



MINUTES OF THE  
LEGISLATIVE COMMISSION  
NEVADA LEGISLATIVE COUNSEL BUREAU  
*Nevada Revised Statutes 218E.150*

The Legislative Commission (Commission) held its fifth meeting in calendar year 2015 on Tuesday, October 27, 2015. The meeting began at 9:16 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and was videoconferenced to Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada.

**COMMISSION MEMBERS PRESENT:**

Senator Michael Roberson, Chair  
Senator James A. Settelmeyer, Vice Chair  
Senator Kelvin D. Atkinson  
Senator Moises (Mo) Denis  
Senator Aaron D. Ford  
Senator Ben Kieckhefer  
Assemblyman Araujo  
Assemblywoman Teresa Benitez-Thompson  
Assemblywoman Irene Bustamante Adams  
Assemblyman Ira Hansen  
Assemblyman Erven T. Nelson for Assemblyman John Hambrick  
Assemblyman Lynn D. Stewart

**ADDITIONAL LEGISLATOR PRESENT:**

Senator Pete Goicoechea

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

Paul V. Townsend, Legislative Auditor, Audit Division  
Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division  
Brenda J. Erdoes, Legislative Counsel, Legal Division  
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division  
Susan E. Scholley, Research Director, Research Division  
Debbie Gleason, Secretary for Minutes, Research Division  
Sylvia A. Wiese, Executive Assistant, Administrative Division

Chair Roberson called the meeting to order. Exhibit A is the agenda, and the attendance sign-in sheets are Exhibit B. All exhibits are filed in the Director's Office of the Legislative Counsel Bureau (LCB) and are on the Commission's webpage at <http://www.leg.state.nv.us/Interim/78th2015/Committee/Interim/LC/?ID=2>.

Any agenda items taken out of order have been placed in proper agenda order in the minutes for purposes of continuity.

## **PUBLIC COMMENT**

Chair Roberson called for public comment.

Mona Lisa Samuelson, resident of Las Vegas, Nevada, advocate for medical marijuana patients, stated she attends various council and legislative meetings seeking support for medical marijuana patients. Ms. Samuelson reminded the Commission that medical marijuana patients are not the criminal element; rather, they are the community's most vulnerable—the sick, injured, and dying. Referring to Agenda Item VII. C. ([Exhibit C](#)), Ms. Samuelson requested that a subcommittee be formed under the interim Legislative Committee on Health Care (*Nevada Revised Statutes* [NRS] 439B.200) for studying issues of medical marijuana patient advocacy during the normalization process. She referenced support from Bob Beers, Las Vegas City Councilman, Ward 2, regarding her call for the Commission to establish such subcommittee. Ms. Samuelson stressed medical marijuana patients cannot afford lobbyists nor can they afford to go to court; they need the Commission's assistance and input.

Chair Roberson asked what is the central concern regarding the law.

Ms. Samuelson explained the laws support a recreational business model, but they do not support a model for medical marijuana patients. She specified patients need: (1) to continue their rights to grow marijuana; (2) the ability to make their own medicines; and (3) people to understand these concerns. During the 2015 Session, Ms. Samuelson said there were law enforcement bills introduced that regulated medical marijuana patients into a grey area. She delineated the obvious differences between the needs of medical marijuana patients and recreational users

**APPROVAL OF MINUTES OF THE AUGUST 10, 2015, MEETING—**  
Senator Michael Roberson, Chair

ASSEMBLYMAN STEWART MOVED APPROVAL OF THE  
MINUTES OF THE AUGUST 10, 2015, MEETING.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

**PROGRESS REPORT**—Litigation Currently in Progress—Brenda J. Erdoes, Legislative Counsel, Legal Division, LCB

Brenda J. Erdoes, previously identified, provided an update on cases in litigation:

1. In the two cases (federal and State) of the *People's Legislature v. Miller* that challenges sections of the initiative petition law, a decision was made on October 9, 2015, by the Supreme Court of Nevada (Supreme Court), which did not uphold the district court's holding that the statutes were constitutional. The Supreme Court found the plaintiff's claim was not yet ripe and it was sent back to the district court where it will likely be dismissed.
2. In the *City of Fernley v. State, Dept. of Taxation*, there are no new developments since the last update.
3. In the case of *Little v. State of Nevada, First Judicial District Court (Carson City)* regarding the Catalyst Account, there are no recent developments.
4. In a new medical marijuana case, *Doe v. State, Eighth Judicial District Court* (Court), the plaintiff, John Doe, filed a class-action complaint on August 13, 2015, on behalf of himself and those similarly situated, against defendants, the Nevada Legislature, and the Department of Health and Human Services (DHHS), the Governor, acting in his official capacity, and others, challenging the provisions of Nevada's medical marijuana laws, which establish the registry of patients and prescribed procedures and fees to apply for and obtain registry identification cards. On October 26, 2015, the Legislature filed a motion for summary judgment asking the Court to enter a final judgment in favor of the defendant on all causes of action. We are waiting to hear what will happen with that case.
5. In a second new case, *We Decide Coalition v. Secretary of State*, the plaintiffs are seeking declaratory and injunctive relief against Senate Bill 483 (Chapter 487, *Nevada Revised Statutes*) relating to governmental financial administration from the 2015 Session. We are still in the preliminary motion stage of that case.
6. In an ethics case involving legislators, the district court ruled in favor of the legislators on October 1, 2015. We are waiting to see whether the Nevada Commission on Ethics will appeal the case to the Supreme Court.

**LEGISLATIVE COMMISSION POLICY**—Review of Administrative Regulations—Brenda J. Erdoes, Legislative Counsel, Legal Division, LCB (A list of the regulations may be viewed here: [http://www.leg.state.nv.us/register/IndexesRegsReviewed/LCMtg\\_List\\_2015\\_Aug10.pdf](http://www.leg.state.nv.us/register/IndexesRegsReviewed/LCMtg_List_2015_Aug10.pdf)).

Referring to the list of State agency regulations to be reviewed by the Commission ([Exhibit D](#)), members asked Chair Roberson to hold the following regulations for discussion: R104-14, R114-14, R115-14, R141-14, R009-15, R013-15, R020-15, R031-15, R035-15, R036-15, R046-15, and R054-15.

VICE CHAIR SETTELMAYER MOVED APPROVAL OF R121-14, R006-15, R007-15, R008-15, R010-15, R011-15, R012-15, R027-15, R028-15, R030-15, R037-15, R039-15, R051-15, AND R063-15.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 104-14

A REGULATION relating to the abuse of alcohol and drugs; setting forth the procedure and requirements for the certification of detoxification technicians by the Division of Public and Behavioral Health of the Department of Health and Human Services; establishing certain fees relating to such certification; adopting by reference certain publications; revising requirements for the certification by the Division of programs which address substance-related disorders; and providing other matters properly relating thereto ([Exhibit E](#)).

Kevin Quint, Bureau Chief, Behavioral Health, Wellness and Prevention (BHWP), Division of Public and Behavioral Health (DPBH), DHHS, stated the DHHS is attempting to revise Chapter 458 ("Abuse of Alcohol and Drugs") of *Nevada Administrative Code* (NAC).

In response to Vice Chair Settlemeyer's concern regarding the potential of minimal licensing requirements of only a high school diploma and six hours of training for persons to assist others with substance abuse, and whether that is based on national standards, Mr. Quint explained those requirements are for a detoxification technician to oversee persons in the detoxification process but do not include counseling.

Senator Kieckhefer and Mr. Quint discussed the rejection of an applicant due to a previous felony. Mr. Quint said there is no list and the decision would be made through a vetting process. He explained that often people in these positions are in recovery from addiction and it would depend on the nature of the crime.

Senator Kieckhefer and Mr. Quint discussed that if former addicts were disqualified from positions because of addiction-related felonies prior to their sobriety, they could not move forward or find work in the recovery field.

Responding to Senator Kieckhefer's concern that the exam is administered only twice, yearly, Mr. Quint acknowledged the DPBH is looking into an online exam that can be proctored and administered at any time and will ensure greater access.

Prior to the vote, Assemblywoman Bustamante Adams asked for clarification of the duties of a detoxification technician and confirmation that they do not involve treatment.

Mr. Quint clarified the duties only include monitoring vital signs and the person's physical well-being. No clinical decisions are made and monitoring information is reported to a doctor, nurse, or counselor.

Assemblywoman Bustamante Adams questioned whether the co-occurring capable and co-occurring enhanced programs already exist in Nevada and whether they serve both adults and children.

Mr. Quint said the programs serve adults and children. He defined "co-occurring capable" as a treatment program certified by BHWP that recognizes a person may have mental health issues and refers them out, and "co-occurring enhanced" has the capability to recognize mental health issues and treat the person "in-house." These are the levels of certification developed by the BHWP.

VICE CHAIR SETTELMAYER MOVED APPROVAL OF R104-14.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 114-14

A REGULATION relating to affordable housing; revising provisions setting forth the conditions governing certain financing of projects by the Housing Division of the Department of Business and Industry; revising provisions which specify the types of projects which the Division will finance; revising provisions relating to the Division's allocation of volume cap to projects; revising provisions relating to the provision by the Division of volume cap to certain projects; revising provisions setting forth the conditions which must be met before the Division will submit a project to the State Board of Finance for approval; revising provisions specifying certain documents which a sponsor of a project must submit to the Division to receive financing; reducing the minimum loan amount for projects which may be financed with the proceeds of certain bonds issued by the Division; revising provisions which establish the maximum terms for amortization and maturity of certain financing; eliminating the requirement of certain provisions in bond and loan documents for a project; revising provisions which place limits on the conversion of a project to nonrecourse financing; revising provisions relating to the minimum allowable projected ratio for debts service coverage of a project; revising provisions relating to the maximum allowable loan to value percentage of a project; revising provisions relating to

certain payments to the developer of a project; repealing certain provisions; and providing other matters properly relating thereto ([Exhibit F](#)).

C.J. Manthe, Administrator, Housing Division (HD), Department of Business and Industry (DBI), introduced herself.

Referring to subsection 2 of Section 8 of the regulation regarding the loan amount being reduced from \$5 million to \$100,000, Assemblyman Hansen asked for an explanation.

Michael Holliday, Chief Financial Officer, HD, DBI, explained the change is based upon advice from a financial advisor who said \$100,000 is an amount seen across the country. Although the HD has not seen a project as low as \$100,000, it is trying to keep consistent with best practices across the industry.

Conversation ensued between Assemblyman Hansen and Mr. Holliday that confirmed most other states have this type of loan starting as low as \$100,000. The reduction puts the HD in an entirely different bracket for loans; however, most project sizes and the cost of issuance for a bond project would preclude a project at that end of the spectrum.

Referring to Section 13 of the regulation, Assemblyman Hansen asked for clarification of the new language, "in its sole discretion" and "85 percent of the appraised value of the project" and whether the loan to value would need to be greater than 85 percent before the HD will approve the project.

Mr. Holliday stated the HD could approve a project that had less than 85 percent loan to value. The regulation gives the HD flexibility to ensure affordable housing is met. For example, if the HD had a project that came in at 83 percent, the language in Section 13 would allow the HD to examine the project to ensure it was healthy enough to be financially sustainable and then approve the project even if the loan to value on the project was not quite 85 percent.

Assemblyman Hansen asked who protects the interests of the taxpayer if the HD approves a project that does not meet certain criteria.

Mr. Holliday explained the State Board of Finance (SBF) must also approve any project under the HD's program. These are conduit bonds; therefore, the liability is on the developer and partners of the project, not the State.

Referring to Section 14, Assemblyman Hansen asked why language regarding the formula used for the developer fee is deleted.

Mr. Holliday said it attempts to clarify the developer fee and is based on the construction part of the project. Other income the developer may earn as a partner is outside the HD's purview except as reflected on debt tag or loan to value ratio.

Responding to Assemblyman Hansen's question regarding the purpose of the developer fee, Mr. Holliday explained the 15 percent is the cap on the developer fee. Fees potentially received by the developer as a partner in a partnership are not included in the 15 percent developer fee calculation. It allows developers to have a more creative partnership interest that may attract other investment partners.

Assemblyman Hansen expressed concern this language could potentially create conditions for exceptional profits. Not only would developers receive profits from the sale price of the project, the cap will cease to exist because it cannot be included in the developer fee calculation.

Mr. Holliday acknowledged Assemblyman Hansen has a good point. He explained the projects are tightly underwritten, and developers rarely come in at 15 percent—most of them are well under that amount to make the cost per unit adequate so they can accomplish the low rental rates required of the project.

Assemblyman Hansen stated the 15 percent is the profit margin, or cap, and a fantastic profit ratio for most construction projects in which he has been involved. He asked the purpose of removing the language in Section 14 regarding the maximum interest rate on a deferred note.

Mr. Holliday said it was a recommendation from a financial advisor who suggested the language was old and complicated compared to that of other similar programs and projects across the country. He reiterated these projects are focused on low- to moderate-income levels; therefore, they cannot rent to persons above 60 percent of area median income. The interest rate, developer fee, and cost of capital are critical; the language was unnecessary and over-complicated.

Assemblyman Hansen asked whether this is interest being paid on the money being held and will eventually be the fee paid to the developer.

Mr. Holliday expounded it was on a deferred note; therefore, it would be any of the debt taken on and the interest would be on that debt. The HD is trying to attract private sector partners to carry out these projects and they want to make it the least complicated as possible. The developers are trying to limit the interest they are paying because it allows them to possibly earn a little more in a developer fee without paying it in interest. Mr. Holliday explained that the deferred developer fee is part of the capital stack that developers set aside. They do not collect the developer fee; rather, it is taken out of cash flows as the project progresses. The regulation spells out how the developer fee is obtained. Basically, the HD does not want developers to bring in financing to the point where the developer fee is

paid up front. The HD wants the developer to take on some risk sharing. They pay that 50 percent at the completion of the improvements, which is the drawdown on the bond; the State does not have any money in it. The HD provides the conduit for the bond.

In answering Assemblyman Hansen's question regarding the State has to get involved at all if it is not the State's money, Mr. Holliday said Section 42 of the Internal Revenue Code (IRC), titled "Low-Income Housing Tax Credit" (LIHTC) regulates the tax credits that go with these bond financing programs, and the HD is the entity allowed to administer those tax credits. The bond is the tax exempt financing. In normal markets, those are attractive interest rates, which is why people come to the HD with a project. The HD is attempting to spell out the developer fee as capped and paid out so it can ensure the developer is making a fair and reasonable profit. The HD also ensures the developers are making rents affordable. These tools set up underwriting so that all of the developer fees cannot be paid up front; a portion needs to be deferred so the developer has some risk going forward and to ensure that low rental rates are maintained. As part of the package presented to the SBF, the HD included performance and payment bonds; cash flow and income statements; and market studies, all of which are written by several types of councils, adding that the tax credit partner buying those tax credits has a tremendous amount of oversight.

Assemblywoman Benitez-Thompson asked why the text regarding credit enhancements was being deleted.

Mr. Holliday explained credit enhancements usually need to come into place when the HD is not doing private placement bonds. The risk is much higher when doing a private placement bond, and the developers need to prove they have this additional layer of protection to ensure they can repay the bond. If it is a private placement, the HD does not require a credit enhancement because the bonds are being purchased directly. The HD does not put them into the market; therefore, they are very low risk. The HD looks at the credit enhancement if it is a market placement bond in order to lower the risk and ensure the ability of the developer to repay the bonds.

Referring to Section 8 regarding the \$100,000 for a single project, Assemblywoman Bustamante Adams recognized it was based upon a financial advisor's recommendations and asked what was taken into account and how does it compare to states within the western region.

Mr. Holliday stated the \$100,000 is consistent across the country and with all housing finance agencies, as there is one in each state. Idaho and Massachusetts are two states with the highest bond programs, and they were consistent in having this low threshold, as well. He is unsure how often the bond programs would be used and the projects are usually of a much higher magnitude because the cost of

issuance on bonds is significant. He does not think a bond program this small could typically be done, but the HD did not want to miss a project this small if there was something it could do to provide affordable housing for Nevadans.

ASSEMBLYMAN HANSEN MOVED APPROVAL OF R114-14.

SENATOR FORD SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 115-14

A REGULATION relating to low-income housing; making various changes concerning the allocation and distribution of federal income tax credits for developers of low-income housing; and providing other matters properly relating thereto ([Exhibit G](#)).

Referring to Section 9, Assemblywoman Bustamante Adams asked for the HD's status of a final qualified allocation plan (QAP).

Sharath Chandra, Deputy Administrator, HD, DBI, said the QAP is the framework the HD uses to distribute the LIHTC, and the adoption of the allocation plan is part of the QAP. Section 9 addresses adopting the QAP and ensuring it meets the requirement of the IRC. The plan is an annual process that starts in June or July. The HD has a QAP hearing, conducts meetings, and then the QAP is adopted in December.

ASSEMBLYMAN ARAUJO MOVED APPROVAL OF R115-14.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 141-14

A REGULATION relating to curriculum; revising the performance standards for instruction in science for kindergarten through the 12th grade; and providing other matters properly relating thereto ([Exhibit H](#)).

In response to Assemblyman Stewart's question of whether the new curriculum is more challenging, Steve Canavero, Ph.D., Interim Superintendent of Public Instruction, Nevada's Department of Education (NDE), replied the new curriculum is more challenging. He stated that on June 23, 2014, the NDE adopted R141-14 when interest and concern was expressed related to the examples included in the science standards. The NDE reviewed the examples and concluded they did not belong in the standards; therefore, R141-14 reflects the same content standards but with the examples removed. Through the Office of Standards and

Instructional Support (OSIS), NDE, the NDE's website has a number of instructional materials and support where the examples can be brought to life.

Assemblyman Stewart surmised that R141-14 gives more flexibility to the teachers as the standards are being taught.

Dr. Canavero agreed and said it also gives the Regional Professional Development Programs (RPDPs), NDE, local school districts, teachers, and subject groups within schools the flexibility to alternate the instructional materials needed for the teachers to support their instruction on the new standards.

Prior to the vote, Senator Denis asked if removing the examples from the regulation and placing them on the NDE's Website will allow for additional types of examples and how they would be determined.

Dr. Canavero suggested many of the teachers are not reading the codified regulations for guidance. Providing the examples on the NDE website, through the RPDPs, offers more support on the implementation and instruction of the new standards.

ASSEMBLYMAN STEWART MOVED APPROVAL OF R141-14.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation R009-15

A REGULATION relating to contractors; revising provisions governing the subclassifications of certain licenses to add an additional subclassification; and providing other matters properly relating thereto ([Exhibit I](#)).

VICE CHAIR SETTELMEYER MOVED TO DEFER ACTION AND TO PLACE R009-15 ON THE AGENDA FOR THE NEXT LEGISLATIVE COMMISSION MEETING.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 013-15

A REGULATION relating to public employees; revising the manner of calculating the subsidies required to be paid by local governments for certain retired public officers and employees; and providing other matters properly relating thereto ([Exhibit J](#)).

Assemblyman Stewart asked for more detail on how the new calculation system would affect retirees.

Celestena Glover, Chief Financial Officer, Public Employees' Benefits Program, (PEBP), stated the change affects the past method of calculation for the local government retirees. The set subsidy rate in the bill for each legislative session was applied in a flat amount, regardless of the plan or tier of the retiree. For example, an individual or family plan is the same flat rate. The change in the regulation is that the same percentages are applied as those of State retirees. Typically, the primary plan is 64 percent for the primary retiree with an additional percentage for any dependents covered on their plans. As with any other changes made to plans, some participants will see a benefit and others will not. That is the same for local governments paying into the subsidy. For some participants they may pay additional subsidies and for others they may not.

In response to Assemblyman Stewart's question regarding whether local governments will make up the difference if it affects the employees negatively, Ms. Glover said they would not. Depending on what the calculation is for that particular individual on the plan, if the person is the primary participant on the primary plan, they receive a 64 percent subsidy. The retiree will get an additional percentage for dependents on the plan. If there is a negative impact to any of those individuals, this change does not alter that impact.

Responding to Assemblyman Stewart's question of when the change would go into effect, Ms. Glover stated R013-15 was approved by the PEBP Board in April 2015 and became effective in Plan Year (PY) 2016, which started on July 1, 2015, and will continue until there are no more retirees on the plan.

Senator Denis asked for an example of how it would benefit someone and how it would not.

Ms. Glover explained that the people on the consumer-driven health plan, or those with dependents, will see a benefit. Primary participants, and those with dependents, received a higher subsidy than they had in the past. For example, if the rate was \$500 and the subsidy approved by the Legislature was \$300, a single person at a \$500 rate would pay \$200 out of their pocket. If the participant has a spouse on the plan, that \$500 might be \$1,000, and the participant still would only receive \$300. That group is seeing a higher subsidy for their plan. The group that did not benefit and is affected negatively is single individuals on the health maintenance organization (HMO) secondary plan, which has a lower subsidy rate. Every other plan and tier had a positive change.

Assemblyman Araujo asked: (1) whether PEBP has seen any preliminary numbers or impact, negative or positive, of which the Commission should be aware; and (2)

since the implementation of the regulation, whether widowed individuals are considered single.

Ms. Glover said PEBP looks at participants as primaries and dependents. If the primary retiree comes on to the plan as an individual, he or she is treated as a single individual. Technically, the primary receives a higher subsidy than his or her dependents. Regardless of the retiree's married status, it is how they are enrolled. She said she could follow up with the Commission regarding preliminary numbers since the implementation of the regulation.

Damon Haycock, Executive Officer, Board of the PEBP, added that participants in the nonState, nonMedicare retiree group have expressed their displeasure with the results of this regulation. However, when PEBP held the workshop for this regulation on July 21, 2015, and adopted it on September 17, 2015, nobody stepped forward to make a statement against it. He acknowledges it does affect single participants, and they have expressed concern.

Assemblyman Araujo wanted the record to reflect his concern over the absence of numbers to provide some indication of the impact.

Chair Roberson asked Ms. Erdoes to confirm that this policy could not go forward until the regulation is approved.

Ms. Erdoes stated Chapter 233B ("Nevada Administrative Procedure Act") of NRS sets forth regulations that can only become effective when filed with the Office of the Secretary of State, which will be this afternoon for this particular regulation, or forward, and cannot be retroactive.

Ms. Glover confirmed for Senator Kieckhefer the regulations were temporarily approved for the current PY, implemented as emergency regulations, and will continue for subsequent PYs until PEBP no longer has a local government employee who is not on the Medicare retiree plan. She confirmed the rates were set for an entire year and would take effect on July 1, 2016.

Assemblyman Stewart expressed concern about how deferring the regulation might affect PEBPs plan for the next FY.

Ms. Glover replied it would not necessarily muddle their plans, but PEBP would need to revisit set plan rates and reverse the current method. If PEBP reverted to the previous method, it would affect those with dependents on the plan. She added that PEBP is in the process of making decisions on plan design and preparing to set up rates; it would need to know fairly soon whether the regulation is going to be approved.

Chair Roberson commented R013-15 is a temporary regulation that will expire on November 1, 2015, if action is not taken. The Commission will not have another meeting before November 1, and a decision needs to be made today. He offered to delay a decision until later in the hearing.

Senator Kieckhefer said there is a request to delay a decision until the other regulations have been discussed so members and PEBP can have a conversation offline.

In response to Assemblyman Nelson's question regarding opposition to the regulation, Mr. Haycock said there has been anecdotal opposition but no opposition was presented during PEBP's workshop or adoption hearing. He explained that if the regulation is not adopted, PEBP would potentially have to rebill the retirees who had a benefit from the regulation and determine how to refund those retirees who were negatively impacted in order to clear the books. Not approving the regulation would create another set of issues because the retirees who received a benefit under a temporary regulation will feel they are not being treated as fairly as State retirees.

Chair Roberson delayed a decision until later in the meeting.

#### Regulation 020-15

A REGULATION relating to land use planning; revising provisions relating to the period during which a developer may submit certain plans for improvements for a proposed subdivision; revising provisions relating to analyses of water quality; and providing other matters properly relating thereto ([Exhibit K](#)).

Vice Chair Settlemeyer requested all agency heads to please provide current names and contact information on the contact lists.

Dave Emme, Administrator, Division of Environmental Protection (DEP), State Department of Conservation and Natural Resources (SDCNR), explained that R020-15 is intended to provide an optional streamlining of the subdivision plan review process as it relates to the review of drinking and wastewater, a function of the DEP.

Regarding replacing the requirement to collect one-gallon water samples with "the volume necessary to conduct analyses of water quality," Vice Chair Settlemeyer expressed concern that without an established volume of water to collect, it could lead to water waste; it should not be difficult to change the language to "reasonably necessary."

Mr. Emme stated the change is clean-up language. Water samples from regulated public water systems are taken to verify compliance with the standards.

The regulation is outdated because it dictates the sample volume and in some cases a smaller volume is all that is needed.

VICE CHAIR SETTELMAYER MOVED APPROVAL OF R020-15.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 031-15

A REGULATION relating to wildlife; authorizing the Board of Wildlife Commissioners to serve as the arbitration panel, or to appoint an arbitration panel, to decide a dispute between a landowner applicant and the Department of Wildlife; and providing other matters properly relating thereto ([Exhibit L](#)).

Vice Chair Settelmeyer expressed concern about the Board of Wildlife Commissioners (BWC) serving as arbitrator. He asked why not continue with participation from the local counties.

Jack Robb, Deputy Directory, Nevada's Department of Wildlife, NDOW, replied the set criteria created a limited pool from which to draw. It has been difficult keeping the panel seated, and the process was pitting neighbor against neighbor and businessperson against businessperson. It is a model that no longer works.

Senator Ford echoed Vice Chair Settelmeyer's concern regarding the consolidation of power within the BWC for arbitration decisions. He said it seemed it was tantamount to an administrative act, as opposed to an arbitration act. At least in the arbitration process, as he understands, the decision is final, but if the BWC issues a decision, would the Administrative Procedure Act of 1946 (APA), Chapter 233B of NRS, allow for an appeal of a BWC decision.

Mr. Robb stated the arbitration is between NDOW and the landowner, not the BWC. Presently, the BWC seats the panel and the BWC chair chooses the panel. Biologists in the area determine the number of elk on private land and that determines the number of tags. The landowner has the discrepancy with NDOW. The BWC is the third party to the arbitration.

Senator Ford said current law states the BWC appoints an arbitration, which is not considered a decision by the BWC. It is instead considered an arbitration decision. He asked whether an appeal needs to be allowed from an arbitration that is run by the BWC, as opposed to a panel appointed by the BWC.

Brian Wakeling, Game Division Administrator, NDOW, explained the BWC renders the final decision and there should be a mechanism for appeal to a higher authority.

He said the statutes delegate authority to the BWC for final tag numbers for hunts. The BWC selects the arbitration panel and serves as the final authority.

Senator Ford asked: (1) whether the APA does not apply to the BWC's decisions; and (2) whether there is a mechanism to appeal decisions to a higher authority.

Mr. Wakeling indicated he could not answer the question.

Senator Ford asked that R031-15 be set aside, pending sufficient answers to the questions.

Responding to Chair Roberson's question whether R031-15 was a temporary regulation set to expire by the end of October, Mr. Wakeling confirmed the regulation would expire at that time.

Senator Ford said because there is no exception to the BWC's decisions, contrary to the APA, he suggested in order to keep it fair there should be an appeal if the BWC is the arbitration panel. He is unable to support the regulation absent the level of consistency.

Assemblyman Hansen agreed with Senator Ford. The tags are extremely valuable at times selling for over \$50,000. The regulation will not have much impact on landowners, as there is already a practice in place.

Assemblyman Nelson expressed the same concerns as Senator Ford and Assemblyman Hansen, and asked Ms. Erdoes to look into the legality of the regulation under the APA.

Referring to the section that states the BWC shall set forth a procedure for filing a claim and the process under which a claim must be resolved, Assemblywoman Bustamante Adams asked how the processes and procedures would be handled.

Mr. Wakeling explained because the regulation was temporary, the BWC chose to adopt and develop a process through a public session. The person requesting arbitration and NDOW can provide information to the BWC. If it is determined NDOW made an error, the BWC would review the number of tags that would be arbitrated.

Chair Roberson asked what the impact would be on NDOW if R031-15 were not passed today.

Mr. Wakeling saw no impact to the agency and NDOW could return at the next Commission meeting with responses to questions brought forward today.

SENATOR FORD MOVED TO DEFER ACTION ON R031-15 AND TO PLACE IT ON THE AGENDA FOR THE NEXT LEGISLATIVE COMMISSION MEETING.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 035-15

A REGULATION relating to education; requiring a scholarship organization to register to participate in the Nevada Educational Choice Scholarship Program; limiting the period that a donation to a scholarship organization may be carried forward; requiring the Department of Education to report certain information concerning the operations of the scholarship organization and each pupil on behalf of whom a grant is awarded; providing the procedure for applying for a grant; requiring a scholarship organization to establish procedures for awarding a grant; establishing the priority in which grants must be awarded; prescribing the uses and maximum amount of a grant; requiring a school to register with the Department to participate in the Program; requiring a participating school to administer certain examinations to pupils on behalf of whom a grant was made and report certain information regarding the examinations; prescribing a procedure for filing and adjudicating complaints about violations of state laws or regulations concerning the Program; and providing other matters properly relating thereto ([Exhibit M](#)).

Assemblyman Hansen opened that R035-15 revolved around Assembly Bill 165 (Chapter 22, *Statutes of Nevada 2015*). Referring to Section 9, he asked why the parents of a child, who receives a scholarship and is placed in a charter or private school, are required to notify the school from which the child came that the child will not be attending that school the following year.

Dr. Canavero, previously identified, explained the reason for the notification is administrative. The school can ensure on their records the student has transferred, and the records are reflected with the State.

Referring to subsection 4 of Section 9, which states a grant provided by a scholarship organization may not be awarded on behalf of a homeschooled or opt-in child, Assemblyman Hansen asked why these students were excluded. He asked Dr. Canavero whether homeschooling is defined in State law as a school.

Dr. Canavero replied that private school is defined in Chapter 394 ("Private Educational Institutions and Establishments") of NRS so that private school payments would be consistent with those schools qualified as private schools, and a scholarship could be used for a registered private school. A scholarship could also be used in a public school for transportation, if those costs

are not funded, and for tuition-based offerings such as dual enrollment and dual credit courses. He agreed it might not be awarded on behalf of a homeschooled child.

Assemblyman Hansen asked whether that was the legislative intent of A.B. 165. He wanted it clear for the record that homeschooled children will not be allowed to participate in the scholarship program.

Risa B. Lang, previously identified, clarified A.B. 165 states the money has to be paid directly to a school, which is why homeschooled children are excluded because they would not be attending a school.

Assemblyman Hansen asked whether this issue was addressed in the legislative hearing and if there is a definition in law that homeschooling parents could technically become a school.

Dr. Canavero commented R035-15 is a temporary regulation. He offered to review legislative testimony to determine the position of homeschool advocacy groups.

Assemblyman Hansen asked whether deferring the regulation until the next Commission meeting would cause consternation—stressing it is a huge issue affecting tens of thousands of homeschooled children.

Dr. Canavero answered the NDE has been operating under temporary regulations for some time, and it has not stopped the scholarship organizations from receiving donations. He assumed the NDE has already reached the \$5 million cap, and nearly 400 scholarships have been awarded by the NDE's three scholarship granting organizations (SGOs) operating under the existing framework. The SGOs would like to have the force of regulation behind them as they ask for reporting and for the various requirements pursuant to the regulation to ensure they are being good financial stewards, as well as ensuring the academic progress of the pupils and the administration of the program.

Chair Roberson said he was not comfortable with placing R035-15 on the next Commission meeting agenda; however, he would delay a vote until later in the meeting in an attempt to obtain more information.

Assemblyman Hansen questioned the purpose of the detailed demographic information for each pupil on behalf of whom grant money is received, pursuant to Section 12.

Dr. Canavero replied that it serves as administrative and oversight reporting information. For example, in the case of a student who withdraws from a school to attend a private school, the NDE can ensure the records reflect the accurate identification of that student in order to avoid duplicate payment.

Assemblyman Araujo asked where the students who have received scholarships fall in terms of the poverty level.

Dr. Canavero did not have the numbers; however, he recently met with people who are beginning to have conversations in low-income communities to help them appreciate the availability of scholarship and facilitate the process should they need support. When the NDE receives the lists and they have the income, they can report to the Commission, the Legislature, and the Governor to see who is taking advantage of the opportunity to exercise choice.

Assemblyman Araujo commented that 300 percent of the poverty level is extremely high.

Responding to Senator Denis, Dr. Canavero explained that Section 11 concerns the academic progress of pupils. Assembly Bill 165 states each school that a pupil is enrolled in for whom a grant is provided shall maintain a record of academic progress. The record would include the information aggregated and reported for all such pupils if reporting is required by the regulations of the NDE. Section 11 spells out what the NDE determines to be a reasonable assessment of a norm reference, which would allow third-party assessment to be included in the record to ensure pupils who are taking advantage of this opportunity are receiving some educational benefit. There is new language from the temporary regulation, discussed during the NDE's public hearing and testimony, which needs to be addressed. One concern is the NDE may not be able to approve a national norm-referenced test with criteria in Section 11 for K-2nd-grade levels. The NDE recognizes this is an improvement to ensure the private schools have the latitude to choose assessments that meet validity and reliability standards so the NDE can report on progress to the Commission and the taxpayers. Dr. Canavero said the NDE also recognizes those levels of validity, and reliability may look a little different for K-2nd-grade assessments.

Assemblyman Denis asked whether the school has to agree to the testing in order to accept the scholarship.

Dr. Canavero said the school would have to agree to use one of the approved assessments the NDE has on its list. The private schools who offer assessments to the NDE developed the list. The NDE reviews the assessments and, if approved, are added to the list. If not approved, more information is requested.

Senator Denis commented that homeschooling typically does not provide these types of tests to their students.

Dr. Canavero replied there is a wide-breadth of assessment in homeschooling, and some of these third-party assessments may or may not be used.

Senator Denis said he has worked on many homeschooling issues and sometimes homeschools do not want to apply for these types of programs because they do not want to change the way they do things.

Chair Roberson interjected the Commission would continue fielding questions regarding R035-15, and the regulation may be placed later on the agenda.

Assemblywoman Bustamante Adams said that during the 2015 Session hearings, there was a comment that students living near a school would be given a level of priority; however, it is not mentioned in Section 8 of the regulation.

Dr. Canavero said he was present at two of the NDEs three public hearings to go over regulations and does not recall that subject being discussed. He stated that at the most recent public hearing, the NDE clarified in subsection 3(c) of Section 8 that it is referring to a completed application as this program is beginning to be administered with almost 400 scholarships being awarded, thus far. The SGOs asked the NDE to include the words "completed application" in order to timestamp the application process. They would rather have a completed application than an application in process.

Assemblywoman Bustamante Adams and Dr. Canavero discussed the term "other supplies." Assemblywoman Bustamante Adams stated the scholarship might be used to pay for tuition, fees, and the cost of purchasing textbooks and other supplies, as referenced in Section 9. She asked what constituted "other supplies," expressing concern that the money may not be used for school-related purchases.

Dr. Canavero explained when the NDE was developing the regulation language it was with the understanding "other supplies" would be related to the educational process. They could not list all items but wanted to ensure textbooks were listed and included "other supplies" in acknowledgement of the fact that there are other supplies necessary to support the child's education.

Dr. Canavero concurred with Assemblywoman Bustamante Adams that the money is intended to be used for educational-related supplies.

Again referring to Section 9, Assemblywoman Bustamante Adams asked if the scholarship could be used for a full-time distance education program. Her concern is, if allowed, the money would be leaving Nevada.

Dr. Canavero replied the scholarship money could be used for full-time distance education tuition if a company was registered in Nevada but had a business relationship outside of the State to provide distance education courses.

Assemblywoman Bustamante Adams asked if monitoring distance education to see if a large portion of the money is leaving the State would be part of the process.

Dr. Canavero stated there are several reporting provisions that allow the NDE to review how the scholarship money is being used. The superintendent of public instruction has discretion to request reasonable information and the respondent would have a specified period in which to respond. There is also a provision that gives the superintendent some authority, in addition to the annual SGO-based independent and certified public accountant audits, to obtain financial records from a scholarship organization within 72 hours.

Referring to Section 13, Assemblywoman Bustamante Adams asked whether there is an appeal process to a decision made by the superintendent when a violation complaint is made regarding the scholarship program.

Dr. Canavero replied the superintendent has the authority to determine whether the complaint has merit. If the complaint moves forward, depending on the nature and severity of the complaint or materiality of the issue, it can be referred to law enforcement agencies and/or the Office of the Attorney General (AG). If the superintendent finds the complaint has no merit, the complainant could bring the issue before the State Board of Education (Board) during the public comment portion of a Board meeting or request the Board listen to the complaint and request the superintendent reconsider the decision.

Referring to Section 8, Senator Denis asked whether a scholarship applicant is charged a \$25 application fee per child or whether one fee covers multiple children within a family. If the fee is for each child, he is concerned it could be cost prohibitive for some of the neediest families.

Dr. Canavero said it is permissive for an SGO to charge the fee, which provides some surety that the family is serious about taking advantage of the scholarship. The \$25 application fee could be for one child or for an entire family; noting, there are preferences for families with siblings. He does not think there is language in the regulation that does not allow SGOs to waive the fee. He recalled testimony during the hearings or workshops that the fees can and often are waived by an SGO.

Senator Denis conjectured Dr. Canavero is saying the regulation allows for the \$25 application fee, but it may not necessarily be charged.

Dr. Canavero said if the SGO charges a fee, it may not be more than \$25, which is the intent of the regulation.

In response to Senator Denis' question regarding the number of waived application fees and the number of people who did not apply for scholarships because of the

application fee, Dr. Canavero said he will look into how many SGOs are charging the fee and whether the fee is a barrier to low-income families.

Regarding the homeschooling issue, Chair Roberson stated Section 5 of A.B. 165, a bill brought forth by the Committee on Education and the legislation from which R035-15 emanates, reads:

A scholarship organization must:

1.(e) Provide grants on behalf of pupils who are members of a household that has a household income which is not more than 300 percent of the federally designated level signifying poverty to allow those pupils to attend schools in this State chosen by the parents or legal guardians of those pupils, including, without limitation, private schools. The total amount of a grant provided by the scholarship organization on behalf of a pupil pursuant to this paragraph must not exceed \$7,755 for Fiscal Year 2015-2016.

In speaking with Ms. Erdoes, Chair Roberson said the legislative history indicates there was a specific intent to exclude homeschools from the definition of schools.

Ms. Erdoes, said A.B. 165, which was a redraft from the 2013 Legislative Session, included homeschoolers, and the Legal Division was explicitly requested to exclude homeschooling programs for the scholarships from the bill in the 2015 draft. Nothing else was changed during the drafting process or the process in which it was passed. She said it is viewed as explicitly excluding homeschoolers.

Assemblywoman Benitez-Thompson proposed that approximate household incomes and zip codes be included in the information presented to the LCB, emphasizing—without any personally identifiable information.

Dr. Canavero confirmed the NDE would be receiving that information and would provide it to the legislators.

Assemblywoman Benitez Thompson stressed the importance of providing specific and varied choices on the application when it comes to the question of race or ethnicity.

Assemblyman Nelson said he understands the scholarship cannot be given to a child who is homeschooled at the time, but if the child wanted to go into a private school, it would then be acceptable.

Chair Roberson and Ms. Erdoes agreed with Assemblyman Nelson's presumption and Dr. Canavero concurred.

ASSEMBLYMAN HANSEN MOVED APPROVAL OF R035-15.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 036-15

A REGULATION relating to education; revising provisions relating to end-of-course examinations; and providing other matters properly relating thereto ([Exhibit N](#)).

Dr. Canavero confirmed for Assemblyman Stewart: (1) seniors will be required to pass the proficiency exams in the spring before graduating; and (2) sophomores (Class of 2018) and juniors (Class of 2017) will take the end-of-course exams (ECEs) but will not be required to pass them. Those students will also take the Scholastic Assessment Test (also known as the Scholastic Aptitude Test or the SAT Reasoning Test) to determine their readiness for college. The freshmen who began in August 2015 (Class of 2019) will be required to pass the ECEs. The sophomores and juniors are not required to pass the ECEs because of the change in regulation during their high school career.

Dr. Canavero stated the transition for the State from the high school proficiency exam, which is administered in a grade level, to a test that is administered upon completion of a subject, has been very difficult. When the graduation requirements were established, the Board and the NDE, determined that a new requirement could not be instituted for high school students who were already in high school. It would be fundamentally unfair and would not withstand a legal challenge. The 2017 and 2018 classes have to participate in the assessment and pass the aligned course but not the test at a cut level.

Replying to Assemblyman Stewart's request for an update on the ECEs required of freshmen, including addressing the problems and resolutions, Dr. Canavero said the Board held an open meeting regarding the administration of ECEs and received a number of letters and some testimony. There were some concerns regarding the length of the ECEs, which the NDE recognizes. The NDE also found the ECEs in all subjects are efficient. The NDE has a specific and explicit intention to ensure the ECEs are no longer than needed, which is a result of very clear feedback, as well as alignment. Every assessment built must be aligned to the standards for that grade level. The science standards adopted earlier and the science ECEs that will be built in 2020 are fully aligned to the State's desire for the science, technology, engineering, and mathematics (STEM) orientation and people strategy related to STEM education. Alignment and length are two very clear themes the NDE heard when the Board opened the conversation and listened to teachers, students, administrators, and superintendents across the State.

Assemblyman Stewart asked if the ECEs for the freshman class would be ready in January and May.

Dr. Canavero clarified how the NDE determines pass or fail scores. Over a two-day period in November, in order to establish scores of proficiency, the NDE will work with the State's teachers to review the assessment results from last year's administration. There will likely be a four-level grading structure. Those results will go before the Board in December or January, and there will be some clarification regarding the meaning of a passing score. Those will be administered during the assessment window, which opens in early spring, and the ECEs will be ready to be administered to the freshmen class.

Senator Denis asked how seventh- and eighth-grade students who are taking high school classes in core areas, would be affected.

Dr. Canavero said seventh-grade was the initial and earliest grade level for which a student could qualify to take the ECEs. Last year, the NDE learned there are approximately 200 sixth-grade students taking Mathematics I, which is commonly the Algebra I course. They wanted to be responsive to ensure the sixth-grade students enrolled in these high school-based courses had the opportunity to take and pass the ECEs. In addition, the NDE sought flexibility so they did not have to double test students in the sixth-, seventh-, or eighth-grade who are taking ECEs from high school. They would not be required to take the summative tests required in sixth-, seventh-, or eighth-grade, the smarter balanced assessment. This way, if students are assessed in one area of mathematics in seventh-grade, whether it is the State summative test or the students are enrolled in an aligned high school-based Algebra I course, they would take the ECE, not both.

ASSEMBLYMAN STEWART MOVED APPROVAL OF R036-15.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 046-15

A REGULATION relating to programs for energy efficiency and conservation; revising provisions relating to the recovery by an electric utility of certain costs and amounts based on the implementation of certain programs for energy efficiency and conservation; and providing other matters properly relating thereto ([Exhibit O](#)).

Referring to Section 1, Assemblyman Hansen, asked: (1) what is the cost to ratepayers in Nevada for subsidies for energy efficiency and conservation programs; and (2) at what point does solar or geothermal energy, or other alternative energy sources, become a viable and marketable commodity without

subsidies. He added he has had a problem with subsidies for a long time and now some of the major consumers of energy want to leave the grid.

Hayley Williamson, Assistant General Counsel, Public Utilities Commission of Nevada (PUCN), could not speak to the general policy question, but offered to provide follow-up information.

Ms. Williamson added that NV Energy (NVE) testified on R046-15 and said it could decrease some of the energy efficiency program costs by up to 68 percent. Regarding the lost revenue adjustment mechanism, it was incredibly costly and not entirely accurate to measure and verify all program costs and determine what was fueling the conservation programs. The PUCN proposed in regulation a simple multiplier instead of going back by rate and customer class measuring and verifying. In addition, Ms. Williamson said the energy efficient programs are PUCN-approved and direction is taken from the Legislature.

Assemblyman Hansen said he suspected a simple multiplier would result in more money for the power company and for the PUCN. If the current program was sufficient, the PUCN would not be trying to change it. He assumed the new multiplier would ultimately result in an improvement for the power company; however, anytime that happens, somebody has to pay the difference. He asked whether the calculations with the new simple multiplier have reduced costs to ratepayers.

Ms. Williamson confirmed the PUCN has seen a decline in program costs, which results in a decline in ratepayer costs. The regulation is also being brought forward as part of the stipulation when Berkshire Hathaway Inc. acquired NVE and they agreed to look again at the lost revenue adjustment mechanism; this regulation is the result of that stipulation. The Bureau of Consumer Protection (BCP), the AG, Nevadans for Clean Affordable Reliable Energy, the PUCN, and NVE agreed to the regulation. Ms. Williamson stated NVE has testified R046-15 will save ratepayers money and the BCP agreed with the regulation going forward.

Assemblyman Hansen said saving ratepayers money would make him very happy. The concept of constantly asking ratepayers to subsidize improvement in energy efficiency and conservation is reaching a breaking point for him because he does not see solar energy becoming cost-efficient with natural gas. There are huge concerns over eliminating coal-fired plants, the building of a new natural gas plant that costs the ratepayers, and major casinos making offers to leave the grid. He assumes the indirect cost to the State for attracting new businesses, due to Nevada's energy costs being substantially higher than many of the surrounding states, helps to keep companies who use high levels of energy from coming to Nevada, which is part of our efforts to expand the economy. He wants answers from NVE on when they see Nevada reaching a point where subsidies are no longer needed due to alternate types of fuel reaching a viable economic point in the free

market and without expectations from ratepayers, including the big casinos, continuing to subsidize those efforts.

Ms. Williamson said she would follow up with answers to Assemblyman Hansen's questions.

SENATOR KIECKHEFER MOVED APPROVAL OF R046-15.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 054-15

A REGULATION relating to air pollution; providing for the issuance, banking, transfer and use of emission reduction credits; establishing fees relating to emission reduction credits; and providing other matters properly relating thereto ([Exhibit P](#)).

Assemblyman Hansen expressed concern regarding new and exceptionally high fees in the regulation.

Mr. Emme stated the regulation represents the DEP's new emission reduction credits (ERC) program. The DEP compares reviewing an ERC application to an application for minor sorts of permits. The DEP looked at the relevant workload compared to something they were familiar with and tried to assess the fee in that regard.

Assemblyman Hansen asked how the DEP arrived at the \$10,000 application fee and how many hours does the DEP expect it will take to determine whether an application is valid.

Jeffrey Kinder, P.E., Chief, Bureau of Air Pollution Control, DEP, SDCNR, answered the DEP has up to 70 days to process and issue a minor source permit and up to one year to process and issue a major source permit. Some permits require the entire period and some do not. The decision was based upon their current workload and the types of applications they expect to receive.

Assemblyman Hansen surmised the fees would cover the DEP's initial costs.

Assemblyman Nelson, referring to subsection 3 of Section 17 on page 9, asked whether the 10 percent reduction of each ERC was a retainage.

Mr. Emme explained the 10 percent reduction is a mechanism used by several other states in managing the ERC program and is intended to provide a modest air

quality benefit. The credit is earned, but there is a 10 percent reduction, which represents a relative improvement to air quality.

Assemblywoman Benitez-Thompson stated building an automatic and perpetual 2 percent increase from the prior year into regulations is clever and asked whether that was correct.

Mr. Emme said it is a provision that applies to the DEP's existing fee structure; therefore, it was carried forward for this program. It allows the DEP to suspend the 2 percent increase, which they have done. Since the 2 percent annual increase was enacted in 2009, the DEP suspended it for the first five years. The DEP has only recently invoked the increase. Mr. Emme explained it gives industry some certainty in their fees by avoiding major fee increases over time and allows the DEP to adjust the fees internally to match their expenditures.

Assemblywoman Benitez-Thomason thanked Mr. Emme for mentioning that the DEP has used the increase as a tool by suspending the fee. Her concern is if there is no oversight and the DEP never has to go to anyone for authority, the increase may occur yearly. She said it sounds as though the DEP is using the increase very judiciously.

Assemblyman Hansen commented he rather likes the idea of the 2 percent annual increase in subsection 11(a) of Section 25, but it also makes him nervous. He asked Legal Counsel whether government agencies were allowed by regulations to have a built-in mechanism that automatically adjusts their fees. Assemblyman Hansen stated 2 percent is slightly lower than a typical year of inflation. It also means the fees could continue to increase without any oversight by a legislative body once those types of numbers are approved. For example, the fee could increase by 20 percent in ten years and the Commission would never know because it is approved by regulation.

Ms. Erdoes stated there is nothing prohibiting an agency from adding that to their regulation, noting the Commission has to approve it. An agency can build in an increase just as it can be done in statute because regulations have the same force and effect as law.

Assemblyman Hansen said if R054-15 is passed as is, the DEP does not have to come back for fee increases because it is already built in to a formula approved by the Commission. Theoretically, the DEP could build in a 10 or 20 percent increase without ever having to come before the Commission for oversight or fee increases.

Ms. Erdoes confirmed Assemblyman Hansen's comments that the fees could increase 2 percent each year if the Commission approves such language.

Assemblyman Hansen said that makes him very nervous.

SENATOR DENIS MOVED APPROVAL OF R054-15.

ASSEMBLYMAN NELSON SECONDED THE MOTION.

THE MOTION CARRIED. ASSEMBLYMAN HANSEN AND  
ASSEMBLYWOMAN BUSTAMANTE ADAMS VOTED NO.

Chair Roberson asked Senator Kieckhefer whether he wanted to comment on R013-15.

Senator Kieckhefer said members had a chance to talk with PEBP for additional information regarding the different subsidy categories. He summarized if the regulation is continued, all participants will continue to see the subsidies they currently receive, so there will be no change between the current PY and the next. He fears reversing the regulation would have a substantial impact on the majority of the people in the plan. Of the more than 2,100 people who fit into these categories, about 65 percent are helped by the regulation and about 35 percent are disadvantaged by it. The 35 percent primarily represents people covering only themselves in the HMO plan and have been hurt by about \$100 per month in terms of their premium, which is not insignificant. However, if the Commission were to reverse the regulation, the negative impact could be substantial. The impact on retirees covering themselves and their spouses who are in the preferred provider organization would be \$565 per month, which he suggested is an untenable move to make for those retirees, especially rolling it backwards after they have already felt the benefit. Senator Kieckhefer said this issue will be revisited through the Interim Retirement and Benefits Committee when they meet in early 2016, but he opined it is important to approve R013-15 at this point.

Assemblyman Stewart agreed with Senator Kieckhefer. He proposed approval of R013-15.

Senator Denis agreed with his colleagues that no matter how the Commission looks at the regulation there is no fair way to do this without providing additional funds to make up the difference, which is not going to happen. It has already been in place and the impact has already been realized by those being negatively impacted. He stated the Commission would like to do the best it can to work for the majority of the folks; therefore, he is in support of R013-15.

ASSEMBLYMAN STEWART MOVED APPROVAL OF R013-15.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

## LEGISLATIVE AUDITOR:

### A. National State Auditors Association Report on Nevada Legislative Counsel Bureau Audit Division's System of Quality Control–Paul V. Townsend, Legislative Auditor, Audit Division, LCB

Paul V. Townsend, previously identified, referring to a letter from the National State Auditors Association ([Exhibit Q](#)) on the review of the Audit Division's (Division) System of Quality Control (SQC) in effect for the period of January 1, 2014, through June 30, 2015, stated this report answers the question of who audits the auditors. The Division is required to have an external review performed every three years and this report represents the results of the Division's most recent review. The Division conducts audits in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. These standards provide a framework for providing high quality audit work with competence, integrity, objectivity, and independence. The most recent review was completed in August by a team of auditors from Alaska, Kansas, Maryland, and Wyoming. The review team concluded the Division's SQC provides reasonable assurance of conforming to government standards and issued a rating of pass, which is the highest rating.

Mr. Townsend stated he was very proud of the Division's team and the work they did in meeting these very rigorous standards. The standards also require the results of the review be provided for the Division's oversight body and he appreciates the Commission's acceptance of the report.

Mr. Townsend confirmed for Assemblyman Stewart that he may be retiring in early December 2015.

Accolades and best wishes followed from Chair Roberson, Senator Denis, and Assemblyman Stewart acknowledging Mr. Townsend's reputation for having done an incredible job of maintaining and enhancing the Division's reputation as being one of the best legislative program evaluation units in the country. Chair Roberson said Mr. Townsend has worked for the LCB in the Audit Division since 1987 and has been the Legislative Auditor since December 2001.

Mr. Townsend expressed appreciation for the comments and support of the Legislature and the Commission over the years, as well as to the Division. He stated it has been an honor every day for him to walk in to work, he has enjoyed this job, and has had a great career.

### B. Follow-up to Report on Audit of the Division of Health Care Financing and Policy, Department of Health and Human Services–Paul V. Townsend, Legislative Auditor, LCB

Mr. Townsend referred to a letter he prepared ([Exhibit R](#)), which notes that in May 2015, the Division issued an audit report (see Audit Highlights, [Exhibit S](#)) on the Division of Health Care Financing and Policy (DHCFP), DHHS. The audit report contains six recommendations to strengthen processes for detecting and preventing fraud abuse and billing errors that result in Medicaid overpayments. As part of the Division's audit follow-up process, the DHCFP submitted a 60-day *Corrective Action Plan* (Plan), *Legislative Counsel Bureau Audit Division, Performance Audit Report No. LA 16-02* ([Exhibit T](#)) in July 2015. The Division has reviewed the Plan and agrees with the direction taken by the DHCFP as they are taking positive action in implementing the recommendations and addressing the issues raised in the report.

Mr. Townsend explained there would be a six-month report prepared by the Office of Finance, Office of the Governor, that verifies the status of the recommendations and whether those recommendations have been fully or partially implemented or if no action has been taken. That report, due January 29, 2016, will be provided to the Audit Subcommittee of the Legislative Commission and then forwarded to the Commission. The DHCFP's Plan was provided to the Commission in its August meeting where testimony was heard from agency representatives describing the processes for recouping overpayments and notifying other entities when provider fraud and abuse occurs. At that meeting Chair Roberson indicated to the DHCFP they would be asked to return and provide an update at this meeting. There were two specific items mentioned: (1) follow-up regarding the status of changes implemented by the DHCFP recommended in the audit report; and (2) progress made in recouping Medicaid overpayments made to the dental provider as reported in the audit.

Assemblyman Hansen asked for an update of the dental provider reported in the audit.

Marta Jensen, Acting Administrator, DHCFP, DHHS, answered the dental provider has not been prosecuted, but the DHCFP is still pursuing action. The DHCFP is waiting for the conclusion of a federal review being conducted by Medicaid Integrity Contractors (contractors), Centers for Medicare and Medicaid Services (CMS), U.S. Department of Health and Human Services (HHS). She noted the CMS has a longer span of time they are looking at for the provider. Ms. Jensen stated the provider is no longer a Medicaid provider and has moved out of State. The DHCFP knows where the dental provider resides and has notified that state of the issues experienced in Nevada. The DHCFP is in close contact with the contractors and has recently learned they intend to pursue a fraud allegation to the Office of Inspector General, HHS. To date, the DHCFP has taken the Division's audit findings and used those algorithms against the existing dental provider population to see whether there are others who may have issues. They identified an additional 126 providers with similar issues, and to date, the DHCFP has

recouped approximately \$116,000 from them through negative balances or direct payment.

Assemblyman Hansen commented it appears the DHCFP and Mr. Townsend are on top of the situation.

Ms. Jensen further stated the DHCFP processes over 1 million claims per month and there are 26,000 providers, but only 14 Surveillance and Utilization Review (SUR) staff, Program Integrity, DHCFP, DHHS. She said SUR does not have the appropriate data analytics to extract this data. They have other contractors who can look at things and sometimes a lead is needed in order to get somewhere. She assured the Commission that DHCFP had implemented the system changes in August. They will perform another run against the data in January to ensure anything missed prior to implementing the system changes will be identified, and they have exercised the proper education and referrals, and, if needed, will move forward if it is believed there is a fraud case.

It is Assemblyman Stewart's hope the Commission can receive an ongoing report at every Commission meeting regarding the DHCFP's efforts and successes with implementing the new program, as well as an update on the dental provider identified in the report. He commended the DHCFP for recouping over \$100,000.

#### **APPOINTMENT OF MEMBERS TO COMMITTEES AND SIMILAR ENTITIES AND APPROVAL OF BUDGETS:**

##### **A. Appointment of Members to the Commission on Ethics (NRS 281A.200)**

Chair Roberson stated there are applications in the meeting packet ([Exhibit U](#)). Senator Ford recommended Barbara Gruenewald and Chair Roberson recommended Dan H. Stewart.

Chair Roberson confirmed for Assemblyman Hansen that Mark Lerner is an applicant. He stated one of the members needs to be a Republican; one needs to be a Democrat; one needs to be outside Clark County; and one needs to be an attorney. Chair Roberson asked whether there is an indication of party affiliation on the applications. He stated he thought Ms. Gruenewald is a registered Democrat and Mr. Stewart is a registered Republican. Chair Roberson stated party affiliation information for the other applicants is not in the meeting packet.

VICE CHAIR SETTELMAYER MOVED APPROVAL OF  
BARBARA GRUENEWALD AND DAN H. STEWART AS NEW  
MEMBERS TO THE COMMISSION ON ETHICS.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED  
THE MOTION.

THE MOTION CARRIED.

B. Appointment of Members to the Technical Advisory Committee to Develop a Plan to Reorganize the Clark County School District (Section 26 of A.B. 394, 2015)

Chair Roberson said the Commission made several appointments during the last meeting, and there is one remaining appointment to make. The Las Vegas Asian Chamber of Commerce submitted a list of names ([Exhibit V](#)): Duncan Lee and Ashok "Ash" Mirchandani. He noted that as chair of the Assembly Bill 394 (Chapter 543, *Statutes of Nevada 2015*) advisory committee, he has already appointed Mr. Ashok "Ash" Mirchandani as an at-large member of the Technical Advisory Committee to Develop a Plan to Reorganize the Clark County School District.

SENATOR KIECKHEFER MOVED APPROVAL OF THE APPOINTMENT OF DUNCAN LEE TO THE TECHNICAL ADVISORY COMMITTEE TO DEVELOP A PLAN TO REORGANIZE THE CLARK COUNTY SCHOOL DISTRICT.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

THE MOTION CARRIED.

C. Establishment of Additional Interim Committees or Subcommittees for the 2015–2016 Interim Pursuant to NRS 218E.200 and the Approval of Budgets for Such Committees or Subcommittees ([Exhibit W](#))

Chair Roberson informed the Commission he had received three requests for the creation of interim committees:

1. Former Assemblywoman Marilyn Kirkpatrick requested an interim committee for mental health localization in Clark County. According to Chair Roberson's understanding, there may be a continuation of the Governor's Behavioral Health and Wellness Council that might serve as the vehicle for that purpose; however, he has not received confirmation to that effect. Chair Roberson suggested an interim committee for mental health localization in Clark County should be put on the table and dealt with before the next Commission meeting;
2. Vice Chair Settlemeyer has requested a committee on the issue of property taxes based on a request from several county governments; and
3. Senator Pete Goicoechea has requested a subcommittee to the interim Legislative Committee on Public Lands (Public Lands) to deal with water issues.

Senator Goicoechea testified that A.B. 198 (Chapter 338, *Statutes of Nevada 2015*), requires Public Lands to conduct a study concerning water conservation and

alternative sources of water for Nevada communities. The problem is Public Lands is comprised of nine members—six of whom are northern rural legislators and there are some from the south. He thinks representation is needed from utilities, or quasi-municipals; agriculture; domestic well owners; mining; the State Engineer, Division of Water Resources, SDCNR; and the State Environmental Commission, SDCNR. If these entities are combined with Public Lands, it will require doubling its budget due to extended meetings throughout the State.

Senator Goicoechea proposed a subcommittee comprised of five legislators, three of whom would come from Public Lands, and four or five nonlegislative members outside of the public lands arena. The five legislative members would be compensated for their time and travel; two other members would be compensated only for their travel; and the others would be nonvoting and asked to cover their own expenses. Senator Goicoechea suggested there is enough interest to hold six meetings.

Senator Goicoechea said three meetings would take place in rural areas, and the other three in Carson City, Las Vegas, or a central location. The subcommittee's budget would be approximately \$13,600 for six meetings, including reimbursement for seven of the subcommittee members. The findings of the subcommittee would be reported to Public Lands for approval and action; therefore, it complies with the statutory requirements of A.B. 198. Bill draft requests (BDRs), or other items brought forward, would be reviewed and supported by Public Lands.

Chair Roberson and Senator Goicoechea discussed the following items, pending approval of the subcommittee: (1) six, all-day meetings should be sufficient if water issues are all the subcommittee focuses on; (2) legislative members will be selected at the November 18 Public Lands meeting; and (3) Senator Goicoechea and other Public Lands members could begin soliciting nonlegislative members to serve on the subcommittee.

Senator Goicoechea elaborated on his reasoning for there being five legislators on the subcommittee, which is to reach out to southern legislators who are not on Public Lands so there is more buy-in when legislation is brought forward during the next session.

Senator Atkinson asked whether there is a precedent of a committee appointing other legislators to a subcommittee or whether that should be left to the majority and minority leaders.

Ms. Erdoes stated there have been a number of interim committees that have exercised their authority to create subcommittees. The NRS language states the studies do not have to be carried out by members of the committee from which the subcommittee stems. She said it is legal and confirmed for Senator Atkinson the appointments to the subcommittee could be made by Public Lands.

Chair Roberson interjected the Commission may also appoint members to a subcommittee. The Commission could create a separate interim committee, approve the budget, and the Commission or caucus leaders could appoint the members. He clarified he is not suggesting the Commission do that; he simply wants everyone to be aware of the options.

Senator Atkinson pointed out it appears Public Lands and the subcommittee are two different committees and the Commission should appoint the members.

Assemblywoman Bustamante Adams agreed Senator Atkinson. She asked Senator Goicoechea if the five legislators would be voting members and the other four nonvoting members.

Senator Goicoechea replied that was his proposal, but did not know, realistically, whether the private sector would control the direction of the subcommittee. He made clear his only objective is to comply with the provisions of A.B. 198 by having the subcommittee report to Public Lands. If the Commission's desire is to appoint the subcommittee membership, that is fine; however, he hopes it would appoint at least a portion of those members from Public Lands to comply with the provisions of A.B. 198. Senator Goicoechea suggested four or five members should come from the private sector; membership between Public Lands and the private sector should be even; and geographic diversity is essential. He said the subcommittee would get cumbersome with six or seven legislative members and only four private sector members.

Assemblywoman Bustamante Adams commented \$13,000 for the cost of the subcommittee was high and thinks the average is approximately \$8,700, which would leave only \$21,000 in the budget for interim studies.

Prefacing that he is not suggesting the Commission go forward with all three interim committees today, Chair Roberson stated that although it may leave only \$21,000 in that budget, the Legislature has sufficient funds to fund the three interim committees if that is what is decided. He thinks more discussion is needed regarding the specifics of how the committees will be comprised, who will chair them, and how membership will be selected.

Senator Goicoechea confirmed November 18, 2015, is the date of the first meeting of Public Lands, and if the subcommittee is approved, it would be an opportune moment to get it started. The justification for a higher than average cost for the subcommittee is that three out of the six meetings are in rural areas, which, due to travel, is more expensive than meetings held in urban locations.

Chair Roberson supported the concept of having an interim committee on important water issues in Nevada. He is unsure whether it is necessary to decide on the composition of an interim committee today because the Commission can extend

the date by which meetings must end, and there is ample time for six meetings between now and the next Legislative Session.

Chair Roberson recognized Senator Goicoechea has spent a lot of time on water issues and it seems he would be the perfect person to chair a water committee; however, he is unsure whether Public Lands should be making that decision. It may be wise to have a separate interim committee on water issues; he suggested there be more conversations between now and the next Commission meeting, which includes more direction from Senator Goicoechea. Caucus leaders need to meet with their members and determine who is interested in serving on a water committee. Chair Roberson agreed a water committee is needed, and it would need to be funded appropriately to ensure adequate dialogue and a sufficient number of meetings between now and the next session.

Senator Atkinson resounded Chair Roberson's comments and expressed support of Senator Goicoechea. He agreed discussing water issues during the interim is appropriate. Senator Atkinson acknowledged Senator Goicoechea's hard work on water issues during last session.

Vice Chair Settlemeyer agreed with Senator Atkinson's remarks. He stressed there needs to be buy-in from all caucus members if a plan is brought forward; otherwise, discussing water issues could be problematic. It is his opinion, if anyone wishes to entertain a motion, to agree to the study with five people, with Senator Goicoechea as chair, and one member from each caucus appointed by leadership.

Senator Kieckhefer said Vice Chair Settlemeyer's proposal is reasonable and the timing essential.

Senator Atkinson surmised Vice Chair Settlemeyer's proposal, which entails the committee would be comprised of one member from each caucus, would put two Senate Republicans on the committee. Senator Atkinson added Senator Ford indicated to him that he would like to serve on the water committee.

Vice Chair Settlemeyer acknowledged the proposal of a five-member committee is what Senator Goicoechea requested. He acknowledged it would give the Senate one more representative than the Assembly; however, he would still expect the BDRs to come through Public Lands for approval. If Public Lands disagreed, individuals could bring forth BDRs using their own allotments, or if they are committee chairs, they could be brought forth in that manner. The water committee is about getting information in a way that would have the most buy-in and cooperation amongst all of the caucuses to find necessary solutions for the future of Nevada. One of the counties that Vice Chair Settlemeyer represents had an allocation drop of 50 percent during the last year, which created much concern and many problems. If there is no El Niño, it will leave Nevada in a problematic

situation for its residents and agriculture. He gave an example of a well that dropped 26 feet in one year. These issues and concerns need to be studied and solved.

After contemplating this discussion, Chair Roberson stated the water committee would not be a subcommittee of Public Lands. It will be a separate committee created by the Commission with complete autonomy from Public Lands. It is important to obtain a consensus among the Commission members today that they will move forward at the next Commission meeting with the formal creation of a water committee with Senator Goicoechea as chair. In the meantime, members will discuss with Senator Goicoechea how many legislators he believes needs to be on the committee, which may be more than five. He does not think it is necessary to make finite decisions today regarding committee membership or its budget. Chair Roberson gets the sense everyone on the Commission agrees Senator Goicoechea should be appointed as chair and the committee should occur during this interim.

Vice Chair Settlemeyer withdrew his previous motion and put forth a different motion.

VICE CHAIR SETTELMAYER MOVED APPROVAL OF PLACING  
ON THE NEXT LEGISLATIVE COMMISSION MEETING AGENDA  
FOR FURTHER DISCUSSION THE FORMAL CREATION OF A  
COMMITTEE TO STUDY WATER ISSUES.

SENATOR ATKINSON SECONDED THE MOTION.

Chair Roberson remarked the Commission would have another meeting in December or as soon as late November. This will give everyone the opportunity to work with Senator Goicoechea and others in the Legislature regarding how the water committee will look going forward.

Senator Kieckhefer asked Ms. Erdoes whether the Commission could empower a new interim committee to have a certain number of BDRs.

Ms. Erdoes answered the statute provides for five BDRs for each committee the Commission creates.

Senator Goicoechea asked how that would affect Public Lands regarding A.B. 198.

Ms. Erdoes stated because of the language that exists in A.B. 198 and the separate authority for the Commission to create studies, both would have the authority to empower a new interim committee to have a certain number of BDRs. The Commission could include as part of its motion today that it will inform

Public Lands it is taking over the study. Based on the law, it can be worked out however the Commission desires.

Chair Roberson suggested the Commission not take action today and continue discussion of the subject between now and the next meeting.

Senator Goicoechea commented Public Lands could touch on some water issues during the interim, but surmised it would be beneficial to Public Lands if it did not have to deal with all water issues.

THE PREVIOUS MOTION MADE BY VICE CHAIR SETTELMAYER  
AND SECONDED BY SENATOR ATKINSON CARRIED.

Regarding Vice Chair Settelmeyer's request for an interim committee on property taxes, Chair Roberson stated he thinks more discussion is needed and no action will be taken today. He asked Vice Chair Settelmeyer if he would like the opportunity to raise the importance of an interim committee on property tax issues.

Vice Chair Settelmeyer indicated he has been contacted by numerous counties since the passage of Senate Joint Resolution (S.J.R.) No. 13 (File No. 41, *Statutes of Nevada 2015*), which addresses changing how price assessments are calculated. Nevada is the only state that uses the Marshall Valuation Service from Marshall & Swift, whereas S.J.R. 13 looks to market price. Vice Chair Settelmeyer said some counties are concerned regarding how that would affect them, but he told them S.J.R. 13 is only about how to get the price of the assessed value and nothing else. Nonetheless, the counties would like the opportunity to have a forum to discuss these concerns and possible legislation. He has no problem with his own BDRs or with legislators who would like to come to the meetings as long as they did not expect to be paid, as he does not expect to be paid. The committee would probably request that Applied Analysis, who conducted a thorough analysis of Nevada's property tax system, be used to look at potential consequences of the change in order to address them before next session. This is about addressing the potential passage of S.J.R. 13 next session and before it goes to the voters. We are potentially looking at triggering necessary legislation to answer questions raised by the counties, such as abatements to other issues. Vice Chair Settelmeyer asked for a representative of some of the counties to speak regarding their concerns.

Jeffrey Fontaine, Executive Director, Nevada Association of Counties (NACO), stated Vice Chair Settelmeyer adequately explained some of NACO's concerns. In anticipation of S.J.R. 13 being taken up again next session, it is a considerable change in how property taxes are assessed in Nevada. Mr. Fontaine said NACO wants to ensure that if S.J.R. 13 moves forward, it is done correctly, expressing caution when it comes to changing the *Nevada Constitution*. There are several technical requirements in determining the impact of S.J.R. 13, which

NACO attempted during last session and continues to analyze. He expressed NACO thinks it would be helpful to engage legislators in helping them work through these issues so they are better prepared for the 2017 Session.

VICE CHAIR SETTELMEYER MOVED APPROVAL OF PLACING ON THE NEXT LEGISLATIVE COMMISSION AGENDA THE CONCEPT OF CREATING A COMMITTEE TO ADDRESS THE EFFECT OF S.J.R. 13 ON COUNTIES.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED. ASSEMBLYWOMAN BUSTAMANTE ADAMS VOTED NO.

Regarding the request for an interim committee for mental health localization in Clark County, Assemblywoman Bustamante Adams asked Chair Roberson to confirm he is waiting for information.

Chair Roberson contemplates the next Commission agenda will include discussion on the creation of an interim committee on property taxes, as well as whether it is necessary to have an interim committee on mental health localization. He has not received confirmation whether there is already a vehicle for that discussion during this interim.

In response to Assemblywoman Bustamante Adams' request for clarification regarding whether his request is for a forum or a committee, Vice Chair Settelmeyer said his request is for a forum with some funding for Applied Analysis to review information from the last property tax study, bring it up to date, and determine whether there are any problems by switching to a market-based analysis from the bifurcated system currently in place. The request would include the use of telecommunications to involve as many assessors as possible. He said he would work on the details in anticipation of the next Commission meeting and discuss the counties' concerns with Mr. Fontaine and NACO.

Further, Vice Chair Settelmeyer said Carson City and Clark, Douglas, and Washoe Counties have expressed interest in having this discussion during the interim to solve as many problems as possible. He does not foresee the need for BDRs; rather, he is looking for the use of the building and equipment, stipulating the request is more for a forum than a subcommittee. He will talk with Mr. Combs to determine whether that is within the Commission's purview or whether a subcommittee must be formed. Vice Chair Settelmeyer stated he would obtain answers to those questions and report during the next Commission meeting.

## **INFORMATIONAL ITEMS:**

- A. Summary of Quarterly Reports on Disciplinary Action from the Licensing Boards and State Agencies
- B. Miscellaneous Reports or Correspondence from State Agencies and Others:
  - 1. Department of Taxation, Sales Tax Revenue Statistics for Businesses Operating in a Tourism Improvement District (TID) in Washoe County (Star Bond District) Pursuant to NRS 271A.105(2)
  - 2. More Cops Revenue and Expenditure Reports Submitted Pursuant to Sections 13.5 and 13.7 of the Clark County Sales and Use Tax Act of 2005
    - a. City of Henderson
    - b. City of North Las Vegas
    - c. Las Vegas Metropolitan Police Department
  - 3. Clark County Department of Air Quality (DAQ), Fiscal Year Accomplishment Report for Direct Allocation Funds, Pollution Control Account Pursuant to NRS 445B.830

## **PUBLIC COMMENT**

Chair Roberson called for public comment.

Mona Lisa Samuelson, previously identified, said she hoped she was not ignored and that she did not hear any discussion on medical marijuana. She said it is not an issue that is going to go away; there are people in real danger because of the laws enacted in July, and to please keep that in mind. She repeated that most medical marijuana patients are the sick, injured, and dying (and not the criminal element) who really need help.

Chair Roberson assured Ms. Samuelson she was not ignored. He commented the Legislature passed a great deal of legislation relating to medical marijuana during the last session. The bills that were passed are being implemented, which takes time. Chair Roberson recommended Ms. Samuelson reach out to the chair of the Legislative Commission on Health Care to determine whether he is interested in a subcommittee on medical marijuana issues. He said he is open to ongoing conversations during Commission meetings to discuss this issue. Chair Roberson asked Ms. Samuelson what her specific concerns are regarding passed legislation in 2013 and 2015 relating to medical marijuana.

Senator Atkinson asked Ms. Samuelson to provide specifics on the bills passed that she feels are harming the industry.

Ms. Samuelson said she would email the issues to the members. She stressed the medical marijuana community *is* the patients and the industry was hurt considerably. The industry represented itself as speaking for the patients, which was not the case. The result is they are all in great legal detriment.

Chair Roberson surmised one of the issues Ms. Samuelson brought forth is the ability of medical marijuana patients to grow their own medical marijuana.

Ms. Samuelson replied that it is an issue based on whether a person is a medical patient. Medical patients need access to fresh plant matter. The issues are related more to things that are not asked for in legislation, as far as industry is concerned, and there is no way to have access to that. Medical patients need more than what is offered on a business model with the recreational program; they need to be able to grow and cook their own medicine. Making the medicine is now legislated so a patient cannot push, pull, or extract medicines through screens, which is how patients take their marijuana. The patients do not smoke the marijuana because it releases certain cannabinoids in high levels and the issues are not the same. When the legislative mandate was passed that prohibits patients from making their own medicines by using screens, in her opinion, it put them in a class C felony category. That is just one example of how the law immediately puts patients in danger. The list of maladies is huge; it is not just about chronic pain.

Chair Roberson asked if Ms. Samuelson has spoken to Senator Segerblom about these concerns because he has been very involved in this issue for many years.

Ms. Samuelson stated the problem they have in Nevada is insufficient representation of the patient's voice. She said if someone really wants to back medical marijuana, it needs to be understood that it is about patient use and not the easy-access business model. Patients have to cook and grow marijuana in specific ways to address their maladies and these regulations make that impossible. Ms. Samuelson said medical marijuana patients tried to engage Senator Segerblom regarding their subcommittee meeting minutes, but they were unsuccessful. She said she is trying to learn how to use her government and that she would be emailing the members.

Chair Roberson thanked Ms. Samuelson for being here and educating the Commission on some of the issues of medical marijuana.

Jana Wright, private citizen, Las Vegas, Nevada, provided written testimony in support of R008-15 ([Exhibit X](#)).

Assemblyman Stewart acknowledged the great accomplishments of former Assemblywoman Marilyn Kirkpatrick as chair of the Legislative Commission. All will miss her diligence and wisdom and they wish her well in her new position with Clark County.

Chair Roberson concurred with Assemblyman Stewart's comments. He restated the Commission would have another meeting before the end of the year in either late November or sometime in December and everyone would be notified of the date of that meeting.

There being no further business to come before the Commission, the meeting was adjourned at 12:58 p.m.

Respectfully submitted,

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Debbie Gleason  
Secretary for Minutes

APPROVED BY:

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Senator Michael Roberson, Chair  
Legislative Commission

## EXHIBITS

EXHIBIT	WITNESS/ENTITY	DESCRIPTION
<a href="#">Exhibit A</a>	Rick Combs, Director, Legislative Counsel Bureau (LCB)	Revised Meeting Notice and Agenda
<a href="#">Exhibit B</a>	Sylvia A. Wiese, Executive Assistant, Administrative Division, LCB	Attendance sign-in sheets dated August 10, 2015, from Carson City, Nevada, and Las Vegas, Nevada
<a href="#">Exhibit C</a>	Rick Combs, Director, Legislative Counsel Bureau	Establishment of Additional Interim Committees or Subcommittees for the 2015-2016 Interim
<a href="#">Exhibit D</a>	Legal Division, LCB	List of State agency regulations to be reviewed by the Legislative Commission
<a href="#">Exhibit E</a>	Legal Division, LCB	Adopted Regulation of the State Board of Health, LCB File No. R104-14
<a href="#">Exhibit F</a>	Legal Division, LCB	Adopted Regulation of the Administration of the Housing Division of the Department of Business and Industry, LCB File No. R114-14
<a href="#">Exhibit G</a>	Legal Division, LCB	Adopted Regulation of the Housing Division of the Department of Business and Industry, LCB File No. R115-14
<a href="#">Exhibit H</a>	Legal Division, LCB	Adopted Regulation of the State Board of Education, LCB File No. R141-14
<a href="#">Exhibit I</a>	Legal Division, LCB	Adopted Regulation of the State Contractors' Board, LCB File No. R009-15
<a href="#">Exhibit J</a>	Legal Division, LCB	Adopted Regulation of the Board of the Public Employees' Benefits Program, LCB File No. R013-15
<a href="#">Exhibit K</a>	Legal Division, LCB	Adopted Regulation of the State Environmental Commission, LCB File No. R020-15

<a href="#">Exhibit L</a>	Legal Division, LCB	Adopted Regulation of the Board of Wildlife Commissioners, LCB File No. R031-15
<a href="#">Exhibit M</a>	Legal Division, LCB	Adopted Regulation of the Department of Education, LCB File No. R035-15
<a href="#">Exhibit N</a>	Legal Division, LCB	Adopted Regulation of the State Board of Education, LCB File No. R036-15
<a href="#">Exhibit O</a>	Legal Division, LCB	Adopted Regulation of the Public Utilities Commission of Nevada, LCB File No. R046-15
<a href="#">Exhibit P</a>	Legal Division, LCB	Adopted Regulation of the State Environmental Commission, LCB File No. R054-15
<a href="#">Exhibit Q</a>	Paul V. Townsend, Legislative Auditor, Audit Division	Letter from the National State Auditors Association
<a href="#">Exhibit R</a>	Paul V. Townsend, Legislative Auditor, Audit Division	Letter from Paul V. Townsend
<a href="#">Exhibit S</a>	Paul V. Townsend, Legislative Auditor, Audit Division	Audit Highlights of the Division of Health Care Financing and Policy
<a href="#">Exhibit T</a>	Paul V. Townsend, Legislative Auditor, Audit Division	<i>Corrective Action Plan, Performance Audit Report # LA 16-02</i>
<a href="#">Exhibit U</a>	Rick Combs, Director, LCB	Appointment of Members to the Commission on Ethics
<a href="#">Exhibit V</a>	Rick Combs, Director, LCB	Appointment of Member to the Technical Advisory Committee to Develop a Plan to Reorganize the Clark County School District
<a href="#">Exhibit W</a>	Rick Combs Rick Combs, Director, LCB	Establishment of Additional Interim Committees or Subcommittees for the 2015-2016 Interim Pursuant to NRS 218E.200 and the Approval of Budgets for Such Committees or Subcommittees

<a href="#">Exhibit X</a>	Jana Wright, private citizen, Las Vegas, Nevada	Written testimony in support of R008-15
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This set of "Minutes of the Legislative Commission" is an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits are on file in the Director's Office of the Legislative Counsel Bureau, Carson City, Nevada.