term if you renew to having a three- to ten-year. I do not necessarily have a problem going from three to six, but I think ten years is too long. That is just my personal thought on that. I do not support that, unless you have some information you want to add.

Ms. Mackedon:

This is just getting the NAC to be in compliance with the statute that changed one or two sessions ago that now allows those renewals to be three to ten years. This is just getting the regulation in line with the statute.

Senator Daly:

If it is in statute, then you cannot have this go against that.

Subsection 13 of Section 6 is deleting permissive actions by the Executive Director. If it is permissive—I know there have been previous, there is you, there is going to be future Executive Directors—why delete that permissive action if the Executive Director is the primary focus of a lot of this stuff that is going to get sent on to the board or the Authority? They rely on staff, same as we do, for a lot of stuff. Deleting permissive actions of the Executive Director if they see something—prohibiting them from, not necessarily prohibiting them, but not spelling out that they have this action to say, hey, I want to flag this—it just seems unnecessary.

Ms. Mackedon:

Again, the SPCSA does not necessarily need this regulation to do this. But again, the agency has no issue if this is left as is.

Senator Daly:

Okay. And then my last question is in Section 8, the deletion of the section on gifts in [NAC] 388A.680, because I know you deleted a couple of sections. What is the current policy on gifts and donations, various things? Because the way I read this is, it is a protection that is necessary. We have rules under gifts and various things and, you know, we follow those, and they are there for a purpose. Deleting this section, what replaces it, or what is already there?

Ms. Mackedon:

Again, this was part of our cleanup. The SPCSA only had 13 regulations, and we were tasked with eliminating 10. So ultimately, we felt like this one could go because State

statute already governs how all of our offices would deal with gifts and donations. We feel like there is already a statute that regulates it.

Senator Daly:

I figured, because I would not think reasonable people would eliminate this if it was not covered somewhere else.

Ms. Mackedon:

And also, for the record, the SPCSA has never received a gift or donation. But like you said, that is not to say that it could never happen, but we feel confident that State statute would dictate how that was handled.

Senator Daly:

Those were my questions. I had a couple of others, but they were minor. And if we are going to look at it back, please get a hold of me when you are going through this. They have already agreed that they are willing to make amendments, so I will let you handle it from here, Madam Chair.

Chair Cannizzaro:

Thank you, Senator Daly.

I have a few questions, also, just trying to understand some of the pieces here. It seems to me, and I know Senator Daly started to touch on this, with respect to having either principals or some sort of administrator on school campuses. We require traditional public schools to have one of those academic leaders on each of their campuses. This seems to kind of give a different set of standards for the charter schools in that they might not have to have that same sort of individual on campus or allow for instances where that might be the case. I am struggling a little bit to understand why we would have a difference in that.

Ms. Mackedon:

We do not have a difference in that. I want to be very clear on the record—these schools have to have an identified school leader on their campus. The charter school application is going to require that they have that, and that that person is identified before they open. What this is doing is saying if you have three campuses, campus A can have a principal, campus B can have a principal, campus C can have a principal. There does not have to be a superintendent, or an executive director, or a [chief executive officer] CEO above those three. It is not eliminating a school leader on each campus.

Chair Cannizzaro:

I just struggle with some of the language in this because it seems to suggest that that could be the case. And I know you have mentioned that this might be in their charter application that would have to have all of that. I think that part is a little bit concerning in the way that it reads.

I want to talk to you about the students transferring and matriculating students from new campuses. How would that work with this regulation change?

Ms. Mackedon:

Right now, if charter schools want to have, for example, a couple of K [kindergarten] through 8 campuses and then they have one K through 12 campus, there are already matriculation agreements outlined in both their applications, and I believe their contracts, about how that would work. It already exists. This was just an effort to streamline our regulations. We are already handling matriculation through the charter contract and application.

Chair Cannizzaro:

I have some questions that probably the answer is that this will just be in a charter application. I understand the purpose of streamlining things. I do not know that removing things entirely from regulation because we believe that it is going to exist in another document, at some point, or another agreement at some point, and maybe it exists for some of these. We assume it would exist for anything that might happen in the future is tough because that is not the purpose of why we have regulations generally. The way in which I am looking at this—why would the SPCSA not require information about the grade level and location of potential additional charter school campuses prior to approving charter amendments?

Ms. Mackedon:

We already do that. There is a section of NAC that spells out what has to be in those applications, and that information is outlined there as well. I will let Katie add in because that is her area of expertise.

Dr. Broughton:

What is important to note here is there is a body of regulations that apply to all charter schools, and that outlines a charter amendment process that all charter schools, regardless of sponsor, are held to. These regulations are just for the SPCSA. They repeat some of the regulations that already all charter schools are held to, if that makes sense.

Chair Cannizzaro:

I think that is the point. I understand, while this exists elsewhere, maybe we do not need it here, but it sort of gives you all the authority to be able to ask these sorts of questions, to be able to make sure that that information is contained in there, to be able to review that and have that authority. I am just personally struggling with exempting what is ostensibly the approval organization, the approval authority, from also making sure that those things are part of this process.

Ms. Mackedon:

I do not necessarily disagree with you at all. This was ultimately started before our tenure under a different administration in response to an executive order and doing what we could to fulfill that. Ultimately, at the end of the day, if this body does not approve this, not much about our day-to-day operations is going to be affected.

Chair Cannizzaro:

I appreciate that, and I obviously understand the wisdom and if we have regulations that are duplicative or that are superfluous that maybe we do not need those. To me, where

I struggle with a lot of this is that we seem to be taking some of the oversight away and assuming that because it exists in other places or it exists in a document somewhere else, and it should exist in that document, that that is going to be the standard. And for me, that is hard. I think I am having some trouble with some of these regulations just because of that piece of it. I know that maybe some of these questions, as I was reading through it, and some of your answers to some of Senator Daly's questions as well, reflected that this may exist in other areas. For me, when I was reading this, I was struck that it seems like we are taking away some of the authority to have true oversight, and to ask questions, and to look at data for schools that are not performing, or how it is that we might be expanding campuses even if there are schools that are underperforming, why we would give expansion to folks who might have that. Maybe there are parameters in other places, but alleviating that oversight capacity is what I am struggling with.

Do members of the Commission have additional questions here in Carson City? Assemblymember Hansen.

Assemblymember Hansen:

Thank you, Chair. Thank you for being here. I am having trouble understanding all the concern. I served on [the Assembly Committee on] Education since 2019, and I also serve on the Education Interim Committee. I have visited numerous charter schools—well, those are public schools—and our regular district public schools. And to me, as a Legislator, I do see the duplication of legislation all the time. We bring bills that we will hear time and again in a hearing. Is this duplicative? Yes, it is. You are following through with an executive order, granted before your tenure, to clean up and get rid of unnecessary regulations or duplicative language. And to me, it sounds like a lot of any concerns mentioned are being covered. We are not being exposed.

I do not know necessarily that I have a question other than to just get on the record that if there are truly these concerns that something is going to be left unregulated or not supervised, I would simply steer my colleagues to the Nevada Report Card to compare the data between our regular public schools versus the public charter schools' performances. And I do not know that I am seeing some grave concerns on the charter side of oversight. I just wanted to get that on the record.

I would love to invite my colleagues that maybe we can all, as part of the Legislative Commission overseeing these regulations, do some visits to the charter schools so that we can see for ourselves how the oversight is working, how the return on the investment is working.

At this point, having been involved very heavily in the education space—and I noticed you had 27 people attend the hearings on this, not a single bit of public comment, no pushback—I feel completely comfortable with the cleaning up of this language and knowing that our students are being overseen in a very responsible way by the existing language that we have in statute and in regulation. Thank you, Chair.

Dr. Broughton:

Thank you, Assemblymember Hansen. I think I will just add to try to allay the concerns of this Commission, while also acknowledging if there are issues in what we identified, that is totally understandable, but general provisions in NAC 388.010 and 388.100 lay out regulations for new charter school applications, amendments, contract renewals for all charter schools, regardless of who their sponsor is. So, whether that is an SPCSA school, a

Washoe County School District charter school, a Clark County School District charter school, those apply to all charter school sponsors. These regulations that we are bringing forward just live with the SPCSA and only govern the policies of the SPCSA, which are already governed by those previous sections of the NAC. And if we did not spell that out, and which ones those were, as Senator Daly pointed out, I totally understand that, but we are sort of just trying to make it clear that we are already governed by those provisions, a lot of which ask for the same information that is in our regulations.

Charter school regulations are a little challenging because some are applicable to all charter school sponsors, and those are often adopted by Nevada's Department of Education or the State Board of Education. And then the SPCSA board has its own very small body of regulations, and just some of them are essentially the same as the ones that already apply in other sections. We completely understand the concerns that have been shared today and fare happy to go back and do what we can.

Chair Cannizzaro:

Thank you. Are there additional questions from members of the Commission in Las Vegas or Senator Krasner? I see a no from Senator Krasner. I am not hearing anybody chime in from Las Vegas.

I think at this point there is at least some concern over what it is that we are seeing here and what authority may be sort of ceding to other provisions and also making sure that we are looking at academic excellence, that we are not just expanding without some kind of oversight, that there are pieces in here that maybe need to just be clarified that were referring to other portions of regulations.

At this time, I am going to send this one back to you all to do a little bit more work and clarification on that, to give this Commission a little bit more guidance and assuredness that there is still adequate oversight and that we are making sure that we are doing good things. I appreciate my colleague's comments—there are a lot of charter schools that are doing great work in educating students. But I want to make sure that we still have the ability to have oversight from the SPCSA. Thank you all very much.

Ms. Mackedon:

Thank you for your time.

Chair Cannizzaro:

Members, that brings us to our next regulation on the agenda. It is R083-24 for the Board of Dental Examiners of Nevada. It looks like maybe we have folks in Las Vegas. We will let them get situated, and then I am going to turn this over to Senator Daly.

Senator Daly:

My question is in Section 1 and the change in the language. I clearly see that they will require an inspection and evaluation of facility, equipment, personnel, records, et cetera, when they first open or when they first get approved, and then you change the language and then at least once every five-year period thereafter. Changing the language is that the Dental Examiners, "May require an inspection and evaluation described in paragraph (a) any time after the issuance of an original permit described in paragraph (a)." The question is, we are going from everybody is going to get inspected at least once every five years to

some people may never get inspected again. People may get inspected more often than others.

Is it going to be on a lottery type, random selection? How and when are these going to be done? And my concern is that it may go—someone falls through the cracks; oh, that person has been around a long time; I know him, they are fine. So, they will not get an inspection for a decade or more, maybe longer, with that language versus they are going to get inspected; everyone needs to keep up-to-date; be on your toes because if you have not gotten one, recently, you are going to get one before the end of five years. How do we justify that change? And then the natural extension of that is that we do not know how or how often people are going to get inspected for compliance.

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

Madam Chair, members of the Commission, Mark Karris, on behalf of the Nevada State Board of Dental Examiners, General Counsel. Senator Daly, the justification behind that change really is born out of a staffing issue, quite frankly, because as the regulation was currently drafted, it did have the requirement of reinspection every five years. The problem is we do not have sufficient inspectors to be able to handle that mandatory load to go in and inspect these facilities every five years. And quite frankly, during my tenure at the Board, we have had quite a long list of backlogged inspections that need to be done. Despite our efforts to solicit new or additional inspectors, both here in southern Nevada as well as in northern Nevada, we have not had much success with that.

The consensus of the Board, especially the Anesthesia Committee, was that changing the language from a mandatory five-year inspection to a permissive five-year inspection would not necessarily entail—although I can appreciate your concerns about either favoritism or inspections that get lost for 10, 15, 20 years down the road. The protocol of the Board would be to continue to rotate all of those permits that are currently held on an inspection or reinspection basis but not have the mandatory requirement, such that if the five-year inspection is not done, that that permit would then become void and would force the licensee to start all over again.

Senator Daly:

I appreciate the answer on the staffing issue and various things. Just maybe a clarification. It changes the language to permissive, but it does not mention anything about permissive once every five years. It just says any time. So, if you did a random basis, now you are going to say you are going to have a rotation. Understand that. Where is that going to be? So maybe some clarification on language is that we intend to put them on a rotation, but then it also gets you to a position where if I have to do these once every five years, I am going to spend the resources and make sure that I get an inspector because I have to do this once every five years, to now I have to allocate my scarce resources in my [inaudible] and the inspector is not high on the list because I can just stretch out inspections as far as possible or as far as needed based on how many inspectors I have.

My former colleague—and I am going to channel her stuff; she thinks I was not paying attention—Maggie Carlton used to always say about all the boards and commissions when she was on [the Assembly Committee on] Commerce and Labor, that the boards and commissions are there, and the licensing is there, and the inspections are there to protect the public and the people using those services in the State of Nevada. And we need to do everything we can to make sure that we have the right people with the right credentials, the right education, the continuing education, the inspection of the facilities, the facilities are

safe and up-to-date, and in compliance with all of the rules and regulations that are necessary.

I am not really satisfied with I do not have enough inspectors so now I can put them on a rotation that may switch them from maybe I can still get to them in 5 years, but it may take 10, may take 15, may take however long it takes with no incentive to actually use and allocate resources towards a more rigorous inspection program.

I just think the language is inappropriate, understanding that your charge is to protect the public. In fact, I wrote on my notes here, nope, I do not think I like this. I do not think I can stand for it or approve. That is all the questions I have, Madam Chair.

Mr. Karris:

I appreciate and recognize your concern, Senator, and I do not want the Commission to think that the change was some type of dereliction of duty on behalf of the Board or succumbing to challenges in staffing, rather, understanding the Board's commission duty to protect public safety. It is the concern that because they do not currently have the staffing to be able to do these mandatory reinspections every five years, that with licensees having to come up for a reinspection not being able to receive it, that technically they would not be able to continue with their anesthesia permit and therefore not be able to serve the public.

Again, I recognize, in fact, that this language may suggest to you that there would be some type of forsaking of the public safety, but that is not the case, by any stretch of the imagination. And we would devote substantial resources in order to solicit inspectors to continue with this work. At the risk of sounding trite, Senator, we "cannot get blood out of a stone." I cannot make the inspectors appear for us to be able to carry out our mission.

Senator Daly:

I understand, and I was not meaning to imply that you guys were trying to skirt around, or dereliction, or any of that. I understand the "rock and the hard place," "cannot get blood out of a turnip" reasoning for going here. However, there is no requirement. What I have observed over my years on Earth, and that is, human nature is consistent and predictable. I can see where the chess moves are on the board. And if you have permissive language on this and you only have limited resources, these inspections may not be the top of the list, and it is just human nature to say, hey, we got other pressing issues. I will stay away from the budget process, Madam Chair, but if they need to come and ask for more resources to have these inspectors for the safety of the public, I think those are requests that are not going to fall on deaf ears.

I just cannot go forward with a provision like this. You could maybe soften it to say we will make every effort; it is our intention to the extent of resources; we are going to do this every five years. But if you could not get to a guy and his license was going to expire, you can give him another 12 months or something and then put them on the priority list to get going. I think there are other things you can do besides just making this permissive and have it open-ended with no schedule or confidence of a schedule being met under this language.

Mr. Karris:

I understand and appreciate what you are saying, Senator. I would only point out one further fact that I neglected to indicate. During my tenure at the State Board, there

have not been any instances in which a reinspection for an anesthesia permit has resulted in the denial of that permit to continue or the denial of that licensee to continue with anesthesia. I am not suggesting that it would not happen in the future, but at present, during my tenure, that has not occurred. Nevertheless, to the extent that you and the Commission would want us to firm up the language, so to speak, given human nature, we will gladly comply.

Chair Cannizzaro:

Assemblymember Hansen.

Assemblymember Hansen:

Thank you, Chair. You actually answered one of my questions with that last answer, so I appreciate that. Would not the idea of this reinspection and maybe a danger if they are not able to comply, that was maybe a concern of my colleague, do not the insurance requirements for malpractice insurance that dentists have to carry, are not there conditions that they have to meet already that if there was a larger exposure because we change, you know, we went with this regulation, would not the dentists themselves be pushing back because it would expose them to greater liability? And I did notice that you did have written comments and things that came in from those in this field. I was just curious if you could sum up. Were they on board with this regulation or did they have concerns? Thank you.

Mr. Karris:

No. In fact, we did not receive any comments from licensees pushing back on the potential exposure or increased liability as a result of the change to make the language permissive. While I cannot speak to insurance language and whether or not this would have a direct impact on premiums, I do know that, again, during my tenure at the Board, oftentimes we hear from administrative staff for licensees who are cognizant of the five-year requirement are very anxious to get that done, and quite frankly, are a little bit dismayed when we let them know what the waiting period is in order to have this done. But I think, based on, again, my limited tenure there, but the experience that we have had, there has not been any instances in which a licensee was initially passed for an anesthesia permit has not been able to pass for a subsequent reinspection.

Chair Cannizzaro:

Any additional questions from members of the Commission?

I know that the mention was there is a lack of some resources to be able to conduct these regular inspections. What does that look like in terms of how they are able to do the inspections now? Is there a significant number of them that are not meeting this period of at least once in five years? Is it just a little bit longer than the five years that you are able to complete all of those inspections? Do you have any sense of what that looks like, practically?

Mr. Karris:

Madam Chair, while I do not have specific numbers to quote to you, I can tell you, generally speaking, we have probably got a list of anywhere between 25 and 30 reinspections that are in the queue waiting to occur. And to answer your direct question as to how that bears upon initial inspections, of course initial inspections take priority, because obviously we have, consistent with Governor Lombardo's executive order, in order to reduce regulations and

encourage business, we are obviously cognizant that trying to allow new licensees to the State of Nevada, the opportunity to practice here, and of course, address all of the dental concerns for the State and the citizens of Nevada, reinspections are then secondary to that initiative.

I also would like to point out something that perhaps I failed and neglected to answer to Senator Daly and Assemblymember Hansen, and for that matter, members of the Commission. As many of the members may know, we are actually self-funded. We do not receive tax-funded resources from the State. It is all based on the revenue generated through licensees, permits, things of that nature. It is not simply a matter of financial resources. I guess I go back to Senator Daly. It is a matter of finding the people to be able to do it. It is the human resource.

Chair Cannizzaro:

I think you mentioned earlier if there was a desire to clean this up a bit to make sure that there were some inspections happening and that it just did not leave it open-ended. I just want to make sure I heard that correctly. That that was something that you might be able to do with this regulation was just make sure that those are happening even if there had to be some accommodations for the fact that maybe they cannot happen in that time frame.

Mr. Karris:

Madam Chair, absolutely. I would be more than happy to go back and draft amended language, especially given Senator Daly's fairly succinct "Nope." I do not think that the Commission would want to take up this matter as it currently stands.

Chair Cannizzaro:

Ok. Then that is what we are going to ask you to do. Just clarify that a little bit so that there are those happening.

I am sorry. I actually have another member with a question before we get to that point. Assemblymember DeLong.

Assemblymember DeLong:

Thank you, Chair. It is actually more of a comment to Mr. Karris since the Commission is not going to actually take up these regulations. It appears from everything I have heard that the issue is the concern that a license might expire because the inspection cannot occur. Could we create language that says as long as the renewal application has been otherwise submitted completely, that the permit can continue in a temporary status until the inspection is completed? That might address the underlying issue of people losing their license, which appears to be what they are trying to deal with.

Chair Cannizzaro:

Go ahead, please.

Mr. Karris:

Certainly, Assemblymember DeLong, we can put language in there. I would just perhaps clarify that first of all, it is a permit, it is not a license for the purposes of administration of anesthesia. And secondly, they actually have an established permit; so, I think the language

might read that the existing permit would continue in force and effect, as long as the renewal application has been submitted and until an inspection can occur. I do not know that we can necessarily change what has already been established as an existing permit to a temporary permit. But nevertheless, I understand the intent of your comment, and we can certainly look to do that.

Chair Cannizzaro:

Thank you so much. I appreciate all of that and look forward to seeing this regulation with some additional parameters.

Members of the Commission, that takes us to our next regulation for further discussion, R132-24 for the Commissioner of Insurance, and I am going to turn this over to Senator Daly.

Senator Daly:

I am hoping your questions will be easier than some of the others.

In Section 5, subsection 1, deleted subsection 4 [subsection 2(d)], and maybe it is just something I need to have, because when I read this, it triggered something else on the thought that I had where it says, "No risk may be modified except after inspection of the property." I know when we are talking about insurance and the risk and what the rates are, there are a bunch of underlining calculations that insurance companies make that have to be reviewed by you guys before they can charge more. But what type of inspection of the property are we talking about? Are these going to be individual residences or is it property insurance that we are talking about? Homeowner's insurance we are talking about? Or all types of insurance where they would have to inspect this property?

Because my thought process was this—and I have heard this problem, especially up around Lake Tahoe and other areas—that people are in a house, and they are in a zone. And they may be in a community within that zone that has a higher perceived fire risk than other areas, and the insurance companies put you in that zone. It does not matter if you have done any mitigation. It does not matter if you are in a homeowner's association that has taken substantial precautionary effects so the chances are greatly reduced. The insurance company charges them all the same, as if you have done nothing, and fire is going to burn you down tomorrow. So that was my thought process on the no inspection before it is modified.

Adam Plain, Insurance Regulation Liaison, Division of Insurance, B&I:

Adam Plain, Insurance Regulation Liaison for the Nevada Division of Insurance. Great question, Senator Daly. I know this is a quite confusing little section here, but that particular provision relates to a process known as "schedule rating." So typically, when an insurance policy is rated, it is based on past history. Schedule rating allows an insurer to vary a premium, not entirely on historical loss data, but on the conditions inherent to that risk. Schedule rating is mostly used for casualty risks; it is very rarely used for property risks. When you have a typical homeowner's policy—commercial residential or commercial habitational—the underwriting for those risks is very much based on past history.

When we are proposing to modify this section for schedule rating only, we are saying that if the insurer is looking to modify a specific risk not based on loss experience history, then if it does relate to a specific piece of property, they do not have to go and inspect that

property. Now, that does not apply to like a homeowner's policy because it is the rating methodology that has to be filed for prior approval on a broad basis, not a property-specific basis. I hope that answers your question.

Senator Daly:

I think it does. I know the more I learn about insurance, the more I do not know, but that is why I ask questions. I just wanted to make sure that it was not the situation I was talking about where people get put into a zone and it does not really make any difference. I know auto insurance. They look at losses in a zip code, and it does not matter if you have never had an accident or anything else, but people in this area do, so you are guilty with the rest of them. That was my only concern. I do not have a problem based on your explanation.

The only other question I had was on the repealed section, and I know we had this discussion with some other people earlier. I am assuming those things are covered or expressed in other areas of statute or regulation for all the sections that you are deleting. I believe it is in Section 11.

Mr. Plain:

Many of these sections that we are proposing to repeal are reporting requirements that are no longer necessary. The products do not exist. The Division has never really used the reports for anything productive, so we are looking to ease regulatory burden by repealing them.

Senator Daly:

Understood. That is kind of the way I read it. I was just looking at either they are not necessary, or they are covered somewhere else. I know there was another regulation, which I did not pull. It was talking about the PUCN [Public Utilities Commission of Nevada] having a whole section of regulations on pay phones that they are proposing to delete, which is perfectly fine. Thank you. That is all I have.

Chair Cannizzaro:

Do any other members of the Commission have questions on this regulation? I am not seeing any.

ASSEMBLYMEMBER DALY MOVED TO APPROVE R132-24.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

We are going to move to R133-24 for the State Environmental Commission. And while you all are getting set up, the Committee is going to just be in a very brief one-minute recess.

The Committee will come back to order and thank you so much for being here with us today. We are going to go to Assemblymember DeLong for the discussion on R133-24.

Assemblymember DeLong:

Thank you, Chair. I think this is going to be relatively straightforward. If you look at Section 7(2)(a), it talks about treatment technology has been tested on water with similar characteristics, and I do not see "similar characteristics" defined. So how is that defined? How is that going to be determined to ensure consistency in the application of that regulation?

Andrea Seifert, Chief, Bureau of Safe Drinking Water, Division of Environmental Protection (DEP), State Department of Conservation and Natural Resources (SDCNR):

Good morning. For the record, my name is Andrea Seifert. I am the Chief of the Bureau of Safe Drinking Water, and I have Brendan Grant, the Supervisor of the Engineering Branch here with me today.

Assemblymember DeLong, with regards to similar characteristics, we agree that it is not defined anywhere else, and it is usually different depending on the water system that we are dealing with. From a consistency standpoint, if, for example, someone is trying to treat for arsenic, we would ask that they prove to us that that treatment technology that they are proposing to avoid the pilot testing, is also being treated for arsenic and has a similar water quality panel as what we know the current water system has. It is really determined on somewhat of a case-by-case scenario.

Although, across the State of Nevada, our aquifers are similar in certain areas. We have had a water system in one area of Fallon do a pilot study and they had results that were proven to be successful. Having another utility drawing from the same aquifer do the same study does not add any additional benefit. From your question of consistency, it is a bit of a case-by-case study, but we also know what water quality characteristics will impact a certain treatment technology.

Assemblymember DeLong:

Thank you for that. Chair, if I may follow up. What I am hearing from you is it is really based on the constituents in the water. I get that; that makes sense. I guess one of my questions goes along thinking about it. Are you looking at, if you are treating for arsenic, the similar characteristics, would they be within like 10 percent either way of what you are expecting? I understand that you are not telling them that they need to get water from the aquifer that they are going to treat. You are actually saying you can use some other water but of similar characteristics. It is just how do you define that? And there is an easy answer to this. It is just a vague regulation. It is highly subjective, and I do not think we are going to be able to address it. I still think this reg needs to go forward, but I am just pointing out that there is subjectivity there.

Ms. Seifert:

Thank you for pointing that out. It is an area of the regulations that we will oftentimes have to do additional research to make sure that the water quality is similar in nature. I can understand what you are saying about the subjectivity.

Chair Cannizzaro:

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

ASSEMBLYMEMBER DELONG MOVED TO APPROVE R133-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

Regulation 133-24 will be approved.

Our next regulation for consideration is R161-24 for the State Environmental Commission. We will let them get situated and then, Senator Daly, we will turn it over to you.

Senator Daly:

Thank you, Madam Chair. My questions are not that complicated. It is more of just an understanding on my part. I am not going to tell anyone that I understand all the references to the *Code of Federal Regulations* and all the things that you have related to, nor did I look at them. I mean, there are too many of them, and I do not usually read the *Federal Code of Regulations*. Nevertheless, you guys do, so that is good.

I was curious because I am thinking of some other concerns, issues, and ideas that I had. So how does that work on the interaction on this or maybe even other regulations? I know in the last regulation we just heard, they referenced federal codes and various things as well. So how does that work when the federal government makes a change and then it impacts the State? I know federal Supremacy Clause and all that stuff, federalized jurisdiction over it, and the State cannot sometimes even work in that area. I know that applies for labor laws and various things. The federal government has exclusive jurisdiction. Other areas they say, hey, we have this, you guys cannot have "less than" these minimum requirements, but you can have more stringent or higher requirements, as the case may be. So how does that work with these things? You guys looked at it. Are these appropriate for the State?

I know when we adopt some manuals and other areas of law, the State reviews them to say, are these changes appropriate to be applied in the State? And then they can say, we are not taking these sections that we are going to update to the 2024 edition. How does that work with the federal government on a lot of these ideas? And if they came back with a bunch of stuff that took away a lot of the things that we rely on for environmental protections in the State at the federal level, do we automatically go to that, or do we review it to make sure it is appropriate for the State? I just want to understand how that works a little better.

Jeffrey Kinder, P.E., Deputy Administrator, DEP, SDCNR:

Jeff Kinder, Deputy Administrator with the Division of Environmental Protection. Thank you for the question; it is a very good question. The program we are talking about here is the Resource Conservation and Recovery Act or federal RCRA. Nevada is an adopt-by-reference state for our authority delegation to implement it. As federal law changes periodically, we must also update what our regulations say. This is a regular update for us.

I think more to your question is, when the federal EPA [Environmental Protection Agency] makes things more stringent, Nevada businesses are already subject to that, even before we go through this adoption. A lot of the things in this current regulation before you are programs where the EPA has determined that we can have more streamlined requirements while still being protective. Our businesses cannot enjoy that streamlined regulatory structure until we go through an adopt by reference. Many of the things before you today are falling into that category where we would like to update to the current federal rules so our businesses can take advantage of those things. But we do look at every federal adoption and see if it applies in Nevada before proposing to adopt it into our regulations.

Senator Daly:

Understood. And I understand that if they have a level, it goes into effect when they say it goes into effect, and it applies whether our regulations are up-to-date. Other regulations, you said, require changes here if the feds made a streamlining but did not change any processes. If the federal government, for instance, or we have a State rule that says this is what we see as the level for arsenic, or whatever it is—and I am assuming they are not going to change that to a level that kills people—but if they change it to a different level—and maybe that is a bad example—but do we review those? If we have a level here, and the feds move to something else that is less stringent, do we review that and say we are not taking it? Obviously, we do not have to, because a lot of this, I am just saying, we are going with what the feds say and here we go. So how does that process work? Is that already in place? Or could it be the other way that our rules and laws do not say that we are going to review it, so the feds made it easier, and so are we, even though it may not be appropriate for the State?

Mr. Kinder:

Thank you for the question. We evaluate every rule that is proposed in the *Federal Register*. And if we have concerns about the rule, looking at what the requirements might be on Nevada businesses, we will comment on that rule with the hopes that EPA will take into consideration the State's comments and how it will be implemented in the State. But generally, we can be no less stringent than federal law.

Senator Daly:

Understood. But if they change a standard where we are more stringent than the federal law, and I know you can put in comments and all that stuff, it is kind of like comments for these regulations. You can put in comments; the regulator does not have to take them. They may say thanks for your comments and various things, but here is our decision. Do we then keep our regulations in accordance with State law, mostly, or do we switch to the federal rule?

Mr. Kinder:

Again, we can be no less stringent. We will take our opportunity to make comments on federal law, but once a federal law is passed, all of our businesses are subject to it. We will look at opportunities within the State of how we implement that rule in Nevada and for our particular industry, to look at opportunities to have the same protectiveness but maybe not have the same regulatory burden.

Senator Daly:

We can keep ours if it is not less stringent but more stringent?

Mr. Kinder:

Yes. Correct.

Senator Daly:

Ok. That was just a clarifying type thing. I noticed that in like ten of these regulations, they referred back to the federal government for some of this stuff, and you guys were towards the end, and I said I need to ask this question. You were the one that drew the short straw. Thank you.

Chair Cannizzaro:

Any additional questions or comments from members of the Commission? Seeing and hearing none, I have a motion to approve R161-24.

SENATOR DALY MOVED TO APPROVE R161-24.

ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

Regulation 161-24 will be approved.

The next regulation on our agenda is R173-24 for the Director of the Department of Health and Human Services. They are with us here in Carson City. We will let them get situated and then I am going to turn it over to Senator Scheible.

Senator Scheible:

Thank you so much. I have a number of questions about these regulations. I have been getting up to speed on them over the last day or two to try to understand how we got here. If you do not mind going back a little bit. My understanding is that these regulations come out of an advisory committee that was developed through Assembly Bill 7 of the last session. And so first, I want to ask how that advisory committee was put together.

Stacie Weeks, J.D., M.P.H., Administrator, Division of Health Care Financing and Policy (DHCFP), DHHS:

Madam Chair, Stacie Weeks for the record. Thank you for that question. Under the law, we had several positions or representatives we had to choose. We came up with 20 members in total that sat on this commission. We reviewed a number of applications and appointed individuals based on those decisions.

I understand there has been some concern about one member for the union representative. That was an oversight on our part. I will be frank. We reviewed the application and sent it to our Director's office who did the appointment. When it came to our attention that we did not have that position appropriately filled, we worked to fill that, and we included that individual and their feedback throughout our process. I just want to sit here and acknowledge it was not intentional. We do the best we can every day. It is unfortunate, but we included a lot of

their feedback, which actually was very helpful to ensure that these regulations, which do not ban an HIE [health information exchange], which is some confusion, I think, with what the law says. And if that is what the Legislature would like, you can amend it next session.

We did require that any HIE that is used by a provider for compliance, that that HIE meet all the requirements of the bill. And if an HIE does not, as a Department, we will also not be contracting with that HIE. I just want to be clear that everything in this regulation follows the law. We have consulted with our DAG [Deputy Attorney General]; LCB also reviewed and made some helpful changes we approved. We also had a public workshop. We heard concerns from a couple providers that are small. The Legislature helpfully put into the statute a waiver process. We will be implementing that waiver process for some of these smaller providers where this is a burden for them to comply with. We are working on that, but we are waiting for these regulations to be finalized so we can move forward.

Senator Scheible:

I appreciate that. I still have some follow-up questions about how the advisory committee was developed because you mentioned that 20 people were selected by, I think you said the Director of the Department of Health and Human Services, based on some kind of application. Was that application process public? Was it a form that they filled out? Did they submit a résumé and cover letter? What was that application process like? And I am also going to ask my follow-up now, which is how many people applied, from which the 20 were chosen?

Ms. Weeks:

We do not have the number with us today about how many applied; we can follow up with the Commission if you would like.

It was a notice we sent out. There was a form that people completed. They submitted their résumé. Our staff did the best they could putting together a packet for the Director to review. There were only truly ten positions in the statute. Even though it says representatives, there were ten different types of representatives. We picked 20 to do our best to have a fair representation. Again, we apologize for the oversight on that one position. I do feel like we have fixed those issues, and this regulation is sound, and I stand by it, and it does recognize the law in front of you.

Senator Scheible:

OK. I am just going to go back a little bit. When you say it is an announcement or an application that you put out, does that mean that you shared it with Legislators? You shared it with industry leaders? I mean, clearly, you did not share it with labor. What does it mean to "put out" this application?

Ms. Weeks:

My apologies, Senator. When we do any type of formal committee or board, we put out a public notice, and we have a LISTSERV. We also put it on our website, and we did all of that. I can follow up on how many people actually applied if that is something you would like to see.

Senator Scheible:

I would be interested to hear how many people applied. And I am interested in the thought process that went into approving certain people and not approving other people because I do have concerns about the regulations themselves.

These regulations were reviewed at a meeting of the advisory committee. When was that meeting? Do you know?

Malinda Southard, D.C., Deputy Administrator, DHCFP, DHHS:

Malinda Southard for the record. There were four total meetings of the Electronic Health Information Advisory Group. I believe they began in March and went through June.

Senator Scheible:

And then, the whole group, did they vote to approve them in June?

Dr. Southard:

They voted to approve the regulations in draft form in June. And those regulations were sent in advisement to the Director of the Department of Health and Human Services for adoption. We also, as the Division of Health Care Financing and Policy, on behalf of the Department of Health and Human Services, held a public workshop and a public hearing on the draft regulations. The public hearing was on October 31, and I apologize, I do not have the date in front of me for when the public workshop was.

Senator Scheible:

That is okay. I think that that answers my question.

I will get to the regulations themselves. And my concern is this, that having electronic health record systems utilizing HIEs that are, you know … I understand the intention here. Let me make sure the intention here is to be compliant with both the State and the federal law, right?

Dr. Southard:

Yes, that is correct.

Senator Scheible:

And part of the State law is that individuals have access to their own health records, right?

Ms. Weeks:

Yes.

Senator Scheible:

Can you point to where in the regulations we are ensuring that individuals have access to their own health records?

Ms. Weeks:

The regulation does point to TEFCA [Trusted Exchange Framework and Common Agreement], which is in the statute; TEFCA is a federal national standard for interoperability. And it does allow, it requires actually, if you are a member, that your patients have access to their records. So, any HIE that a provider contracts with must comply with those programs and those requirements from the federal level. If an HIE does not, then they are not compliant with this law and would not put providers in compliance if they use such an HIE.

Senator Scheible:

Okay.

Ms. Weeks:

Senator, if you look at Section 8, [subsection] 2, where it says, "Be a member of the Trusted Exchange Framework and Common Agreement, or its successor," I think that has been some of the confusion. We use, as the State law required, this to ensure that any HIE would be compliant with that.

Senator Scheible:

And were there representatives from multiple HIEs involved in the drafting of these regulations?

Ms. Weeks:

We only have one that is certified in our State, and they did sit on the committee. But there were, like I said, other members of that commission.

Senator Scheible:

Can I ask one more question?

Ms. Weeks:

Yes, please.

Senator Scheible:

And that one HIE, were they the ones who submitted these regulations? Or, who submitted the regulations here that we are seeing today?

Ms. Weeks:

Madam Chair, the Department submitted these regulations and were recommended by the committee. Malinda, our staff, drafted these regulations with our AG's office.

Senator Scheible:

Have these been reviewed with the authors of AB [Assembly Bill] 7?

Ms. Weeks:

There was a meeting with Senator Doñate, who reached out to us and had some feedback. And we took that into consideration in finalizing the regulation, as well as a couple of other lawmakers that reached out. We have had a lot of feedback, and we have done our best here to be reflective of that, and as much as we can, follow the law. Again, if HIE is not something that the Legislature wants us to use for this law, you can change the statute next session, and we would update these regulations.

Chair Cannizzaro:

Let me ask a question along those lines. I think the portion of the bill [AB 7 from the 2023 Session], as I understand it, where some of the consternation is over, is [Section] 1.08, which talks about the direct access thresholds. Do HIEs meet that? And how would that work?

Ms. Weeks:

Not all HIEs nationally do, but the federal government put out TEFCA, which is an agreement and a membership. And if an HIE is a member of that federal agreement, an entity, they all comply with the patient access. We do contract with an HIE through our managed care program today, and if we are not compliant, we will be ensuring that we are compliant going forward. I just want to recognize that this is a change probably for the current HIE in the State, and we recognize that. Any HIE and any provider that uses an HIE must ensure that that HIE is compliant with TEFCA as is put out in this regulation. As we noted in our comments, I just want to say that we included a requirement that we will have any HIE that is certified by the State, which that is the process we have under the statute, we will ensure that HIE notifies their providers if they are compliant or not with the statute. If they are not, they need to come into compliance over a period of time.

Chair Cannizzaro:

Do you already have HIEs here in the State that are approved or is that a process that you all now will go through in order to help implement this regulation?

Ms. Weeks:

Today, under the State law that is being amended here, which is the HIE statute, we do have a certification process that we run at the Department but has been delegated to my Division, the Division of Health Care Financing and Policy. We certify HIEs. We have one in the State that is certified, and we will be notifying the HIE once this regulation is approved, that they must come into compliance if they want to be used by providers to meet the regulation. We will also be updating our certification process to ensure that it includes this requirement.

Chair Cannizzaro:

Why would not the State have been like a better repository for the information or a better access point than the HIE? I think the point that is causing some uncomfortability is the HIE piece and whether or not that matches with the statute, matches with the federal guidelines, and where the State is in that whole process.

Ms. Weeks:

I think the State … We could do something like that. Right now, we are not staffed; we do not have the capacity to do that, and we are not funded to do that. It is not something we are opposed to doing. I think if you want to direct us to do that, we can do that and work with the committee and others to set that up. If that is what makes folks more comfortable, we are always open to being helpful. Obviously, I am always going to add staff and funding to that request, and I will be honest about that.

Chair Cannizzaro:

I think that makes sense. I think some of the concern was having the HIEs be that piece of it. I think that there was a recommendation from, and I know Senator Doñate was not part of that working group, but a bill that he worked on substantially last session through the interim and then into last session that required these regulations. There had been a suggestion to strike language in Section b about maintaining that connection with a health information exchange. Can you talk about why that was not part of the regulations or is that just because of the consensus of the working group? And maybe why that was not included in this language or if it was considered by the committee and then not included?

Dr. Southard:

Thank you, Madam Chair. The Electronic Health Information Advisory Group considered that recommendation by Senator Doñate. The members of the committee felt very strongly that they wanted to allow options for providers to be able to meet the requirements of the regulation. And they felt very strongly that having an HIE that was a member of TEFCA and allowed for patient access forwarding and interoperability, all of those things, that then, that should be another option for providers to have in addition to an electronic health record system.

Chair Cannizzaro:

Is that piece required to carry out? If these regulations were to strike that language, would they still function? Would you still be able to access this data? I know you mentioned that they wanted to have options, and I am wondering if that were the case and that language was removed, how would this regulation operate and how would access to that data operate?

Ms. Weeks:

Madam Chair, I would like to maybe take that back to our Deputy Attorney General and talk to her about that because my concern is that this bill is in the statute for the HIE and to not include HIE as an option does—I would have to read all of this myself—but I would think as a legal matter, it raises the question of why is it in that statute if HIE is not going to be an acceptable manner to comply.

Chair Cannizzaro:

Your understanding of it is that the statute would contemplate an HIE and so it should be included in the regulation.

Ms. Weeks:

Madam Chair, my understanding is that this bill amended the statute we have in place for HIEs in the State for certification.

Senator Scheible:

May I ask a follow-up question, Chair?

Chair Cannizzaro:

Yes, please.

Senator Scheible:

Maybe I am not completely understanding the landscape here. An electronic health system or electronic health record system makes sense to me. That is what I assume my doctor is looking at when I go in for my annual exam and they pull up my chart and they can see the last time I was there. I assume that is like an electronic health record system. And so, the health information exchange, though, is like a private company that is contracted to store data essentially, or am I misunderstanding?

Ms. Weeks:

I think it depends on the HIE. In the State, the one that is certified is a private entity, is my understanding; it does have a board. If you wanted to change HIE statute in the State to say that they have to be nonprofit or State government, there are other states that have done things like that. If that is something the Legislature wants to consider next session, that is definitely up to you. I would just say that we did our best to comply with the statute and how it was written.

Senator Scheible:

I appreciate that. I am going to be a little bit more pointed here. Because this is really my concern—and I do not want to impugn any particular organization or government agency—but I am just wondering, in this conversation at the advisory committee, was the issue really that doctors and providers wanted to be able to utilize an HIE or did the HIE want to be included in the bill so that they could continue to profit from these regulations?

Ms. Weeks:

I totally understand your question. I do not believe that was true. My understanding of the committee, there are providers that want an HIE. One of the good things about an HIE is it allows us to manage care. One of the cost drivers in the State is that providers do not know when their patients leave the hospital, for example. They do not know where they are going and what is happening. And this is a way for providers to electronically share information about a patient and manage that care. It helps us with our value-based payment models we are trying to do, all of that. I totally recognize the issue around a private entity. Again, if the Legislature wants to remove that as an issue in the future, I think that is totally within your purview.

Senator Scheible:

I think my concern, then, is how do we ensure that providers and medical professionals actually have choices in complying, and how do we avoid a situation where an HIE with more … I am concerned about a private entity essentially monopolizing the market on health data and becoming the sole provider in the State of Nevada, when I think that was not the intention of the bill. I was not on the committee either. I did not bring forward these concerns before because I was not part of that conversation. I am not saying that I should have been, but I am just concerned that from the very beginning, the advisory committee was not set up with advocates. Again, I know we already talked about labor, who was inadvertently overlooked, but I am just worried that if the advisory committee was not really reflective of all the people who are interested in the policy, that we came to a result that is also not going to get us where we want to go.

Ms. Weeks:

A lot of our providers were on that committee in the State. We can follow up with the list, but they wanted a choice. Some of them already comply, and some do not. But I think one of the ways that we are going to ensure that providers are aware of all this is we are going to be working with the licensing board as well as the DPBH [Division of Public and Behavioral Health, DHHS] to send out notices to providers about the new requirements—what is required and how they check to see if what they have agreed to and contracted with is in compliance with this regulation. If this HIE that we currently have in this State—just the elephant in the room—is not compliant, then providers will not be able to use them if they do not meet this regulation. They need to be a member of TEFCA; they need to allow for patient access and all of those things. If the Legislature really intended to remove HIE and the private nature of the HIE system in the State, I think that was not clear to us in the statute, and we did our best with our Attorney General's staff and team to write these in a way that reflected the conversations of the committee.

Chair Cannizzaro:

Senator Daly.

Senator Daly:

Thank you, Madam Chair. I am not going to pretend I followed all of that; it is not my area of expertise. But one of the things that someone mentioned caused me to think of it from a different viewpoint, looking at a different facet of it. I recently had a discussion with State Purchasing [Purchasing Division, Department of Administration] over how they do contracts and various things, and sole-source waivers, and those types of things. When someone said we are going to have this private entity overseeing this within the State, I think it just takes away a little bit of if we needed to change, or we were not happy with that quote, unquote "vendor." We are not very nimble. And then we have all of this invested, they have it invested, so it is not something that you easily stand up again. I am not sure going down that path, which kind of locks us in or makes it difficult to switch and do something that might be better. I am just looking at it from that point of view. I am not sure that we are on the right track there. They used computers as the example that they gave me. Twenty years ago, we entered into a contract with IBM, and we still have them, some legacy stuff, and we have their machine, and now we are locked into their software, and it is not easy for us to spend $40 million to get a whole new system and a new vendor. We keep chugging along with what the legacy is, and I am just concerned that we might go down that track with something like this as well.

Ms. Weeks:

I appreciate that point. We always are challenged with that with vendors. We do not use an HIE like a vendor, in this case. Currently the State certifies any HIE vendor that would come to the State and be available to providers. In our managed care program, right now, we use an HIE, and the managed care plans have the requirement to fund an HIE in the State. Right now, there really is only one available to use, and that happens to be the entity that we are here talking about today that the questions have been around. It is not a requirement though. We are going to have to amend our contracts after these regulations are finalized so we can say that any HIE that they use, we want them and expect them to use one that meets this regulation, which could do away with the current system that we have. I think just recognizing this regulation actually does have more teeth maybe than what people are seeing. I appreciate your question on that.

Chair Cannizzaro:

In Las Vegas, Assemblymember Nguyen.

Assemblymember Nguyen:

Thank you, Chair. Thank you for being here. What I heard you say earlier is that we only have one provider in terms of HIE at this point. And are we considering more in the future as we go through these types of implementation? What I have heard some of my colleagues say earlier, too, is that I am concerned that if we only have one source and if that one source decides to change their game or do other things with it, there might be some issues in terms of having access. Are we looking at multiple providers in the future for this HIE, or are we just sticking to one right now?

Ms. Weeks:

Under the State law, we will certify any HIE that will come forward and meet the requirements of the State law. Right now, we only have one certified. I do not know who might be out there operating uncertified in the State, so I do not want to speak to that, but we obviously would welcome more HIEs.

There are other ways for providers to comply. I just want to be clear on that. There is an EHR [electronic health record] option, as long as that EHR meets some of the requirements in the bill as well to ensure that patients can access their records as well. A lot of our providers do have an electronic health record, and if they have that ability to allow patients to access their records, they are already in compliance.

Just to be clear, they do not have to use the HIE, and we are going to do our best to be giving providers notice of the regulation and ensuring that if we get a complaint that someone is not compliant, that we are following up with the appropriate licensing entity to issue a fine, which is permissible under the bill.

Assemblymember Nguyen:

Quick follow-up, Chair?

Chair Cannizzaro:

Yes, please.

Assemblymember Nguyen:

Is it my understanding that are we not the only state that only has one option as HIE or is this still kind of the format very standardized across the country that there is only one provider per state?

Ms. Weeks:

I think every state is different. I do not want to speak to … If they only have one, I do not know that. I think there are states that have state government-funded and ran systems to support HIEs for providers. I think there are states that do it differently. There was federal funding at one point available to states to do this. I have not been here as long as some folks, but my understanding is we did not take that up, and we did not use that option. We have been using this other entity that did get certified by the State under the State law, but no provider today is required to use it.

In managed care, we use it to share information to allow our providers … Like I mentioned, if I have an individual going to a hospital with a substance use condition, the providers and managed care plans are not only rated based on the experience of that patient and whether or not they come back to the ER [emergency room], but there are penalties, and there are also quality incentive payments for them to ensure that this patient gets treatment and is not just cycling back in and out of the ER. The HIE helps with that process. So that is how we use it currently in our program.

Assemblymember Nguyen:

Thank you for that. I understand that intent, and I really support the idea of being able to not wait forever for you to be able to get your records and have providers have instantaneous information right in front to triage, whatever situation the patient might be in. I am also just concerned that if we are going along with this, we want to make sure that we have backup options. If everyone expects that they can get something right away and they can get instantaneously and then they go to a provider, which has limitations or they cannot get that information, people will feel like I want to go to this versus that because of simply an inability to get access. So hopefully, as we go along, we will have more choices than one. I am just afraid, just my personal concern, that if we only have one to work with, we need to look actively to have more than one option. That is it. Thank you so much, Madam Chair.

Chair Cannizzaro:

If the regulations had contemplated not having that HIE in there, how would it be that folks are able to access their records at this point?

Ms. Weeks:

I hope I am answering your question. All providers would then need to have an electronic health record that meets the requirements of the regulation, and if they did not, and the patient complained to the Department, that provider would receive a corrective action plan first and then a fine.

Chair Cannizzaro:

So, it would just be up to the individual providers to each maintain?

Do any other members of the Commission have questions on this regulation? Assemblymember DeLong.

Assemblymember DeLong:

Thank you, Chair. The comment that was just made about potentially not having the HIE in the regulation and having each provider then have to maintain those electronic records, sounds like it would be a very large burden on small businesses. Was that evaluated in your small business assessment?

Ms. Weeks:

If we remove that, we did not take that into consideration. I think at the end of the day that regardless of which option they take, that is always a burden. I think they are going to have to get software. If it is an HIE, depending on the facility, they may want an HIE over an EHR. I think those are all provider decisions, and that is what we heard from the committee. Our job is to make sure that those providers, what they choose is compliant and that they know what that means. On the EHR piece, if a provider can afford it, there is an option. Like I mentioned earlier, there is an exemption. We heard really loud and clear from some of our providers, that are like solo practitioners, that this is a big lift. And to the Legislature's credit, there is an exemption process in the statute; we are going to get that set up once this regulation is approved so providers can apply for an exemption from the Director, and those folks will be exempt from compliance.

Chair Cannizzaro:

Senator Krasner, please.

Senator Krasner:

Thank you, Chair. Thank you for your presentation. You said that providers like the health information exchange so that they can access patients' records; patients like it so they can access their own records. However, you also said that in some states they maintain compliance with this by having state governments be the entity that holds all of this information, which is incredibly private. How difficult is that process? And what would that entail for the Nevada State Legislature to implement if our State government was the HIE rather than a private corporation? Do you know? Thank you.

Ms. Weeks:

I am just going to say it is not going to be cheap. I am not going to say it is impossible. We would use a vendor. At the end of the day, our State, most states are going to use a vendor. We do not have the technology and the resources to do this. We would put out an RFP [Request for Proposal] and get a vendor to support some sort of HIE. It would be a lift for our Department. We would need expertise. We would need to get the contract funding, and it would be ongoing cost to the State.

Senator Krasner:

Follow-up? Do you know if the federal government has any programs or monies available that help states when they are trying to go through this process?

Ms. Weeks:

They did a long time ago. Unfortunately, they do not anymore. Maybe in the future we will see it happen again, but a lot of states already took advantage of that funding to help set up either something at the state level or some sort of hybrid model, where it is part public-private partnership, and then obviously, there are other models out there to do this. We do not have all of that with us today, but we are happy to follow up with lawmakers during session if they want to look at different models for how we support providers to have an HIE. I understand all the concerns here today. We appreciate them. I think that from a perspective of managing care and helping our provider system and our hospitals and our community providers communicate and help manage population health, I do think this type of an exchange is really important to that work to control cost.

Senator Krasner:

Thank you.

Chair Cannizzaro:

Any additional questions from members of the Commission? I am not seeing or hearing any.

To some of the points about individual providers needing to provide that access, obviously this has a longer ramp up. I think 2030 is the implementation date, so there is time for that and there are exemptions and some funding that accompanies that to help providers get up to speed, which I know was contemplated. And obviously, the idea is to be able to give patients greater access to their own data so that they can utilize that and use it to make health care decisions and to obtain medical treatment and all those pieces.

Obviously, Ms. Weeks, you have heard that there is concern from this Commission about having one entity controlling all of that data. And while we recognize that the State might not be in a position to take that head on at this point, I certainly hope that there will be some serious considerations for making sure that it is not just a singular private entity that is sort of controlling all of this data. And as we work up towards making sure that that access occurs within that time frame, that that is given due consideration and that there are other options out there and other ways to centralize that data and make sure that patients have access to it.

I think that there are some clarification pieces that are needed with respect to the legislative language. I am sure that we will have many more discussions about what that looks like in the future and how it is that we move forward and continue to comply with the federal requirements as well for accessing this data. I think with that sort of understanding with the Department that we are all going to continue to work on this and make sure that it is not being overlapped by a single entity.

And obviously, I know we talked about this at the beginning, we cannot be leaving people out of this conversation who need to be part of that conversation because of the voices that are represented there. And so, I expect that any and all future conversations will include all of the requisite representatives, including those from labor, to make sure that that voice is heard as well.

I think we have talked about this regulation quite a bit, and I would accept a motion to approve.

SENATOR DALY MOVED TO APPROVE R173-24.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

Regulation 173-24 will be adopted, and I am sure we will have many more conversations about this topic in the future. Thank you all for being here today.

Members of the Commission, I believe that concludes our review of our administrative regulations.

AGENDA ITEM V—REVIEW OF RECOMMENDATIONS OF THE SUNSET SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION (NRS 232B.250)

Chair Cannizzaro:

That brings us to the next item on our agenda, which is Item V, the review of recommendations of the Sunset Subcommittee of the Legislative Commission. We have the Chair of the Sunset Subcommittee, Senator Daly. We will invite you to join us to present this item today, and we will let you get situated and let you talk to us about what it is the Sunset Subcommittee is recommending.

Senator Skip Daly, Senate District 13, Chair, Sunset Subcommittee of the Legislative Commission:

Thank you, Madam Chair. I am Skip Daly, representing Senate District 13 in Washoe County. I am here today in my capacity as Chair of the Sunset Subcommittee of the Legislative Commission for the 2023–2024 Interim to present the Subcommittee's legislative recommendations for the 2025 Session.

Background
The 2011 Legislature created the Sunset Subcommittee with the passage of Senate Bill 251 but did not grant the Subcommittee authority to request bill drafts. Instead, NRS 232B.250 requires the Subcommittee to submit its recommendations for legislation to the Legislative Commission. The Legislative Commission, in turn, has often included the Subcommittee's recommendations amongst the ten authorized bill drafts per NRS 218D.160.

Work of the Subcommittee
Included in your packet for today's meeting is an abstract providing background on the Subcommittee and the summary of recommendations it approved at its work session on June 14, 2024 (Agenda Item V). Over the course of six meetings this interim, the Subcommittee reviewed 15 entities. The recommendations for legislation from the Subcommittee related to 15 boards, committees, and commissions:

- Three entities are recommended for continuation with statutory revisions;
- Seven entities are recommended for termination; and

- One entity is recommended for termination with functions transferred to another entity.

Most of these recommendations were requested by the respective boards, committees, and commissions.

In addition, the Subcommittee revisited three legislative recommendations that addressed broader concerns identified by the Subcommittee during the interim. These recommendations address member vacancies, reports to the Legislative Commission concerning the review of occupational licensing applicants' criminal history, and the appointment of the Chair and Vice Chair of the Sunset Subcommittee itself.

Summary of Recommendations for Legislation
I will begin by briefly discussing the recommendations for bill draft requests. Representatives of most of the entities should be available for any detailed questioning along with the Subcommittee's Policy Analyst, Patrick Guinan, and the Subcommittee's Counsel, Jessica Dummer.

Entities Recommended for Continuation With Statutory Revisions

Commission on Postsecondary Education—The Subcommittee voted to recommend legislation amending subsection 6 of NRS 394.465 to exempt an applicant who currently holds a professional or occupational license in the State for which a background investigation is required from the requirement to submit to an additional background investigation pursuant to NRS 394.465.

During the Subcommittee's review, Kelly Wuest, Commission Administrator, Department of Employment, Training and Rehabilitation, explained the Commission is required to conduct background checks for faculty who instruct in occupational subjects, for which they have already undergone the same background check, to receive an occupational license and that, therefore, the Commission's background check is redundant.

State 4-H Camp Advisory Council—The Subcommittee voted to recommend legislation to make the following changes to Chapter 550 of NRS:

- Amend NRS 550.010 to revise the definition of "Director";
- Amend NRS 550.050, 550.070, and 550.080 to authorize a designee to fill the role of Director;
- Amend NRS 550.050 to remove the requirement for the Director to cooperate with certain entities;
- Amend NRS 550.030 to revise the 4-H Camp statement of purpose;
- Amend NRS 550.035 to clarify provisions governing Council member appointments in terms; and
- Amend NRS 550.070 to require authorization from the Legislature for the lease, exchange, or sale of any parcel or parcels of land composing the State 4-H Camp and to set forth the process for the Board of Regents of the University of Nevada to recommend the lease, exchange, or sale of such land to the Legislative Commission.

During the Subcommittee's reviews, testimony given by Kenny Haack-Damon, State 4-H Camp Educational Program Coordinator, University of Nevada, Reno, indicated the Council recommends several technical changes to Chapter 550 of NRS primarily to reflect organizational and titular changes. Additionally, Chair Daly suggested statutory changes intended to enhance protections for the Camp regarding any future proposed sale or other transfer of the Camp property.

Rangeland Resources Commission—The Subcommittee voted to recommend legislation amending Chapter 563 of NRS to provide that the terms of Commission members be staggered.

While there were no formal recommendations made for statutory or other modifications when the Subcommittee reviewed the Commission on April 23, 2024, Commission Chair Hank Vogler did suggest in testimony that revising the terms of the Commission in statute to be staggered would be helpful in maintaining Commission membership.

Entities to be Terminated (7)

Advisory Committee on Rights of Survivors of Sexual Assault (NRS 178A.300)—The Subcommittee voted to recommend legislation to terminate the Advisory Committee.

Testimony at the hearing by Theresa Benitez-Thompson, Chief of Staff, Office of the Attorney General (AG), indicated the AG and other members of the Advisory Committee agree that the bulk of its mandated work has been completed and recommended termination, pending further review for possible recommendations for statutory revisions to assure that certain duties of the Advisory Committee would be carried forward. In a follow-up email, Chief of Staff Benitez-Thompson confirmed that AG Ford supports a recommendation of termination of the Advisory Committee without additional statutory modifications as those, if needed, will be addressed in legislation sponsored by his office.

Advisory Board for the Nevada Task Force for Technological Crime [Technological Crime Advisory Board]—The Subcommittee voted to recommend legislation to terminate the Advisory Board.

Testimony provided by Chief of Staff Teresa Benitez-Thompson at the Subcommittee's hearing on March 27, 2024, indicated the Advisory Board has not met since June 22, 2020. Chief Benitez-Thompson explained that it has been exceedingly difficult to meet quorum requirements since that time. Additionally, as technological crime has evolved and become more specialized, it has required equivalent evolution and specialization in law enforcement practices. Chief Benitez-Thompson gave several examples where this work is ongoing without the involvement of the Advisory Board. For these reasons, the general sense shared by the members of the Advisory Board is that it has served its purpose and should be terminated. She also noted that AG Ford is prepared to sponsor, through his office, any legislation necessary to ensure the statutory provisions related to technological crime remain intact and be located in the appropriate chapters of NRS.

Commission to Review the Compensation of Constitutional Officers, Legislators, Supreme Court Justices, Judges of the Court of Appeals, District Judges and Elected County Officials [Officers]—The Subcommittee voted to recommend legislation to terminate the Commission.

After conducting a study during the 1993–1994 Interim, the Commission published *Bulletin 95-19* containing its findings and recommendations. None of these

recommendations were ultimately passed into law. The Compensation Commission has not been active since 1995 and currently has no appointed members. The Sunset Subcommittee reviewed the Commission during the 2015–2016 Interim and recommended it be terminated. However, that provision was amended out of AB 126 in 2017. The Sunset Subcommittee reviewed the Compensation Commission again at its May 22, 2024, meeting. Input solicited from stakeholders on whether the Commission should be continued or terminated returned mixed results ranging from keeping the Commission to terminating it.

Council to Establish Academic Standards for Public Schools—The Subcommittee voted to recommend legislation to terminate the Council.

Cindi Chang, Director, Office of Teaching and Learning, Nevada's Department of Education, indicated during testimony that the Council had not met since 2021 and has only one member whose term is currently active. Director Chang also noted that their office currently performs all of the duties assigned to the Council, including having a timeline and framework in place for review of standards and communication of any proposed changes to the State Board of Education for approval and adoption.

Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Working Group—The Subcommittee voted to recommend legislation to terminate the PFAS Group.

Per statute, the PFAS Group developed recommendations for State and local entities to monitor, contain, and clean contamination resulting from PFAS, which are contained in the final *PFAS Action Plan*, published in 2022. Since the project concluded, the Working Group has not found any cause to reconvene. Jennifer Carr, Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources, confirmed during testimony that her agency does have the authority we need to continue to address PFAS in various environmental media going forward under various federal acts that we are obligated to implement, as well as existing State law. Thus, no additional statutory revision or other modifications are necessary beyond terminating the PFAS Group.

Advisory Board on Automotive Affairs—The Subcommittee voted to recommend legislation to terminate the Advisory Board.

Testimony by Joseph (J.D.) Decker, Administrator, Division of Compliance Enforcement, Department of Motor Vehicles (DMV), indicated that in the six years that he has been administering the Board's meetings, it has been difficult to find persons to serve on the Board, and that consequently, it is frequently difficult for the Board to meet. Additionally, Chief Decker noted that currently the DMV has regular and frequent interactions with representatives of the various industry groups it regulates, which is more efficient than relying on biennial meetings of the Board for input and feedback on regulatory issues, especially since these meetings are frequently canceled. For this reason, the DMV has indicated its support for terminating the Board without any statutory or other modifications.

[Nevada] High-Speed Rail Authority—The Subcommittee voted to recommend legislation to terminate the Authority.

The Sunset Subcommittee reviewed the Authority on May 22, 2024. While no representative of the Authority was available for testimony, information provided on the review form submitted by George Smith, Authority Chair, indicated that a franchisee was chosen in November 2015, and the Authority has not met since July 2017. Currently, the Authority receives biannual updates from Brightline West, the franchisee, regarding progress towards

completion of the high-speed rail line but has no oversight role regarding current or future developments.

Entities Recommended for Termination With Functions Transferred

Advisory Committee on Medical Innovation—The Subcommittee voted to recommend legislation to terminate the Advisory Committee and transfer several of its statutory duties to the Division of Health Care, Financing and Policy of the Department of Health and Human Services.

In testimony before the Subcommittee, Malinda Southard, Deputy Administrator, DHCFP, DHHS, explained that the duties assigned to the Committee have been carried out for several years by two different entities within DHHS, the Medical Care Authority Committee and the Patient Protection Commission. As such, DHHS supports a recommendation from the Subcommittee to terminate the Committee and transfer any remaining duties or functions to the appropriate entities within DHCFP.

Further Legislation Recommended

At the Sunset Subcommittee meeting on January 26, 2024, staff reviewed four recommendations that were made by the Sunset Subcommittee during the 2021–2022 Interim and were included in SB 210 of the 83rd Session. Governor Joe Lombardo vetoed the bill. However, in his veto message, the Governor mentioned only one provision of the bill to which he objected based on the separation of powers between the Executive and Legislative Branches of government. Upon reconsideration of the remaining three provisions of the bill, to which the Governor did not object, at its work session on June 14, 2024, the Subcommittee approved the following three recommendations:

1. Draft legislation to amend Chapter 232A of NRS to require Nevada's boards, commissions, and similar entities to submit to the Governor a list of persons qualified for membership within 60 days after a position appointed by the Governor on a board, commission, or other similar entity becomes vacant;

2. Draft legislation to amend NRS 232B.210 to require the Chair of the Legislative Commission to appoint the Chair and Vice Chair of the Subcommittee, each representing a different house of the Legislature; and

3. Draft legislation to remove the requirement for certain professional or occupational licensing boards and regulatory bodies to submit a quarterly report to the Legislature concerning petitions for the review of the criminal history of potential applicants for the occupational or professional licenses and to repeal NRS 232B.237, thus removing the requirement that the Subcommittee must review professional or occupational licensing boards and regulatory bodies to determine whether the restrictions on criminal histories of applicants are appropriate.

The second portion of Recommendation 3 was added by the Subcommittee as the history of the Subcommittee's review of this subject indicated that no issues have arisen thus far in relation to how these positions for review are being handled by the concerned boards. Should the Subcommittee wish to revisit the issue in the future, it has the statutory authority to do so.

Entities Recommended for Continuation

Upon review, the Subcommittee chose to recommend a continuation without any legislative action of the following entities:

- Advisory Council on Graduate Medical Education;
- Task Force for Safe Sidewalk Vending;
- Certified Court Reporters' Board of Nevada; and
- State Public Charter School Authority.

Thank you, Chair Cannizzaro. These recommendations represent considerable work by the Subcommittee this interim, and I appreciate the Legislative Commission's consideration. I am happy to answer any questions. As I noted earlier, representatives from the entities should be available for questions as are Subcommittee staff. Happy to answer any questions.

Chair Cannizzaro:

Thank you, Senator Daly. Any questions from members of the Commission for Senator Daly or any of the entities who might be available to answer questions? I am not seeing or hearing any. Members of the Commission, this is an action item, so if there are no further questions or further discussion, which I am not hearing any, then I would accept a motion to accept these recommendations for approval.

> SENATOR STONE MOVED TO ACCEPT THE RECOMMENDATIONS OF THE SUNSET SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION.
>
> ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

These recommendations from the Sunset Subcommittee of the Legislative Commission will be approved.

We will go to you, Senator Daly, because I know you wanted to address some things that the Sunset Subcommittee had considered that were not before us today. I will leave it to you, and then after this, members, we will be taking a brief recess for about 30 minutes. Senator Daly, we will let you go.

Senator Daly:

Thank you, Madam Chair. I just wanted to make some follow-up comments regarding the State Public Charter School Authority. I know we recommended for them continuation with no legislative changes. I will go ahead and read this; bear with me.

Thank you for allowing me to present the following personal comments and observations regarding the State Public Charter School Authority. I want to emphasize that I am making

these comments as Chair of the Sunset Subcommittee of the Legislative Commission. I informed the members of the Sunset Subcommittee that I would be presenting these comments as the Chair, but the Subcommittee did not vote or approve these comments as a body.

My comments address four main topics:

1. Application of State prevailing wage laws;

2. Concerns and issues regarding the use of for-profit educational management organizations (EMO), creating an environment where traditional public schools and other non-EMO charter schools are viewed as competitors in the for-profit environment;

3. Concerns and issues based on charter schools having often substantially different rules for certified teachers, curriculum selection, student populations served, attendance, performance rating systems, enrollment, and more; and

4. Concerns regarding the fact that there are no rules, regulations, or guidelines, or any form of oversight of advertising and/or recruitment information content.

Application of the State Prevailing Wage Law
In testimony, the Director of the Authority assured the Subcommittee that charter schools are in fact subject to the State prevailing wage laws. Notwithstanding that statement, the Director, in her testimony, also qualified that assurance regarding prevailing wage by stating "when using charter school funds." The Director went on to testify that the Authority does not monitor the entities that the Authority has issued a charter to for compliance with the State prevailing wage laws.

When a committee to form a charter school submits an application for a charter, there is a section in the *Nevada Administrative Code* on the proposed charter school facility. See NAC 388A.140. For example, required information that must be provided includes, but is not limited to, location, whether there is an existing building, if there will be a new building, how the facility will be paid for, and whether there will be a lease or rent agreement.

Despite an applicant being required to provide an extensive amount of information regarding the charter school facility, there are no questions or references to prevailing wage being applicable.

The Director testified that the Authority does not ask or provide any guidance to applicants regarding the required application of prevailing wage to the construction of charter schools. The Director went on to say that it is not the Authority's responsibility to enforce prevailing wage laws.

I asked the Legislative Counsel Bureau if the governing board of a charter school met the definition of a "public body" under Nevada law. And the LCB confirmed that charter school governing boards are political subdivisions of the State, meaning that they meet the definition of a "public body" and are required to follow the State prevailing wage law.

With all of the above being true, there are still many examples where charter school construction does not comply with the prevailing wage laws. I believe this is in part due to the lack of oversight, and in my opinion, intentional neglect by the Authority to ensure that entities that they issued a charter to comply with the prevailing wage law.

Concerns and Issues Relating to the Use of For-Profit Educational Management Organizations

The use of the word "for-profit educational management organization" has created a charter school environment that has had several negative and unintended consequences. While the idea of being able to hire an administrative management organization sounds like a reasonable approach for the charter school model of education delivery, the reality is that using a for-profit model to deliver these services for charter schools has unfortunately changed the charter school education delivery model.

The charter school education delivery model under a for-profit system shifts the focus from educating students who are at risk of not succeeding in the traditional public school model to a system influenced and controlled by the for-profit EMOs focused on maximizing profits for the EMO.

It is indisputable that the number one goal and purpose of a for-profit business is to make money. Sure, businesses want to provide a good product, but they are primarily motivated by keeping and growing their market share and thereby increasing their profit, making profit the ultimate purpose of a for-profit entity.

Understanding that fundamental and universal truth about for-profit entities is vital to understanding how the for-profit element has caused a change in the charter school model in Nevada. Because EMOs are motivated by profit, the only way they can grow is to get more schools and the per-pupil funding that comes with it under the for-profit EMO charter school system.

The original concept behind charter schools was for them to be a complementary option to the traditional public school model to allow charter schools to try new curriculums, teaching methods, career-oriented studies, and other nontraditional elements designed to help at-risk students. And if these new models were successful, to then utilize the most effective methods as applicable and to the extent practical in the traditional public school system.

This new for-profit element now prevalent in Nevada has changed its charter school equation from a complementary relationship to an adversarial relationship. The for-profit EMOs view traditional public schools in non-EMO charter schools as competitors.

Members of the State Public Charter School Authority have spoken publicly about their desire to "compete" with and "target" traditional public school districts while supporting the rapid expansion of corporate franchise charter schools run by for-profit EMO corporations.

The Authority has issued 80 charters covering well over 100 schools; 33 of those charters utilize an EMO. Of the 33 EMO charter schools, 28 have contracted with an EMO called Academica and are essentially run as a franchise of Academica's for-profit corporate brands. Academica operates corporate franchise charter schools across the country under the same corporate brand names, including Doral [Academy of Northern Nevada], Pinecrest [Academy of Nevada], and Mater [Academy Mountain Vista]. Concerns have been raised in several parts of the country over Academica taking public education funds and using those funds through lease and rent agreements to build a primarily publicly funded, privately owned real estate portfolio.

Education management organizations were intended to be just a vendor providing management services. The current state of the for-profit EMO business model is not to simply be a vendor providing a service to an otherwise independent charter school; instead, the corporate for-profit EMO business model has the EMO operate as a franchise where the

corporate EMO owns the name under the corporate brand, owns the operation, and the school facility. Education management organizations have evolved into much more than a vendor chosen by a charter school; EMOs essentially own what are supposed to be public schools.

Concerns and Issues Based on Charter Schools Having Often Substantially Different Rules for Certified Teachers, Curriculum Selections, Student Population Served, Attendance, Performance Rating Systems, Enrollment, and More

As I stated earlier, charter schools were meant to be a complementary option to the traditional public school model, to allow charter schools to try new curriculum, teaching methods, career-oriented studies, and other nontraditional elements designed to help at-risk students. And if those new methods were successful, then utilize the most effective methods, as applicable, and to the extent practical, in traditional public schools.

Accordingly, charter schools were given more latitude and flexibility, which over time created an unfair and often unjustified advantage for charter schools, including the following:

- Charter schools have the ability to utilize unlicensed and uncertified teachers;

- Charter schools, unlike traditional public schools, are not required to use only the curriculum selected by Nevada's Department of Education, and it is unverified that the State Public Charter School Authority actually confirms that the curriculum selected by the charter schools aligns with the requirements of NRS;

- Charter schools are exempt from NRS [Chapter] 393 relating to the care, management, and control of school property;

- Charter schools are allowed to create and establish more stringent truancy rules than traditional public schools. See NAC 388A.495, subsection 5; and

- The State Public Charter School Authority has established an internal procedure to measure the success of charter schools that are subject to manipulation by people that desire, in my opinion, to project the false perception that charter schools perform better than traditional public schools.

One example of this potential for manipulation under the State Public Charter School Authority scoring rubric—an 80 score equals an "A." That means that the charter school could score as low as a zero in the category of diversity and student population served and still be able to tout themselves as A-rated. The recent Guinn Center report on student funding in Nevada conclusively shows that the State Public Charter School Authority's elementary charter schools serve fewer students with special education needs compared to the counties they operate in, and demographics of many of the State Public Charter School Authority charter schools significantly underserve children with diverse identities and lower socioeconomic status.

Charter schools claim to have a "first-come, first-in" enrollment procedure. However, the process and practice is substantially different than the enrollment rules applicable to traditional public schools. Although the State Public Charter School Authority continues to claim that the charter schools have to take all students, notwithstanding any other concerns or special education needs, that statement runs contrary to what I have repeatedly been told by several different sources that charter schools have the ability to unenroll students due to behavior, discipline, attendance, or students with special education needs that are

outside of the services the charter school offers. Because charter schools can choose what special needs services they offer, they can effectively pass off higher costs and more difficult-to-educate students with special needs to the traditional public school system. In fact, the traditional public school system is the only system in Nevada that is required to provide all services to all students. This is yet another way for the corporate for-profit EMO model to control costs, increase profit, and promote perception of greater success.

These seemingly innocent differences, originally implemented with the best of intentions, now compounded by the for-profit charter school element, have caused and continue to perpetuate a false narrative and perception about traditional public schools thereby feeding the agenda of the people behind the so-called "school choice."

The facts are charter schools do not have better teachers or better facilities than traditional public schools, but some people want to distort these facts for their personal benefit at the expense of Nevada's students.

Concerns Regarding the Fact That There Are No Rules, Regulations, Guidelines, or Any Form of Oversight of Advertising and Recruitment Information Content

In response to the question, "Does the State Public Charter School Authority have any rules regulations, guidelines, or any form of oversight of advertising and recruitment content or is that just left to marketing companies?", the Director answered that they have no oversight in place regarding the content of the advertising or recruitment information created by charter schools. I think you can understand how this unmonitored advertising—especially when this responsibility is often outsourced to an EMO with a for-profit motive—might result in an inaccurate, incomplete, and distorted view of how much better charter schools are than traditional public schools. This is compounded by the State Public Charter School Authority's 80 percent equals an "A" rubric rating.

In conclusion, in my individual capacity, I have introduced legislation to address the prevailing wage and EMO concerns I have described to you today. Additionally, I hope that this body will consider recommending that the Education Committees, either during the 2025 Session or during the next interim, investigate these and other issues—and there are many—with the charter school system in Nevada.

Finally, I believe that the unintended consequences of the issues mentioned above—the increase of for-profit EMOs and the fact that some people would rather exploit for political purposes the education of our children than address these obvious problems—must be addressed.

I sincerely hope I am wrong on that last point, and I look forward to advancing my legislation to correct these problems. Thank you, Madam Chair.

Chair Cannizzaro:

Thank you, Senator Daly.

As I mentioned, we are going to be taking a brief break at this point in time. We will be back in 30 minutes, so one o'clock, and we will resume with the remainder of our agenda.

AGENDA ITEM VI—APPROVAL OF 120-DAY CALENDAR FOR THE 2025 LEGISLATIVE SESSION

Chair Cannizzaro:

Thanks, everybody, for joining us for the second half of our Legislative Commission agenda. The next item that we have on our agenda is Item VI. It is the approval of the 120-day calendar for the 2025 Legislative Session. I know, the thing everybody has been waiting for. We have our Acting Director Diane Thornton here. She is in Carson City to help present this item. I am going to turn it over to her to walk us through.

Diane C. Thornton, Acting Director, LCB:

Thank you, Madam Chair. In your notebook is a draft of the 120-day calendar (Agenda Item VI). There were a few changes made from the 2023 calendar. First, we moved the starting date to February 3 from February 6 to reflect the constitutionally mandated start date of the first Monday in February. Changing the start date then required the adjustment to the subsequent deadlines and the overall timeline, with *sine die* occurring on Monday, June 2, 2025. Thank you, Chair.

Chair Cannizzaro:

Excellent. Thank you. Members of the Commission, does anyone have any questions regarding this item? I am not seeing or hearing any. This is an item that is set for our action, so do I have a motion to approve the 120-day calendar?

> SENATOR DALY MOVED TO APPROVE THE 120-DAY CALENDAR FOR THE 2025 LEGISLATIVE SESSION.
>
> ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

Our 120-day calendar is official and adopted.

AGENDA ITEM VII—LEGISLATIVE AUDIT

A. REQUEST FOR APPROVAL TO CONTINUE AUDITS CURRENTLY IN PROGRESS BEYOND THE BEGINNING OF THE 2025 LEGISLATIVE SESSION (NRS 218E.205)

Chair Cannizzaro:

The next item on our agenda relates to our legislative audits. And first up is Item VII A, which is the request for approval to continue audits currently in progress beyond the beginning of the 2025 Legislative Session. We have our Legislative Auditor, Dan Crossman, here with us in Carson City to present this item, so I am going to turn it over to him. You may go ahead and proceed.

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

Thank you, Chair. Good afternoon, members of the Legislative Commission. Two items today, and I obviously will address the first one that was introduced. Under Agenda Item VII, you will see a letter to the Commission from my office dated the 16th of December requesting permission for the Audit Division to perform certain audits (Agenda Item VII).

The first paragraph in that letter pertains to Agenda Item VII A. On the next page, Schedule 1 is a list of the audits we currently have in progress. In accordance with NRS 218E.205, we are requesting approval to continue these audits. While some of these will be presented at a meeting of the Audit Subcommittee before the start of the 2025 Legislative Session, some will not be completed at that time and will not be presented before session. As a result, we respectfully request that the Commission approves a continuation of these audits under Agenda Item VII A. Thank you.

Chair Cannizzaro:

Thank you. Are there any questions from members of the Commission? We will start here in Carson City with Assemblymember DeLong.

Assemblymember DeLong:

Thank you, Chair. On Schedule I, can you identify which audit items you believe will not be completed by the time we have our Audit Subcommittee meeting in January?

Mr. Crossman:

I can more easily identify the ones that we will have completed. Some of these audits are ongoing and will take a significant amount of time to complete. The ones that are scheduled for the meeting would be under the Department of Administration, the Mail Services Division, the State Public Works Division; the Department of Conservation and Natural Resources, Division of Forestry; and Nevada's Department of Transportation. And those are the four audits on this schedule that we plan to have ready.

Chair Cannizzaro:

Any additional questions from members of the Commission? I am not seeing or hearing any, so I would accept a motion to approve the request to continue those audits.

> SENATOR DALY MOVED TO APPROVE THE REQUEST TO CONTINUE AUDITS CURRENTLY IN PROGRESS BEYOND THE BEGINNING OF THE 2025 LEGISLATIVE SESSION.
>
> ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

*****

B. REQUEST FOR APPROVAL OF BASIC AUDIT PROGRAM (NRS 218G.120)

Chair Cannizzaro:

We will move on to Item VII B, which is the request for approval of the basic audit program. This is also something that will be walked through by Mr. Crossman, so I will turn it over to you again.

Mr. Crossman:

Thank you, Chair. Under Agenda Item VII B, pursuant to NRS 218G.120, we are requesting approval of our biennial audit plan, which is detailed in Schedule 2 on the page after Schedule 1 (Agenda Item VII).

The proposed audits were selected by our office using a risk assessment process, and that risk assessment includes various factors: length of time between audits; the size and complexity of the agency; nature of issues we have identified; things in the media; and legislative interests. With these agencies on our audit plan that have multiple divisions or programs, it is possible we may issue more than one audit. For those audits noted as multiagency audits, specific agencies will be determined at the time of the audit based on a risk assessment process subjective to the audit objectives we determine.

The timing of the audits on this list is really contingent upon my available audit resources and is also impacted by other requests that come to our office, whether it be through the Legislative Commission or through session by the Legislature.

And with that, I respectfully request the Commission to approve our basic audit plan under Agenda Item VII B. Happy to answer any questions.

Chair Cannizzaro:

Thank you, Mr. Crossman. Any questions on this item under VII B? I am not seeing or hearing any. I will take a motion to approve the request for approval of the basic audit program.

> SENATOR DALY MOVED TO APPROVE THE REQUEST FOR APPROVAL OF THE BASIC AUDIT PROGRAM.
>
> ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

The basic audit program will be approved. Thank you so much.

AGENDA ITEM VIII—APPROVAL TO TRANSMIT BUDGET FOR THE LEGISLATIVE COUNSEL BUREAU AND INTERIM NEVADA LEGISLATURE TO OFFICE OF FINANCE

Chair Cannizzaro:

We will move on to Item VIII. This is our approval to transmit the budget for the Legislative Counsel Bureau and interim Nevada Legislature to the Office of Finance. This item will be presented by our Acting Director, Diane Thornton, and our Chief Financial Officer, Daniel Rushin, both of whom are here with us in Carson City. Whenever you are ready, please feel free to go ahead and proceed.

Acting Director Thornton:

Thank you, Madam Chair. Committee members, you have a memorandum under tab eight (Agenda Item VIII), and this agenda item is seeking approval to transmit the proposed budget for the LCB and interim Nevada Legislature to the Governor's Office of Finance for inclusion in the *Executive Budget*. This request is not for the support of the budget itself or the proposed capital improvement appropriation, but merely for the authority to submit those requests to the Governor's Finance Office for the purposes of preparation of the Governor's budget. When the budget is heard before the money committees during session, additional details will be provided, and at that time, the Legislature can determine the appropriate level of funding for the Legislative Branch and make changes to any portion of the LCB's budget.

If there are any specific questions on this agenda item, Mr. Rushin, the LCB's Chief Financial Officer, is here along with some other staff members, and we respectfully request the approval to transmit this budget to the Governor's Finance Office. Thank you, Madam Chair.

Chair Cannizzaro:

Thank you. Are there any questions from members of the Commission?

I will note that this is an item that we need to take a vote on; the vote that we take today is merely to transmit the proposed budget for inclusion in the Governor's recommended budget. This is something that we do ordinarily every biennium as we go into the next legislative session. This would be included in the *Executive Budget* and up for our proposal during the course of the 2025 Legislative Session.

Are there any questions from members of the Commission? We will start with Assemblymember DeLong and then we will go down to Vegas.

Assemblymember DeLong:

Thank you, Chair. Just for my information purposes, how is the budget actually developed?

Daniel E. Rushin, Chief Financial Officer, Administrative Division, LCB:

The budget is prepared and balanced by analyzing the needs of each division, an area of the bureau, and based on those needs, it is balanced using appropriations.

Assemblymember DeLong:

Thank you, Chair. Just as a follow-up. Who provides oversight on it? Is the first oversight then by the Executive Branch and then [Assembly Committee on] Ways and Means?

Mr. Rushin:

Oversight is provided by a review of the money committees during the legislative process. The numbers that are transmitted into the Governor's recommended budget are just for inclusion in that document. It is my understanding that the Governor's Office has no oversight authority over the legislative budget.

Chair Cannizzaro:

Thank you. Any questions in Las Vegas? I do not see any questions in Las Vegas, so we will come up here to Senator Hansen. Senator Krasner, if you have any questions, let us know. I see you shaking your head no, so we will go to Senator Hansen.

Senator Hansen:

Thanks, Madam Chair. The one-shot CIP [capital improvement project] appropriation, am I reading this correct? "I am requesting authority to transmit to the Governor a request for an appropriation totaling $264 million that includes the payment of dues to national organizations, and funding for construction, improvement and renovation projects." Is that normally included in this budget—CIP, especially $265 million worth?

Mr. Rushin:

Yes, that is correct. This number will appear in the Governor's recommended budget as a CIP one-shot line item.

Senator Hansen:

Ok. Thank you.

Chair Cannizzaro:

Any additional questions? Ok, members, this is an action item, so I would accept a motion to go ahead and transmit the budget so that it can be included and then discussed through the budgeting process during this legislative session.

> SENATOR DALY MOVED TO TRANSMIT THE BUDGET FOR THE LEGISLATIVE COUNSEL BUREAU AND THE INTERIM NEVADA LEGISLATURE TO THE OFFICE OF FINANCE, OFFICE OF THE GOVERNOR.
>
> SENATOR STONE SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

We will go ahead and transmit our budget to the Governor's Finance Office.

AGENDA ITEM IX—APPOINTMENT OF MEMBERS TO COMMITTEES AND SIMILAR ENTITIES

Chair Cannizzaro:

The next item on our agenda is Item IX, which is the appointment of members to committees and similar entities. We again have Acting Director Diane Thornton here to assist us with the appointment of members to various committees and similar entities. I will turn it over to her.

Acting Director Thornton:

Thank you, Madam Chair. Today, there are four parties for whom there are appointments before you for consideration (Agenda Item IX). The first is the Advisory Committee on Housing, and Senator Dina Neal is recommended for appointment to fill an unexpired term through February 25, 2026. The second is the Commission on Ethics; Brianna Smith is recommended for an appointment for a four-year term commencing on December 21, 2024. The third is the Rural Regional Behavioral Health Policy Board, and Senator Ellison is recommended for appointment to fill an unexpired term through February 25, 2026. And the final appointment is to the Washoe Regional Behavioral Health Policy Board, and Senator Angie Taylor is recommended for this to fill an unexpired term through February 25, 2026. And I am happy to answer any questions. Thank you.

Chair Cannizzaro:

Members, that list is also on your desk. Do we have any questions from members of the Commission regarding these appointments? Hearing and seeing none, do I have a motion to approve these appointments as recommended?

> SENATOR DALY MOVED TO APPROVE SENATOR DINA NEAL TO THE ADVISORY COMMITTEE ON HOUSING; BRIANNA SMITH TO THE COMMISSION ON ETHICS; SENATOR JOHN ELLISON TO THE RURAL REGIONAL BEHAVIORAL HEALTH POLICY BOARD; AND SENATOR ANGIE TAYLOR TO THE WASHOE REGIONAL BEHAVIORAL HEALTH POLICY BOARD.
>
> ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

Those individuals will be appointed to those various committees.

AGENDA ITEM X—AMENDMENTS TO RULES AND POLICIES OF THE LEGISLATIVE COUNSEL BUREAU

Chair Cannizzaro:

Item X on our agenda is the LCB's Employment Law Unit. Attorneys are going to present to us amendments to the LCB Rules and Policies (Agenda Item X). We are joined today here in Carson City by Kevin Powers, Jaime Black, and Tara Zimmerman, and they are going to walk us through this particular request. Members of the Commission, if you have questions

or concerns, if we need to make any changes to these rules, we can. We are going to start first with a summary of these proposed rule changes, and I will turn it over to our very apt Legal Counsel.

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

Thank you, Madam Chair. Before we turn to the rules themselves, a quick little background. Over the past year, it was determined that the Employment Law Human Resources function be consolidated in the Legal Division under the Employment Law Unit that was established to be headed by attorneys and assisted by deputy employment coordinators and to oversee the entire Employment Law Human Resources function. One of the reasons for that is that there are many constitutional, and federal, and State statutory requirements when it comes to employment law. And so, the attorneys needed to be involved in a significant way when it came to managing employment law and human resources.

As part of that reorganization and transition, Jaime Black was made the Chief Employment Counsel, and Tara Zimmerman was made the Senior Principal Deputy Employment Counsel, and as General Counsel, I provide oversight and guidance for the Employment Law Unit.

With that general background in mind, when you see changes throughout the rules from Human Resources Counsel to Employment Law Unit, the reason for that change is a different designation performing generally the same functions.

I will turn it over now to Ms. Black to begin the overview; we will do a tag team, bouncing back and forth, but we will start with Ms. Black.

Jaime K. Black, Chief Employment Counsel, ELU, Legal Division, LCB:

Thank you. Good afternoon. Starting with Section 1, you have the exception that was added to Rule No. 8 that recognizes there are other specific statutes, resolutions, rules, and policies that provide for reimbursement of out-of-state travel and subsistence, and there are no substantive changes to the rule itself.

Moving on to Section 2, the revisions to Rule No. 11 now authorize a chief of a division, in addition to the Director, to approve in-state travel for employees. This formalizes the current practice and addresses the increase in in-state travel due to the new buildings in Las Vegas. Given this increase, it is often impractical to seek Director approval for routine in-state travel, making this change both efficient and necessary. In subsection 2 of Rule No. 11, the word "policies" was added for consistency, so the section now refers to rules and policies.

Tara C. Zimmerman, Senior Principal Deputy Employment Counsel, ELU, Legal Division, LCB:

Good afternoon. Section 3 of these amended rules amends Rule No. 13. The changes to Rule No. 13 update language to reflect current standards and ensure that it is more comprehensive. Specifically, subsection 1 of this rule is amended so that the terms "promote" and "terminate" have been deleted and replaced with the broader term of "employment decisions" in order to cover a wider range of employment actions. By doing this, we are noting that hiring and employment decisions are based solely on qualifications and merit and not just the decisions to hire, promote, and terminate. Additionally, as to antidiscrimination hiring employment decisions, the protected classes that we have in our

rules have been expanded to include creed, ancestry, and age in order to align with federal and State law.

In subsections 2, 3, 4, and 5 of Rule No. 13, the changes that we make clarify the language relating to nepotism. They also outline the process for situations where during the course of employment, a relative becomes the immediate supervisor or subordinate to an existing employee. The revisions specify that such situations must be reported to the Employment Law Unit, which will then collaborate with the chief of the division to develop a plan to address the situation.

As to the ELU, as Kevin mentioned, the Human Resources Counsel has been updated to the Employment Law Unit throughout the rules. In addition to reflecting the current organizational structure, using the term "employment law" also provides a broader reference that does not tie the rules to a specific position, and this allows for changes in potential titles down the road without the need to update the rules.

Mr. Powers:

The next sections will be Section 4 and Section 5, governing Rule No. 14 and Rule No. 16. Those rules control public comments, public appearances, and press releases with regard to employees of the Legislative Counsel Bureau. The changes are to clarify some of the rules but also ensure that the rules comply with the First Amendment because when public employees are acting in their personal capacity, they do have First Amendment rights to comment on matters of public concern.

In Rule No. 14, subsection 1 clarifies that without prior Director approval, employees of the LCB cannot make public addresses or appearances in their official capacity relating to the business of the LCB or the Legislative Branch nor issue press releases [inaudible] such business in their official capacity.

Subsection 2 clarifies that in their official capacity, employees of the LCB may publicly explain and talk about legislation or litigation in their official capacity, but they shall not in their official capacity, publicly comment upon the merits of legislation or litigation except as authorized by the specific statute NRS 218F.150 or upon the direction of the appropriate house or committee, the Legislative Commission, or an interim committee or subcommittee.

In addition, subsection 3 clarifies that because the duties of the Legislative Counsel and the General Counsel include litigation, they may publicly explain, comment upon, and make legal arguments regarding the merits of litigation, as necessary, to protect the official interests of the Legislative Branch.

Subsection 4 clarifies that when carrying out their official powers and duties, employees of the LCB may release factual information upon the direction of a house committee or subcommittee, the Legislative Commission, or any interim committee or subcommittee and also release factual information on the request of a member of the Legislature.

Subsection 5 is a new subsection 5, and it is added to address certain employees of the LCB that have been designated as policymaking or confidential advisors to the Senate Majority Leader, the Senate Minority Leader, the Speaker of the Assembly, and the Assembly Minority Leader. Those positions, because they are confidential or policymaking positions, are recognized under the First Amendment as being subject to control of those particular political officers, and those employees, when authorized by the Director, may engage in certain limited lobbying and political activity that other employees of the LCB cannot engage

in. And the reason for that, again, is because they are policymaking or confidential advisors as recognized under First Amendment law.

Turning to Section 5 and Rule No. 16, the only significant change there is, again, dealing with the confidential and policymaking advisors to the legislative leadership in subsection 9. And again, the Director can authorize exceptions from the restrictions on lobbying and political activity so long as that is necessary for such legislative leaders or employees to carry out their official powers and duties.

The next change is Section 6, Rule No. 19, and this all goes along with Rule No. 20 and Rule No. 22, which deals with probationary employment. Under Nevada law and the common law, probationary employment is typically "at-will" employment, which means either party can end the employment relationship at any time with or without cause. These provisions clarify that that is the standard for probationary employment.

In addition, Rule No. 19 specifically provides for the length of the probationary employment. Because all employees of the LCB have session-related duties, the probationary period is clarified that it is either one year, or it ends July 1 after that first legislative session when the probationary period started. That ensures that all legislative employees can be evaluated during the legislative session to ensure that they are able to perform those session-related duties. And it clarifies, also, when an employee of the Legislative Counsel Bureau holds a position but then vacates that position to take a different position with substantially different duties, that a new probationary period starts because it is essentially a different position.

Section 6, was Rule No. 19, also provides that during the probationary employee, if there is necessary corrective or disciplinary action, the chief of the division can extend the probationary period for not more than six months to handle that corrective or disciplinary action. It also provides that any time during the employment relationship, in order to resolve or settle any corrective or disciplinary action, the employee can agree to an additional probationary period, and often that is in exchange for not having a proceeding with regard to termination or other serious disciplinary action.

Under existing Rule No. 19, it provides that during the probationary period, the Director has to approve each increase in salary. However, Rule No. 19 creates an exception that if an employee vacates their existing position during the probationary employment to accept a different position with substantially different duties and there is an increased salary in that different position, that does not take further approval because acceptance of that position obviously goes hand in hand with the increased salary.

Rule No. 20, dealing with the probationary period, just makes word changes to make it consistent with the other changes in the probationary employment provisions.

Going to Rule No. 22, I mentioned this states the common law rule in Nevada; during probationary employment, employees are at-will employees. Subsection 2 also clarifies the process of dealing with probationary employees subject to corrective or disciplinary action. In particular, it provides that the chief of the division, after consultation with the Employment Law Unit, shall terminate a probationary employee if the employee's conduct, capacity, integrity, or performance are found to be unsatisfactory and also may terminate the probationary employee for any other lawful reason with or without cause. Again, that is the common law rule for at-will employment. It also clarifies that if a chief of the division does terminate a probationary employee, the chief has to notify the Director and the Employment Law Unit.

Subsection 3 of the provision provides that if the probationary employee is not terminated and successfully completes the probationary period, the employee shall be deemed to have satisfactorily completed the probationary period and acquired or reacquired permanent status as applicable under the circumstances.

Subsection 4 provides that if an employee with permanent status vacates a position to accept another position in the LCB with substantially different duties and is terminated during that probationary period, the employee is eligible for, but not entitled to, reinstatement to the prior position or a similar position if the employee left that prior position in good standing. If the employee is allowed to return to the prior position, the chief of the division may require the employee to serve another probationary period in that position.

Subsection 5 of Rule No. 22 has changed to provide a probationary employee has no right to an administrative hearing under Rule No. 53 to review any corrective or disciplinary action, including, without limitation, termination, demotion, or suspension. And that is consistent again with the common law rule that probationary employees are at-will employees and not entitled to administrative proceedings and administrative hearings upon such disciplinary action. Once a probationary employee achieves permanent status, then they will be entitled to the normal constitutional due process protections of an employee with permanent status.

Ms. Black:

Moving on to Section 9, the changes to Rule No. 23. It revises provisions relating to performance evaluations of permanent employees. Subsection 1 excludes evaluations for intermittent, seasonal, or session positions and also for employees who have been employed for less than six months. It changes the deadline for completing evaluations from within the month of June to June 30 of each year. It requires the evaluation form to be signed by the employee's immediate supervisor and the chief of the division. It allows employees to document objections and attach them to the evaluation form, and then the completed evaluation, plus any objections and attachments, become part of the employee's personnel file.

Subsection 2 clarifies that the completed evaluation is confidential and can only be examined by certain officers, employees, and employees of the ELU.

Subsection 3 revises the process for objecting to an evaluation. An employee may request a review of an evaluation by a chief of the division. If dissatisfied, they can then escalate that to the Director or the Director's designee, who must not be the chief of the division, and then the decision of the Director or designee is final and not subject to further review.

Subsection 4 clarifies that if an evaluation is not conducted by June 30, or at a later date designated by the Director, the employee's performance will be deemed to have met expectations.

Subsection 5 specifies the process for objecting to evaluations that rate an employee's performance below expectations, and that mirrors the process set forth in subsection 3. These changes streamline the evaluation process and clarify procedures.

Moving on to Section 10, Rule No. 23.5 clarifies that Rules 19 to 23 do not apply to Deputy Directors. The revision also deletes the reference to Fiscal Analysts as those positions are designated as chiefs of the divisions under NRS 218F.100.

Section 11, Rule No. 24.5 clarifies that the Employment Law Unit, rather than the Director, will provide supervisory employees with training on the completion of performance evaluations.

Ms. Zimmerman:

Section 12 revises Rule No. 25 by adding provisions, which address compensatory leave. Generally, an employee may carry forward a maximum of 120 hours of compensatory time and then must reduce their balance to below 120 hours by June 30 of each year. The revisions that we made authorize an employee to carry forward up to 240 hours of compensatory time at the end of a fiscal year with approval of the chief and the Director. The employee must then use any compensatory time exceeding 120 hours by December 31 of that carry-forward period. Any compensatory time exceeding 120 hours that remains unused by December 31 will be paid out at the employee's current rate of pay or the rate of pay on June 30 of the prior fiscal year, whichever is less.

Section 13 addresses our holiday pay rule, Rule No. 32. The revisions clarify that an employee working a nonstandard or innovative workweek must revert to a standard work schedule during weeks with paid holidays. This ensures consistencies with the first part of subsection 9 that compensation for legal holidays does not exceed eight hours of holiday pay. Exceptions to this requirement can be approved by a chief but only for critical business reasons and not for personal convenience. And this revision is consistent with current practice and also mirrors the policy followed by the Executive Branch.

Sections 14 and 15. The only changes to Rule No. 37 and Rule No. 37.1 are the replacement of the term "Human Resources Counsel" with the "Employment Law Unit."

Mr. Powers:

The next changes are dealing with the corrective and disciplinary action rules that begin in Section 16 and deal with Rule No. 48.8 through Rule No. 53. Under constitutional due process, an employee with permanent status is entitled to certain procedures and due process requirements. And these rules are then amended to reflect those requirements and to clarify and streamline the disciplinary and corrective process.

Rule No. 48.8 clarifies that the LCB may, based on the nature or severity of the employee's deficient performance or improper conduct, take any corrective or disciplinary action in any order or in any combination as warranted under circumstances. Generally, discipline is progressive, but at times, when the severity of the conduct requires it, the discipline cannot be progressive, but might need to move to the higher level of discipline, such as suspension without pay, demotion, or termination.

Subsection 2 of Rule No. 48.8 also provides that the Legislative Counsel Bureau is not barred from taking further corrective action or disciplinary action if the employee does not respond positively to any prior corrective or disciplinary action for the same improper conduct or deficient performance.

Subsection 3 of the new rule clarifies if there is any conflict between the disciplinary provisions, rules, and the rules governing probationary employees, the rules governing probationary employees take precedent and govern with regard to those probationary employees, because again, they are at-will employees and do not have permanent status.

Going to Section 17 and Rule No. 49 and Rule No. 50, as well, and Rule No. 51. All of those create the same standards as far as when disciplinary or corrective action is appropriate. In particular, when the performance of an employee falls below standard or when an employee engages in improper conduct that falls under one or more of the causes of action in Rule No. 52, then the employee would be subject to disciplinary action.

With regard to warning and reprimand in Rule No. 49, this rule clarifies that supervisors must promptly and specifically inform the employee regarding any deficient performance or improper conduct. If warranted, the employee would be given an oral warning and given a reasonable period of time for improvement or correction. In situations where an oral warning has not resolved the issues or when the conduct is severe enough, then the employee could be subject to more forceful corrective or disciplinary action through a written reprimand. With the written reprimand, the employee has an opportunity to object to the written reprimand, and those objections have to be attached to that form for the written reprimand. The employee can also request a review of those objections to the written reprimand by the chief of the division. The decision of the chief of the division is final and not subject to further review.

With regard to suspension without pay, and termination, and demotion, the standard, again, is the same if it is necessary because of the severity of the conduct. The chief of the division, after consulting with the Employment Law Unit, can engage in discipline of suspension without pay for a period of not more than 30 calendar days, or termination, or demotion, but any of these conduct activities must be included in the personnel file of the employee. But employees with permanent status, if they are subject to suspension without pay, demotion, or termination, have a right to an administrative review before the Director or the Director's designee under Rule No. 53. Of course, that does not apply to probationary employees.

Turning then to Rule No. 52 and Section 20, that clarifies that Rule No. 52 states the causes for disciplinary action of corrective action. It removes any reference to procedure because the prior rules deal with procedure. Rule No. 52 is limited to just stating the standards or grounds for engaging corrective or disciplinary action. And then Rule No. 52 has one additional change clarifying that it is subject to disciplinary action for a willful violation of any provision of law. These rules and policies include the joint standing rules or the standing rules of either house. That is because, in addition to laws and the rules and policies, all employees of the Legislative Branch, including LCB employees, are subject to the joint standing rules and the standing rules in either house. In particular, in the joint standing rules, there is a legislative code of ethical standards. Not only does that apply to Legislators, it does apply to legislative staff as well. So, a violation of the joint rules could be the cause for disciplinary corrective action under Rule No. 52.

In Section 21, Rule No. 53 clarifies the procedure for conducting an administrative review of an action for a permanent employee that involves termination, demotion, suspension without pay, or other disciplinary action that is not otherwise controlled by other rules. Under the revised provisions, the employee or former employee, if terminated, may request a closed administrative hearing, which must be conducted by the Director or the Director's designee to review the disciplinary action. The employee or former employee, if terminated, must file the hearing request within 14 calendar days. If the request is filed, the Director or the Director's designee must conduct a closed administrative hearing as soon as reasonably practicable thereafter. And then after the closed hearing is conducted, the Director or the Director's designee must render a written decision as soon as reasonably practicable. The decision of the Director or the Director's designee is final and is not subject to further review. However, obviously, if there is an opportunity for judicial review and it is allowable

under the law, then it is possible for an employee or former employee to seek judicial review subject to any limitations on that judicial review that are currently recognized by the law. So that covers the disciplinary provisions. I will turn it back over to Ms. Black.

Ms. Black:

Addressing Section 22, the revisions to Rule No. 58 update the provisions for reserving and using hearing rooms in the legislative buildings in Carson City and Las Vegas. The key changes include that the Director may allow State agencies to reserve hearing rooms on a first-come, first-serve basis subject to the LCB's ability to appropriately staff those rooms. Reservations may be denied if usage is expected outside normal business hours, which would be Monday through Friday, 8 [a.m.] to 5 [p.m.]. If the hearings are used outside the standard business hours, the Director may charge a reasonable amount to cover costs for operating and staffing the hearing rooms, including overtime and compensatory time incurred by LCB staff. And lastly, subsection 4 has been deleted as Las Vegas hearing rooms are now ready for use.

Ms. Zimmerman:

Sections 23 and 24 revise the anti-harassment policy and the disability accommodation policy to simply replace the term "Human Resources Counsel" with the "Employment Law Unit."

Mr. Powers:

We will finish up with the last two sections, Section 25 and Section 26.

Section 25 directs the Legislative Counsel that the Legislative Counsel may take any appropriate nonsubstantive actions concerning the rules and policies that would be authorized for statutory revision and codification under NRS 220.120 but shall not alter the sense, meaning, or effect of any of the rules and policies. What this allows the Legislative Counsel to do is, in creating copies of the revised rules for distribution, the Legislative Counsel could make those same changes that the Legislative Counsel makes in the codification of NRS: changing lead lines appropriately, changing references to agencies or officers that have changed in the law, changing any grammatical errors, or doing any reorganization or renumbering that is necessary to make the rules more user-friendly.

Finally, Section 26 is the effective date. If the Commission approves these rules today, then they would become effective today and apply to all employees of the LCB on or after that effective date, regardless of the date on which the employee was hired or otherwise started employment.

Subsection 2 deals with probationary employees. These changes to probationary employment will apply to any person of the LCB who is a probationary employee right now and serving a probationary period, regardless of the date on which the employee's probationary period started and regardless of the date on which the employee was hired or otherwise started employment. What that essentially means is that all employees now who are on a probationary period, their probationary period would generally end July 1 after the next legislative session, except for those who the one-year period would exceed beyond July 1. So that brings all probationary employees on the same schedule for probationary employment.

Thank you for your indulgence, Chair, and listening to our overview of the rules.

One final thing, the purpose of this was to do a comprehensive examination of the LCB rules dealing with disciplinary action and the employment relationship to ensure there was compliance with constitutional provisions and federal and State laws. There are additional rules dealing with leave provisions that need a similar overhaul. However, because session is approaching, we did not have the time to engage in that now, but we hope, as soon as possible, to bring those changes to a future meeting of the Legislative Commission.

That is an overview of the rules that are being submitted today for approval by the Legislative Commission. And of course, we are open to any questions. Thank you, Madam Chair.

Chair Cannizzaro:

Thank you very much for walking us through these proposed changes. Do any members of the Commission have any questions or discussion of these rules and changes? Assemblymember DeLong, we will start with you.

Assemblymember DeLong:

Thank you, Chair. These revisions to the rules, how have they been circulated for review by leadership in the various houses, both minority and senior majority leaders?

Mr. Powers:

I think that is a question more appropriate for the Chair of the Legislative Commission, and so I will turn to the Chair. Thank you.

Chair Cannizzaro:

These rule changes—we have on occasion that come before the Legislative Commission—are typically reviewed by the Chair of the Legislative Commission for approval and inclusion on the agenda and then distributed to members of the Commission in order for us to have this discussion and ask questions and potentially approve them.

Senator Hansen.

Senator Hansen:

Thanks, Madam Chair. Mr. Powers, was this all done internally? Do you guys do all this drafting? And does this have anything to do with any lawsuit or anything? I have been here a while and this is a pretty extensive series of changes, probably the most I have ever seen. I did not catch anything in your presentation or reading through these that jumped out at me, but I get a little concerned when there are this many layers of changes that you actually have to have three staff members here to present it in separate sections. Was this all drafted internally? Is this lawsuit-generated? Why all of a sudden, this level of change? Thank you, Madam Chair.

Mr. Powers:

This is an excellent question, Senator. This was prepared internally after a review of all of the rules based on significant changes in both constitutional case law and in federal and State law dealing with employment matters. As you mentioned, this is a significant number

of rules changed. And in your time here, you have not seen this many rules change, and that shows that indeed the rules are venerable, but at the same time, they have not been exposed to other changes in the law or case law interpreting constitutional provisions. In fact, some of the rules became out-of-date or at least not consistent with federal and statutory provisions and constitutional provisions. And the general rule is, obviously, federal and State law and constitutional provisions take precedence, and you have to interpret the rules consistently with them. But whenever you have a conflict in the rules and a conflict in federal law and State law and constitutional provisions, it makes it difficult for the employee to understand because you are saying the rule says X, but we have to interpret it this way because the *Constitution* or statute says, so this helps modernize the rules, make them more reader-friendly to the employee, and also makes it clear to the employee what their rights are as a probationary employee and a permanent employee. And we hope in doing that, it makes the rules better for the LCB. Thank you, Madam Chair.

Senator Hansen:

I did not see anything that really stood out, but I always get a little nervous voting on something that, number one, is not my field of expertise when I am reading through these things, and two, once we vote today, this is now basically law, right? For you guys? For LCB?

Mr. Powers:

That is correct. It governs the employment relationship between the LCB and the employees. And in that matter, it is a binding set of rules. I should have started with no, this was not based on a lawsuit. Always start with the easy answer first and then do the long explanation. So no, this was not based on a lawsuit. It was based on an internal review and the need to update the rules to make them consistent with constitutional and statutory provisions. Thank you, Madam Chair.

Senator Hansen

Thank you for your answer. Thanks, Madam Chair.

Chair Cannizzaro:

Thank you. We will go to Las Vegas. Senator Stone, do you have questions there?

Senator Stone:

Already answered. Thank you.

Chair Cannizzaro:

Anyone else in Las Vegas have any questions? Not hearing any. Senator Krasner, do you have any questions on this? I am seeing you shake your head no. Then I would accept a motion to approve the proposed rule changes that we were just walked through.

> SENATOR DALY MOVED TO APPROVE THE AMENDMENTS TO THE RULES AND POLICIES OF THE LEGISLATIVE COUNSEL BUREAU.
>
> ASSEMBLYMEMBER YEAGER SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

*****

Chair Cannizzaro:

Those rule changes as presented will be adopted.

AGENDA ITEM XI—LITIGATION

REPORT REGARDING LITIGATION

Chair Cannizzaro:

This brings us to Item XI on our agenda. We have our General Counsel, Kevin Powers, who will provide us with a report regarding ongoing litigation, and so I will turn it over to him. Mr. Powers, when you are ready.

Mr. Powers:

Thank you, Madam Chair. I only have one case to report on today and that case is *Elko County v. State of Nevada* that is in the First Judicial District Court in Carson City. That case is where Elko County is challenging Sections 2 and 8 of AB 519 [2023] that required a county with a population between 52,500 and 57,500 to enact the local property tax between 1 cent and 25 cents per each $100 of assessed valuation of taxable property and dedicate those funds to financing capital projects of the county school district, including capital projects on schools located on qualified tribal land.

Just to reiterate, again, the only challenge provisions are Sections 2 and 8. There is an appropriation for replacement of the Owyhee School in Duck Valley Indian Reservation. That $64.5 million appropriation is not being challenged; it is not subject to this lawsuit. The challenge is that Sections 2 and 8 dealing with requiring the local property tax levy for the local construction projects with the capital projects for schools creates a special or local law that violates Article IV, Sections 20, 21, and 25 of the *Nevada Constitution*.

Yesterday afternoon, in the First Judicial District Court in Carson City, the parties had oral arguments in the hearing. After the oral arguments, the Court took the case under advisement and directed the parties to prepare proposed orders. Those proposed orders then will be reviewed by the Court and the Court will determine how it will decide the case.

And so hopefully, at the next Legislative Commission meeting or another time, I will certainly provide an update on that case to the members of the Legislature. Thank you, Madam Chair. I am certainly open to any questions.

Chair Cannizzaro:

Thank you. Any members of the Commission have any questions for Mr. Powers? All right, seeing none, that concludes Item XI. Thank you, Mr. Powers.

AGENDA ITEM XII—PUBLIC COMMENT

Chair Cannizzaro:

And that brings us to Item XII, which is our second period of public comment. As a reminder, anyone who wishes to give public comment, please make sure that you sign in at the sign-in tables either here in Carson City or in Las Vegas. If we have anyone wishing to

give public comment in Las Vegas, you can go ahead and take those chairs at the table. We do not have anyone here in Carson City. If there is no one who takes those seats in Las Vegas, we will move to our phone lines. If you are giving public comment, we will keep that to two minutes. We will ask you again to please state and spell your name. And if you have additional comments, you can always submit those to us in writing. I do not see anyone in Las Vegas, so I will turn it over to BPS. Do we have anyone wishing to give us public comment on the phones?

BPS:

Thank you, Chair.

To provide public comment, please press *9 to take your place in the queue. Again, if you wish to provide public comment, please press *9.

Caller, to unmute yourself, please press *6. Please go ahead and press *6 to unmute yourself.

Gil Lopez, Executive Director, Charter School Association of Nevada:

Hello, Chair, members of the Legislative Commission. My name is Gil Lopez, and I represent the Charter School Association of Nevada. We look forward to engaging in productive discussion during the next legislative session. Our school leaders and community are eager to serve as representatives of the frontline educators who dedicate themselves daily to the success of our students. It is our goal to bring their voices, experiences, and perspectives to the forefront of these important discussions. Thank you for your time and consideration.

BPS:

Chair, we have no additional callers on the line.

Chair Cannizzaro:

Thank you so much. That will conclude Item XII.

[Steven Cohen, Alumni, Lee Business School, submitted written comments for the record (Agenda Item XII).]

Chair Cannizzaro:

That brings us to Item XIII, which is the last item on our agenda, and it is adjournment. Thank you everybody for all of your time and diligence during this meeting, and this is our last meeting for 2024. Thank you so much, everyone, for your hard work. Seeing no further business to come before the Legislative Commission, this meeting is adjourned.

AGENDA ITEM XIII—ADJOURNMENT

There being no further business to come before the Commission, the meeting was adjourned at 2:07 p.m.

Respectfully submitted,

_____

Janet Coons
Research Policy Assistant

APPROVED BY:

_____

Assemblymember Sandra Jauregui, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item III	Tarron L. Collins, Office Services Coordinator, Director's Office, Legislative Counsel Bureau (LCB)	Draft Minutes of the Meeting on November 15, 2024
Agenda Item IV	Asher A. Killian, Legislative Counsel, Legal Division, LCB	Administrative Regulations for Review
Agenda Item V	Senator Skip Daly, Senate District 13, Chair, Sunset Subcommittee of the Legislative Commission	Recommendations of the Sunset Subcommittee of the Legislative Commission
Agenda Item VI	Diane C. Thornton, Acting Director, LCB	120-Day Calendar for the 2025 Legislative Session
Agenda Item VII	Daniel L. Crossman, Legislative Auditor, Audit Division, LCB	Letter Requesting Approval to Perform Audits and Approval of the Basic Audit Program
Agenda Item VIII	Diane C. Thornton, Acting Director, LCB	Memorandum Requesting Approval of the Transmittal of the Budgets of the LCB and the Interim Nevada Legislature to the Office of Finance, Office of the Governor
Agenda Item IX	Diane C. Thornton, Acting Director, LCB	List Recommending the Appointment of Members to Committees and Similar Entities
Agenda Item X	Kevin C. Powers, Legislative Counsel, Legal Division, LCB; Jaime K. Black, Chief Employment Counsel, Employment Law Unit (ELU), Legal Division, LCB; and Tara C. Zimmerman, Senior Principal Deputy Employment Counsel, ELU, Legal Division, LCB	Amendments to the Rules and Policies of the LCB
Agenda Item XII	Steven Cohen, Alumni, Lee Business School	Written Public Comment

OTHER—SUBMITTED FOLLOW-UP MATERIAL		
EXHIBIT	**PRESENTER/ENTITY**	**DESCRIPTION**
Exhibit A	Stacie Weeks, Administrator, Division of Health Care Financing and Policy (DHCFP), Department of Health and Human Services (DHHS); and Malinda Southard, D.C., Deputy Administrator, DHCFP, DHHS	Memorandum—Follow-up Response Regarding Regulation 173-24