



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

The Legislative Commission held its fourth meeting in calendar year 2014 on Friday, October 24, 2014. The meeting began at 9:13 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada.

**COMMISSION MEMBERS PRESENT:**

Assemblywoman Marilyn Kirkpatrick, Chair  
Assemblyman Jason M. Frierson, Vice Chair  
Senator Kelvin D. Atkinson  
Senator Moises (Mo) Denis  
Senator Ben Kieckhefer  
Senator Ruben J. Kihuen  
Senator Greg Brower for Senator Michael Roberson  
Senator James A. Settlemeyer  
Assemblyman Richard (Skip) Daly  
Assemblyman James Oscarson for Assemblyman Wesley K. Duncan  
Assemblyman Ira Hansen  
Assemblyman Lynn D. Stewart

**OTHER LEGISLATORS IN ATTENDANCE:**

Assemblywoman Irene Bustamante Adams, Assembly District No. 42

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

Rick Combs, Director  
Paul V. Townsend, Legislative Auditor, Audit Division  
Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis 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  
H. Pepper Sturm, Interim Research Director, Research Division

Janet Coons, Secretary for Minutes, Research Division  
Sylvia A. Wiese, Executive Assistant, Administrative Division

Chair Kirkpatrick called the meeting to order. [Exhibit A](#) is the agenda; 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 Legislative Commission's webpage at <http://www.leg.state.nv.us/Interim/77th2013/Committee/Interim/LC/?ID=2>. Agenda items taken out of order have been placed in proper agenda order in the minutes for purposes of continuity.

## **PUBLIC COMMENT**

Chair Kirkpatrick called for public comment.

Jana Wright, resident of Las Vegas, Nevada, submitted a letter ([Exhibit C](#)), which urged the Commission to vote against R087-14 ([Exhibit D](#)). She said trapping is a commercial business that should be managed with appropriate regulations if it is to continue in Nevada.

Bob Fulkerson, State Director, Progressive Leadership Alliance of Nevada, submitted written testimony ([Exhibit E](#)) regarding R011-14 ([Exhibit F](#)). He opined the regulation does not protect Nevada's communities or the State's groundwater demands. Suggesting the Commission on Mineral Resources (CMR) approved R011-14 in a rushed, nontransparent process, Mr. Fulkerson stated the fracking industry should adhere to the same regulations as the mining industry and monitor the groundwater for more than five years. He mentioned an article from the American Chemical Society's journal, *Environmental Science & Technology* ([Exhibit G](#)), which cites that future oil and gas well development in the western United States would contribute to the decrease of the endangered sage grouse population by 7 to 19 percent.

John Hadder, Director, Great Basin Resource Watch, mentioned a letter dated August 15, 2014, that he sent to the CMR and the Division of Environmental Protection (DEP), State Department of Conservation and Natural Resources (SDCNR), regarding R011-14. (Please see [Exhibit H](#).) He expressed concern the regulation does not exercise sufficient precautionary principles. Mr. Hadder said New York has issued a moratorium on hydraulic fracturing while it completes an environmental analysis; once the analysis is complete, New York will finalize its regulations. He commented Nevada has not followed this process, which he opined is a major oversight. Mr. Hadder also expressed concern about the Division of Minerals (DOM), CMR, issuing permits under existing regulations designed for conventional wells, which he suggested has placed Nevada in a crisis. He added there is a need for bonding and financial assurances to keep the public from paying for long-term cleanup of the sites. Mr. Hadder stated a moratorium should have been issued with the enactment of Senate Bill 390 (Chapter 466, *Statutes of Nevada 2013*).

Dawn Harris, representing Nevadans Against Fracking and Frack Free Living, submitted written testimony ([Exhibit I](#)), which suggested the regulation process has been flawed and biased, thus making R011-14 fundamentally inadequate to protect Nevada's water. She said the Small Business Impact Statement included in R011-14 is grossly insufficient as well as the stakeholders impacted as identified by the DOM. She agreed with Mr. Hadder that S.B. 390 should have mandated a moratorium on fracking.

Jennifer Bullock, private citizen, expressed concern that fracking will deplete the State's groundwater. Surmising that most of Nevada's citizens are probably not aware of the impacts of fracking, she questioned who would take responsibility for the negative impact it will have on the State. Ms. Bullock agreed with a moratorium until the uncertainties of the industry can be answered.

Dennis Gunn, resident of Eureka County, questioned who would pay for the great amount of water used by the fracking industry. He, too, agreed a moratorium is necessary. Mr. Gunn suggested Nevada is in a good position to bargain for solar and geothermal energy but should stay away from the gas and oil industry since fossil fuels are no longer a viable option.

John Sullivan, member of the County Advisory Board (CAB) to Manage Wildlife for Clark County, testified in opposition to R087-14. He said the Board of Wildlife Commissioners, Department of Wildlife (DOW), has not defined the problem or clearly articulated its reason(s) for changing regulations that have been in place for 40 years. Mr. Sullivan pointed out that all 17 CABs have spent many hours discussing this issue with considerable public testimony, and all of them have rejected these new regulations. He requested the Commission to reject R087-14.

Ginny Jackson, representing the Education Alliance of Washoe County, Inc., provided written testimony ([Exhibit J](#)) supporting R068-14 ([Exhibit K](#)), which allows Levels III and IV of the Junior Reserve Officers' Training Corps (JROTC) to count as one unit of credit for the arts and humanities or the career and technical education (CTE) requirement toward high school graduation. She also supported R082-14 ([Exhibit L](#)), which allows JROTC to count for the same credit toward an adult diploma. According to Ms. Jackson, all of Nevada's district superintendents support these changes in regulation.

Lieutenant Colonel Scott W. Maryott, District Director, High School ROTC Programs, Washoe County School District (WCSD), explained that JROTC is not about recruiting young people for the military. Its curriculum is sequential, rigorous, and nationally accredited, and prepared students for college and career readiness. The JROTC teaches citizenship, fellowship, first aid, leadership, life skills, and promotes service learning; it also provides skills in financial awareness, interviewing, and resume writing. He noted the JROTC seniors of WCSD have achieved a 91 percent graduation rate and are less truant and tardy than

nonJROTC students. He said the JROTC teachers are veterans with over 20 years of service and mentor students to be successful both during and after high school. Lieutenant Colonel Maryott acknowledged the JROTC curriculum fits perfectly with the credit requirements of the arts and humanities as well as CTE.

Trish Swain, Co-founder and Director, TrailSafe Nevada, submitted written testimony opposing R087-14. (Please see [Exhibit M.](#)) She stated S.B. 226 (Chapter 241, *Statutes of Nevada 2011*) established trapping as an inappropriate activity within city limits, city parks, and residential neighborhoods. Ms. Swain identified trap visitation regulations of various states. (Please see [Exhibit M-1.](#)) She questioned why trappers enjoy privileges not enjoyed by hunters, noting there are no bag limits or limitations on the number of traps. Citing problems with the language of S.B. 213 (Chapter 231, *Statutes of Nevada 2013*) as amended, Ms. Swain expressed concern with the indeterminate phrase “close proximity to a populated or heavily used area.” In the interest of the public, tourists, animal advocates, and DOW law enforcement, Ms. Swain asked the Commission to reject R087-14 as written and requested the Nevada Legislature amend S.B. 213 during the upcoming session to accommodate a uniform visitation interval of 24 hours.

Richard Pabst, citizen of Clark County, stated his opinion that R087-14 is flawed, pointing out it was turned down by every CAB in the State. He said when the regulation was brought before the Board of Wildlife Commissioners, no documented, substantial information was presented. Mr. Pabst opposed the lack of transparency of the regulation’s process and requested the Commission defer R087-14 and send it back to the DOW for further review.

Stephanie Myers, resident of Lee Canyon, addressed R011-14. She agreed there should be a moratorium on fracking until a specific and thorough environmental assessment could be completed. Ms. Myers has learned from other states that fracking is dangerous with complex and unpredictable consequences. She requested the Legislative Commission not approve R011-14.

Continuing, Ms. Myers addressed R087-14, which she said would continue the 96-hour trap visitation statewide, except for miniscule areas around downtown Las Vegas and Reno. Ms. Myers pointed out the 96-hour visitation involves inhumane treatment of Nevada’s wildlife and many nontarget species, such as dogs, golden eagles, and mountain lions. She inferred that trappers take Nevada’s wildlife, a natural resource of the State, and turn it into private profit. Ms. Myers requested the Commission send R087-14 back to the Legislature.

Christian Francisco Gerlach, private citizen of North Las Vegas, Nevada; member of the Sierra Club; Executive Director, Save Nevada’s Water: Ban Fracking in Nevada; and a member of Nevadans Against Fracking provided written testimony regarding R011-14. (Please see [Exhibit N.](#)) He suggested the regulations do not take sufficient precautionary measures to prevent the contamination of the State’s

groundwater resources. Mr. Gerlach questioned why the regulations limit monitoring for contamination to four sites per drill pad. He mentioned the Autumn 2003 issue of *Oilfield Review* ([Exhibit N-1](#)) states that 60 percent of well bores fail and potentially contaminate water aquifers with hydrocarbons and fracturing fluids within 15 years. Mr. Gerlach also mentioned the DOM has allowed the use of trimethylbenzene, which is registered with the United States Environmental Protection Agency as a neurotoxin and cancer-causing chemical. He said 1.5 to 5 million gallons of water are used each time hydraulic fracturing takes place, making the water nonpotable. Mr. Gerlach expressed concern that drilling companies can request the fracture permits be kept confidential for six months or more. He submitted the names of individuals who signed two different petitions against fracking ([Exhibit N-2](#) and [Exhibit N-3](#)), and on behalf of these petitioners, Mr. Gerlach urged the Commission to fix the loopholes and weak regulations and make the DOM stop issuing permits to gas and oil developers until the process is properly regulated.

Paul R. Dixon, Chair, CAB to Manage Wildlife for Clark County, presented testimony regarding R087-14. He stated the regulation process consisted of approximately 100 hours of public testimony over the last several years. Mr. Dixon acknowledged not everyone is happy with the regulation, but suggested it represents a compromise. He is of the opinion that sending it back to the Board of Wildlife Commissioners or Legislature will not guarantee a different outcome. Mr. Dixon stressed the job of the Board is to protect the welfare of the State's wildlife, and he is of the opinion it did what it thought best for Nevada.

Connie Howard, private citizen of Reno, Nevada, testified in opposition to R087-14. She said Nevada's wildlife is a valuable resource, which the State must manage and regulate wisely for the common good of its residents. Ms. Howard discussed how the careful management of deer, elk, goats, and sheep by the DOW and hunting advocates ensures their populations are strong and healthy. Today, these animal populations are at historically high levels and are hunted without negative consequences. She stated this is not the case with fur-bearing species killed by trapping. Ms. Howard suggested trappers hope to kill the most lucrative animals, particularly bobcats; but in doing so, they may kill other target species, such as coyotes and foxes, in addition to nontarget species, such as rabbits, dogs and cats. Due to the absence of regulations in Nevada, Ms. Howard reported the national organization, Born Free USA, has given the State a D- minus in trapping. Since the DOW does not manage furbearing species in the same way as herbivores, she suggested the wildlife conservation strategy should be to kill carefully with concern for the overall health of these species. Ms. Howard does not support trapping on public lands, but as long as the State allows it, she encouraged heavy regulation. In her opinion, the 96-hour visitation period is irresponsible and reckless, and few animals can survive for that length of time.

Bill Chamberlain, private citizen, testified he has professionally dealt with wildlife conservation and management for over 30 years. He said trapping is an ineffective wildlife management tool; it is indiscriminate, inhumane, and rarely accomplishes its objective of disease control for species management. Mr. Chamberlain is of the opinion that the visitation interval of 96 hours is out of line with the majority of other states, and the trapping community's justification for the 96-hour period lacks substance and logic. He suggested a 24-hour interval would be a reasonable and acceptable adjustment. Mr. Chamberlain said he would like to see trapping removed from all public lands.

Heidi Plonski, Nevada elementary school teacher, spoke on behalf of her students regarding the hazards of fracking. She expressed concern that Nevada is welcoming an unknown industry, which is not moving the State forward in a positive direction.

Don Molde, citizen of Reno, Nevada, concurred with Bob Fulkerson's concerns regarding the absence of wildlife protection in the fracking regulations. Mr. Molde disclosed he is one of two plaintiffs who recently brought a lawsuit against the Board of Wildlife Commissioners regarding trapping issues. He objected to the 96-hour visitation period of R087-14, suggesting it provides no public protection; caters to the convenience of trappers; and is injurious to wildlife. Mr. Molde suggested a 48-hour visitation interval may not prevent nontarget species from being caught, but it would increase their chances for survival.

Leah Sturgis, Nevada landowner, provided testimony regarding subsection 2(c) of Section 4 in R087-14. She is concerned about policy, failed mitigation, and the failure to prosecute trappers who trespass illegally. Ms. Sturgis said licensed trappers entered her property last year, set traps without her consent, and damaged her property physically and financially. Having caught the trappers in the act, she expressed her opinion that a few demerit points are not enough punishment. Ms. Sturgis respectfully requested Assemblyman Hansen recuse himself from making any decisions regarding R087-14 due to a conflict of interest.

Chair Kirkpatrick closed the meeting's first public comment period.

**APPROVAL OF MINUTES OF THE JUNE 23, 2014, MEETING—**  
Assemblywoman Marilyn Kirkpatrick, Chair

VICE CHAIR FRIERSON MOVED APPROVAL OF THE MINUTES  
OF THE JUNE 23, 2014, MEETING.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

**LEGISLATIVE AUDITOR—SUMMARY OF AUDIT REPORTS PRESENTED TO THE  
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION, *Nevada Revised  
Statutes* (NRS) 218G.240**—Paul V. Townsend, Legislative Auditor, Audit Division, LCB

Paul V. Townsend, Legislative Auditor, Audit Division, LCB, presented a letter from Assemblywoman Maggie Carlton, Chair, Audit Subcommittee of the Legislative Commission, recommending the Legislative Commission accept four audit reports. (Please see [Exhibit O](#).) Mr. Townsend presented a summary of each report.

Supreme Court of Nevada, Judicial Branch of Government

The purpose of the audit was to determine whether the Court had effective controls over the procurement of goods and services, the collection of certain fees, and safeguarding equipment. The audit found the Court had adequate controls in place, but needed to make the following improvements: (1) take additional action to ensure multiple bids or quotes are obtained when selecting vendors for goods and services; (2) strengthen controls over cash receipts; and (3) improve equipment inventory and disposal records. The report contained six recommendations, of which five were accepted. The Court rejected the recommendation to revise its policies and procedures to ensure competitive bids or quotes are solicited when procuring goods and services, including documenting the rationale when the vendor is deemed sole source. (Please see [Exhibit P](#).)

Use of Certain Assessments Paid by Counties, Department of Health and Human Services (DHHS)

Mr. Townsend said this audit was required by Assembly Bill 255 (Chapter 198, *Statutes of Nevada 2013*), which focused on five assessments on counties administered by the DHHS: (1) community health services; (2) consumer health protection; (3) rural child welfare; (4) youth alternative placement; and (5) the Youth Parole Bureau, Division of Child and Family Services (DCFS), DHHS. The audit found the Department's use of these assessments complied with State law; however, the calculation of the assessment amounts needed improvement. The audit found the assessment calculations did not have adequate supporting documentation, and the policies and procedures lacked sufficient guidance regarding the calculations of assessments. Better communication is needed with the counties regarding the use of assessment revenues and services provided. The report contained six recommendations, which were all accepted by the DHHS. (Please see [Exhibit Q](#).)

Rehabilitation Division, Department of Employment, Training and Rehabilitation

The report found the Division does not have adequate controls to ensure payments for certain vocational rehabilitation services are properly approved, paid, and monitored in accordance with Individual Plans of Employment (IPE). For example, the review found certain offices provided dental services at much higher rates of occurrence and often as a primary service. Three offices accounted for 62 percent of all Division dental expenditures over a 5-year period; had these offices incurred



dental service rates similar to other offices, dental expenditures for the Division would have been \$900,000 less during that period. Mr. Townsend suggested the reason for the disproportionate spending is that rehabilitation counselors are responsible for nearly all case activities with little required oversight by management. The counselors determine eligibility, prepare and approve the IPEs, and approve invoices with little oversight or review. Stronger controls and management review would help ensure vocational rehabilitation activities are proper and utilized as intended. The report found stronger controls over the issuance of fuel cards and bus passes are needed to ensure proper accountability and prevent misuse. The report included 12 recommendations, which were all accepted by the Division. (Please see [Exhibit R.](#))

#### Review of Governmental and Private Facilities for Children, October 2014

Mr. Townsend said the Legislative Auditor has the statutory responsibility to conduct reviews of certain governmental and private facilities that have custody of children pursuant to an order of the court. The report includes reviews of 4 children's facilities, unannounced site visits to 2 facilities, and a survey of 63 facilities. The reviews found three of the four facilities provided reasonable assurance that they adequately protect the health, safety, and welfare of the youths at the facilities, and they respect the civil and other rights of the youths in their care. One entity, Red Rock Academy, did not provide that same assurance. He noted this facility is State-owned and is located in Las Vegas, Nevada, on the campus of the former Summit View Youth Correctional Center. The Academy operates through a contract between the DHHS, the DCFS, and Rite of Passage, a private nonprofit organization. The Academy's policies and procedures need improvement, and management needs to ensure staff complies with policies and procedures. The audit identified problems in the following areas: (1) noncompliance with requirements for the administration of medications and staff to youth ratios; (2) lack of control over tools and contraband; (3) poor reporting of corrective room restrictions; and (4) a lack of notification of youths' rights. The Academy did file an extensive response to the review indicating corrective action is underway. Weaknesses in policies and procedures, medication, and the background investigation process were found at the other facilities reviewed. (Please see [Exhibit S.](#))

Mr. Townsend said the Audit Subcommittee recommends the Legislative Commission accept the audit reports.

ASSEMBLYMAN STEWART MOVED ACCEPTANCE OF THE  
AUDIT REPORTS.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

## PROGRESS REPORTS AND APPOINTMENTS

### A. Litigation Currently in Progress—Brenda J. Erdoes, Legislative Counsel, Legal Division, LCB

Brenda J. Erdoes, Legislative Counsel, Legal Division, LCB, provided an update on the following four cases currently in litigation:

1. The federal case of *People's Legislature v. Miller* has been stayed until the State case is decided.
2. The State is awaiting a decision from the Supreme Court of Nevada, which heard oral arguments on March 4, 2014, for the State case of *People's Legislature v. Miller*.
3. In the case of *City of Fernley v. State, Dept. of Taxation*, Fernley is seeking money damages and declaratory injunctive relief based on federal and State constitutional claims. Fernley is challenging the creation and administration of the consolidated tax distribution formula. On October 6, 2014, the District Court granted the State's motion for summary judgment and a final judgment in favor of the State on all the causes of action and all claims of relief that were in Fernley's brief. The State is waiting to see whether the city of Fernley chooses to appeal to the Supreme Court of Nevada, which it would have to do by November 7, 2014, or the case will become final.
4. *Little v. State of Nevada, First Judicial District Court (Carson City)*, challenges the constitutionality of the Catalyst Account. The discovery portion of this case will be ending on November 7, 2014, and the deadline for filing summary judgment motions is December 8, 2014.

Ms. Erdoes said the Legal Division is currently working on two confidential ethics cases.

### B. Interim Studies in Accordance with the Rules and Policies of the Legislative Counsel Bureau, Rule No. 6, "Progress reports of studies; completion of studies and distribution of reports; approval required to carry over studies"—Rick Combs, Director, LCB

Rick Combs, Director, LCB, explained that the interim reports are the abstracts and summaries of recommendations from a number of studies that occurred during the interim.

### C. Appointment of Members to Various Committees and Similar Entities

#### 1. National Conference of Commissioners on Uniform State Laws (NRS 219.020)

Mr. Combs mentioned a letter from Daniel Hamilton, Dean, William S. Boyd School of Law, University of Nevada, Las Vegas, recommending the reappointment of Professor Kay Kindred and the appointment of Professor Keith Rowley to the National Conference of Commissioners on Uniform State Laws. (Please see [Exhibit T](#) and [Exhibit U](#).)

VICE CHAIR FRIERSON MOVED APPROVAL OF REAPPOINTING KAY KINDRED AND APPOINTING KEITH ROWLEY TO THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

#### 2. Task Force on Alzheimer's Disease (NRS 439.5083)

Mr. Combs said the term of the Assembly Member appointed to the Task Force on Alzheimer's Disease expired on June 30, 2014. Therefore, the Commission must appoint an Assembly Member to serve a two-year term ending on June 30, 2016. (Please see [Exhibit V](#).)

Chair Kirkpatrick recommended Assemblywoman Heidi Swank.

VICE CHAIR FRIERSON MOVED APPROVAL OF APPOINTING ASSEMBLYWOMAN HEIDI SWANK TO THE TASK FORCE ON ALZHEIMER'S DISEASE.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION CARRIED.

#### 3. Southern Nevada Enterprise Community Board (Assembly Bill 304, Chapter 481, *Statutes of Nevada 2009*)

Mr. Combs said the Southern Nevada Enterprise Community Board consists of nine members, including one member from the Assembly and one member from the Senate who represent the Community. (Please see [Exhibit W](#).) Current legislative members are Assemblywoman Dina Neal and Senator Kelvin D. Atkinson, who was appointed to serve the remainder of former Senator Steven A. Horsford's three-year

term. Since both terms are up, the Commission must appoint a member from the Senate and the Assembly to serve three-year terms ending on June 30, 2017.

SENATOR DENIS MOVED APPROVAL OF REAPPOINTING SENATOR KELVIN D. ATKINSON AND ASSEMBLYWOMAN DINA NEAL TO THE SOUTHERN NEVADA ENTERPRISE COMMUNITY BOARD.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED.

#### 4. Home Retention Advisory Board, Department of Business and Industry

Mr. Combs said the Director of the Department of Business and Industry (DBI) requested the Commission appoint two of the five members of a new advisory committee that will advise and consult on the Nevada Home Retention Program. The program is funded by the national mortgage settlement agreement and receives supplemental federal funds. The nonprofit organization Home Means Nevada administers the program. (Please see [Exhibit X](#).) One member will be appointed by the Legislative Commission from three names submitted by the Division of Mortgage Lending, DBI, which are Janis Grady; Timothy P. Klinger; and Janine Truman ([Exhibit X-1](#)); and three names submitted by the Division of Financial Institutions, DBI, which are James DeVold; William (Bill) Martin; and Raymond P. Specht ([Exhibit X-2](#)).

Chair Kirkpatrick recommended Mr. Klinger from the list submitted by the Division of Mortgage Lending.

VICE CHAIR FRIERSON MOVED APPROVAL OF APPOINTING TIMOTHY P. KLINGER TO THE HOME RETENTION ADVISORY BOARD.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED.

Senator Kieckhefer recommended James DeVold from the list submitted by the Division of Financial Institutions.

SENATOR KIECKHEFER MOVED APPROVAL OF APPOINTING JAMES DEVOLLD TO THE HOME RETENTION ADVISORY BOARD.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

D. Recommendations of the Sunset Subcommittee of the Legislative Commission (NRS 232B.250)—Assemblywoman Irene Bustamante Adams, Chair, Sunset Subcommittee of the Legislative Commission

Assemblywoman Irene Bustamante Adams, Assembly District No. 42, Chair, Sunset Subcommittee of the Legislative Commission, shared written testimony ([Exhibit Y](#)) regarding a report, which identifies the recommendations of the Subcommittee ([Exhibit Y-1](#)). She presented background information on the Subcommittee and shared highlights of its work during the 2013-2014 Interim. Based on the Subcommittee's review of 31 boards, commissions, councils, committees, and similar entities, it made the following recommendations:

- Continue ten boards and commissions as currently provided in the NRS;
- Continue eight boards and commissions with certain statutory revisions, which will enable them to function more efficiently;
- Consolidate two boards into one board;
- Terminate nine boards and commissions, which are currently inactive; and
- Terminate two inactive advisory committees and transfer their functions to another entity.

Assemblywoman Bustamante Adams presented a table indicating a summary of recommended revisions to the NRS by the Subcommittee ([Exhibit Y-2](#)). The revisions will need to be included in legislation if the Commission approves the Subcommittee's recommendations.

She discussed in detail the recommendation to consolidate the Board of Hearing Aid Specialists and the Board of Examiners for Audiology and Speech Pathology, noting that the Board of Hearing Aid Specialists opposed the merger. Assemblywoman Bustamante Adams stated the Subcommittee is of the opinion that a full Legislative review of both Boards is overdue.

Assemblywoman Bustamante Adams reminded the Commission that during the 2013 Session, the Legislature enacted A.B. 494 (Chapter 348, *Statutes of Nevada 2013*) to revise the Nevada Funeral and Cemetery Services Board and required the Board to report to the Subcommittee at regular intervals during the

2013-2014 Interim. She shared the Board reported to the Subcommittee at two of its scheduled meetings, prior to the adjournment of the Subcommittee's regular work in June. Subsequently, the Board adopted proposals for revisions to the NRS governing its operations, which have been included in the Subcommittee's report. She stressed the Subcommittee has not viewed these proposals and does not take a position on them at this time.

Concluding her remarks, Assemblywoman Bustamante Adams drew the Commission's attention to letters in the report addressed to various individuals or entities that either express a concern from the Subcommittee or make a request for a status report regarding the activities of a particular board or commission. She said these letters require the approval of the Commission as well as the Subcommittee's recommendations for revisions to the NRS. Since the Subcommittee does not have the authority to request bill drafts, it urges the Commission to accept the Subcommittee's report and request a number of bill drafts, as the Legal Division determines necessary, to address the Subcommittee's recommendations.

Assemblyman Stewart asked if the recommendations were unanimously approved by the members of the Subcommittee.

Carol Stonefield, Managing Principal Policy Analyst, Research Division, LCB, said the vote on the recommendation to terminate the State and Local Government Panel on Renewable and Efficient Energy vote was five to one.

Chair Kirkpatrick called for public comment regarding the report of the Sunset Subcommittee; however, no testimony was presented.

SENATOR SETTELMAYER MOVED APPROVAL TO ACCEPT THE REPORT OF THE SUNSET SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION AND GIVE THE LEGAL DIVISION THE AUTHORITY TO DETERMINE THE APPROPRIATE NUMBER OF BILL DRAFT REQUESTS THAT WILL ADDRESS THE SUBCOMMITTEE'S RECOMMENDATIONS.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION CARRIED.

## **LEGISLATIVE COMMISSION POLICY**

- A. 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\\_2014\\_Oct24.pdf](http://www.leg.state.nv.us/register/indexesRegsReviewed/LCmtg_List_2014_Oct24.pdf).)

Referring to the list of State agency regulations to be reviewed by the Legislative Commission ([Exhibit Z](#)), the Commission members asked the Chair to hold the following regulations for discussion: R106-12; R118-12; R037-13; R108-13; R135-13; R011-14; R019-14; R024-14; R025-14; R044-14; R046-14; R054-14; R060-14; R063-14; R064-14; R068-14; R083-14; R087-14; R088-14; R098-14; R099-14; and R010-14.

ASSEMBLYMAN STEWART MOVED APPROVAL OF THE FOLLOWING REGULATIONS: R104-12; R125-12; R038-13; R111-13; R129-13; R134-13; R142-13; R143-13; R149-13; R003-14; R015-14; R016-14; R017-14; R021-14; R027-14; R031-14; R033-14; R048-14; R051-14; R067-14; R069-14; R079-14; R081-14; R082-14; R084-14; R102-14; AND R043-13.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 106-12

A REGULATION relating to cosmetology; prohibiting a licensed cosmetologist who supervises and trains a cosmetologist's apprentice or a licensed electrologist who supervises and trains an electrologist's apprentice from receiving compensation for the apprenticeship; revising provisions governing practice before the State Board of Cosmetology; revising provisions governing the submission of complaints to the Board and determination by the Executive Director of the Board whether a complaint warrants an investigation; revising the procedure for petitioning the Board for a declaratory order or an advisory opinion; requiring a petitioner to comply with the provisions of a declaratory order or advisory opinion issued by the Board; revising provisions governing the procedure for a petition for the adoption, filing, amendment or repeal of a regulation; revising certain provisions concerning mobile cosmetological establishments; prescribing fines for certain violations; prescribing conduct which constitutes gross malpractice; prescribing certain conduct for which a licensee is subject to disciplinary action; repealing certain provisions governing practice before the Board; and providing other matters properly relating thereto. (Please see [Exhibit AA](#).)

Assemblyman Daly asked for examples of the compensation prohibited in Sections 2 and 3.

Gary Landry, Executive Director, State Board of Cosmetology, said licensed cosmetologists may not accept payment from apprentices since they are making money from the apprentices working in their shops. He stated R106-12 clarifies existing law.

Referring to Section 12, Assemblyman Daly requested a clear explanation of the Board's role upon receiving a petition for a declaratory order or advisory opinion. He asked whether the Board considers the merits of the petition or just the underlying facts.

Mr. Landry replied he has no statutory or regulatory authority to make orders or hear cases as the Executive Director. He clarified Section 12 refers to the preparatory work licensees must complete in order to appear before the Board and the clarification came from the Office of the Attorney General (AG) in order to comply with the State's Open Meeting Law.

Assemblyman Daly described a scenario where a licensee complains that a fellow licensee is violating the law and petitions for clarification of the law. If a hearing on an issue becomes a contested case, Assemblyman Daly questioned whether the case would fall under Chapter 233B of NRS, "Nevada Administrative Procedure Act."

Mr. Landry stated declaratory orders sought by licensees are formal complaint hearings run by the Office of the AG. A declaratory order goes before the Board as a complaint hearing; the Board does not distinguish between complaint hearings and petitions seeking declaratory orders.

Sarah A. Bradley, Deputy AG, Office of the AG, said NRS 233B requires all agencies to have a procedure in place for licensees to obtain declaratory orders. An example of a normal declaratory order would be licensed cosmetologists wanting to know if particular instruments or techniques would be appropriate for their practices. However, if someone complains about a licensee, the appropriate process would be to file a complaint, which the Board then investigates and follows the procedures for a contested case. Ms. Bradley noted that in the past, Board members could consider declaratory order petitions at home, but R106-12 clarifies that declaratory orders should be placed on an agenda and considered during an open public meeting. The same is true for a petition to change the regulations as well as a general petition to appear. She said current statute states any person can petition the Board on any issue. Ms. Bradley suggested the provisions in the Nevada Administrative Code (NAC), as written before R106-12, were outdated and probably did not comply with the Open Meeting Law.

Referring to the deleted sections of the regulation, Assemblyman Daly noted there is no process for a person to intervene or request a rehearing. He questioned what happens when a final order is issued, which could potentially ask for a rehearing or judicial review.

Ms. Bradley replied the intent of the regulation was to eliminate duplicative provisions already contained in Chapter 622A of NRS, "Administrative Procedure Before Certain Regulatory Bodies." The items deleted from the regulation are in



NRS 622A and NRS 233B, which the Board has been following. She said NRS 622A was added in 2005; R106-12 simply eliminates duplicative law.

Assemblyman Daly said his questions would have been answered if the need for eliminating duplicative provisions had been included in No. 1 of the Informational Statement.

Responding to Assemblyman Oscarson's question as to whether the regulation was brought forward by the Board or by the Office of the AG, Ms. Bradley replied the Executive Director before Mr. Landry requested she review the regulations and suggest changes based on other laws.

ASSEMBLYMAN DALY MOVED APPROVAL OF R106-12.

VICE CHAIR FRIERSON SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 118-12

A REGULATION relating to public records; setting forth conditions for the storage of certain records; amending the procedures for sealing certain records; providing for the retention and disposition of certain sealed records; authorizing the transfer of certain electronic records of historical value to the State Archives; setting forth the requirements for an electronic recordkeeping system; amending provisions relating to the disposal of records of state agencies and local governmental entities; amending provisions relating to the records management program of state agencies and local governmental entities; setting forth the duties of the records officer of each state agency; making various other changes relating to public records; and providing other matters properly relating thereto. (Please see [Exhibit BB.](#))

Assemblyman Daly questioned why Sections 2 and 6 and Sections 4 and 9 are the same.

Brenda J. Erdoes, previously identified, said the definitions are repeated because they have been added to different subheads in the same chapter. For example, in Section 31, the definition identified in Section 2 of the regulation is added to the subhead in NAC 239.011 to 239.165; and in Section 40, the repetitive definition from Section 6 has been added to a different subhead, which is NAC 239.570 to 239.750.

Expressing concern with the definition of nonrecord materials in Section 33, Assemblyman Daly asked for clarification that the regulation strictly applies to the purpose of record retention.

Jeffrey M. Kintop, Assistant Administrator, Division of State Library and Archives, Department of Administration, said R118-12 defines records for scheduling purposes and agencies' responsibilities for keeping those records. He noted R118-12 is separate from R107-13, reminding the Commission that R107-13 was discussed earlier this year and that the Division was asked to clarify definitions and develop additional guidance in the regulation.

Assemblyman Daly expressed frustration with public bodies taking privileges by stating records are not public without referring to a statute or regulation that makes them confidential.

ASSEMBLYMAN DALY MOVED APPROVAL OF R118-12.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 037-13

A REGULATION relating to solid waste disposal; providing for the imposition of certain fees by the Division of Environmental Protection of the State Department of Conservation and Natural Resources relating to the operation of certain solid waste disposal sites; and providing other matters properly relating thereto. (Please see [Exhibit CC.](#))

Pointing out the fees were substantial, Assemblyman Stewart questioned whether they were new or additional. He noted the Small Business Impact Statement claimed the fees would have an impact on one small business, and he requested to hear from the small business, if possible,

David Emme, Deputy Administrator, Air Programs and Waste Management, DEP, SDCNR, identified the small business as Western Elite, Inc., a private construction and demolition landfill located in Lincoln County. He reported the DEP reached out to all the companies affected and worked with them to negotiate the fee structure to accommodate their needs. Mr. Emme submitted an e-mail message from Scott Seastrand, Vice President, Western Elite, Inc., which offered the company's support for the fee structure. (Please see [Exhibit DD.](#))

Assemblyman Stewart asked why the estimated collection was only \$100,000 when the fee is \$65,000 a year for six companies.

Mr. Emme explained the \$65,000 fee would only apply to the Lockwood Regional Landfill, which serves Reno and Sparks, Nevada. He said the Western Elite C&D Landfill would pay \$20,000 per year; the Carson City Sanitary Landfill, the City of Elko Sanitary Landfill, and the TS Power Plant Industrial Landfill would each pay

\$5,000; and the North Valmy Power Plant Industrial Landfill would pay \$10,000. Mr. Emme noted the total of \$110,000 is the anticipated collection of annual fees.

Assemblyman Hansen asked how much is collected every year in tire fees and how they are used.

Mr. Emme explained the tire fee was established in 1993 to help fund the program for regulating municipal solid waste landfills across the State. He noted an allocation formula exists in statute for the three regulatory jurisdictions in the State, which are the two health districts in Washoe and Clark Counties and the DEP. Mr. Emme reported the ten-year average for the DEP's share of the fund has been about \$750,000 a year. The total amount is approximately 1.6 million dollars, and the DEP's share is about 44.5 percent of the annual fee. Since tires are commonly disposed at landfills, they are a portion of the waste stream.

ASSEMBLYMAN STEWART MOVED APPROVAL OF R037-13.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 108-13

A REGULATION relating to mining; revising provisions related to the program for the pooling of reclamation performance bonds; providing for certain administrative expenses of the program to be transferred to the Account for the Division of Minerals, and providing other matters properly relating thereto. (Please see [Exhibit EE.](#))

Assemblyman Daly asked how much is in the bond pool and how much 3 percent represents.

Michael Visher, Deputy Administrator, DOM, CMR, stated there were 3.2 million dollars in the bond pool at the end of September; and the 3 percent, which is a means to collect the administrative fee, is roughly \$90,000. He reported administrative expenses have been less than 3 percent.

ASSEMBLYMAN DALY MOVED APPROVAL OF R108-13.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED.

### Regulation 135-13

A REGULATION relating to procedures of the State Land Registrar; establishing the procedure for obtaining an authorization from the State Land Registrar for the use of certain lands associated with the navigable waters of this State; and providing other matters properly relating thereto. (Please see [Exhibit FF](#).)

Senator Settlemeyer asked for clarification that agriculturalists who currently place boards into the Carson River when water flows drop will not have to go through the permitting process. He expressed concern regarding how R135-13 will work.

Charles Donohue, Administrator, Division of State Lands, SDCNR, said the regulation addresses new structures. The position of the State is that it owns the bed and banks of the Carson River and therefore must issue the appropriate authorizations. Mr. Donohue mentioned a requirement to receive authorization from the Division of State Lands for dredging activities in navigable waters falls under NRS 322.130, which he noted does not pertain to ditches.

Senator Settlemeyer said agriculturalists currently obtain permits through the U.S. Army Corps of Engineers and then notify the State, but he was not aware of a particular application. He stated there are individuals who pay taxes on the Carson River, even though the State claims ownership.

Assemblyman Hansen questioned why the Walker River, Humboldt River, and various reservoirs were not included in Section 7 when referring to the definition of "navigable waters." Stating his understanding that there is a provision under federal law, he asked for clarification if people fishing in the Walker River could be cited for trespassing if their feet are touching the bottom.

Mr. Donohue said a number of Nevada's navigable waterways have been designated by statute as well as by court cases. He added that NRS 321.595 designates the boundary of Lake Tahoe and declares it sovereign. Mr. Donohue said the regulations reserve the right that in the future, if bodies are determined to be navigable at the time of statehood, the State would permit structures on those waterways.

A discussion took place between Assemblyman Hansen and Mr. Donohue regarding the water elevations at Lake Tahoe. Mr. Donohue said a person close to the shoreline at Lake Tahoe today might be on a public beach in front of a private parcel because the water level is currently below 6,223 feet. When the lake is full, Assemblyman Hansen suggested there have been cases where boaters in a 6-foot intermittent zone have been threatened with arrest. Mr. Donohue said R135-13 addresses the low water levels at 6,223 feet and high water levels at 6,229.1 feet by authorizing structures in the intermittent zone so they are not a hazard toward navigation. He stressed the State claims no ownership. In many cases, Mr. Donohue said private parties littoral to and adjacent to the lake have filed title

actions to claim the property between 6,229.1 feet and 6,223 feet, of which some have been successful.

SENATOR SETTELMAYER MOVED APPROVAL OF R135-13.

VICE CHAIR FRIERSON SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 011-14

A REGULATION relating to natural resources; providing for the regulation of hydraulic fracturing in this State; revising provisions governing the operation of wells for the extraction of oil, gas and geothermal resources; and providing other matters properly relating thereto. (Please see [Exhibit F.](#))

Assemblyman Daly expressed concern with Section 3. He questioned why landowners must consent to monitoring the water source since monitoring might cut off their royalties paid by the drilling companies. He asked for clarification that this section is not intended to be a loophole.

Richard Perry, Administrator, DOM, CMR, suggested Assemblyman Daly is referring to subsection 2(c) of Section 9, which relates to the sampling of an area of review on private property. He explained if operators have a lease for oil or gas drilling, the regulations require them to sample up to four wells within that area of review. However, if operators do not have a lease on the property that is within the area of review and do not have control of the property, they must gain permission from the landowner to sample the wells. If the landowners do not grant permission, the operators can apply to the Administrator for an exception since they do not have the right to enter onto the private property to sample the wells.

Assemblyman Daly asked whether fracking would stop if landowners prohibit the drilling corporations from entering their property to sample the wells. He expressed concern there might be a loophole allowing no monitoring or testing in locations where the landowners did not give consent.

Mr. Perry pointed out subsection 1(e) of Section 9 clearly states if operators drill a well for water supply, it must be used as one of the monitoring wells. He stressed there are no exceptions. However, if operators drill on federal ground, they would have consent to sample the wells on federal ground, and if they have control of private ground, they would be required to sample that ground since they have leased it from a private landowner. Mr. Perry said the DOM cannot insist the drill operators sample a well on a piece of private ground if they have no lease on that ground. This exception requires the drilling companies to achieve consensus with the landowners, but if the landowners do not allow the drilling companies to enter their land to sample the well, the DOM cannot force them to do so. Mr. Perry

added that companies could only drill on private land if they have a lease, and any wells within the area of review on that ground would be sampled. He affirmed there are no exceptions to this part of the regulation.

Addressing subsection 5 of Section 12, Assemblyman Daly asked whether the Administrator would err on the side of transparency regarding testing and monitoring. He mentioned the importance of S.B. 390, which married the DOM with the DEP. Assemblyman Daly wanted to ensure the Administrator does not have too much discretion and that any discretion used will be transparent to meet legislative intent.

Mr. Perry said the regulations require operators to submit a list of the chemicals they will use prior to hydraulic fracturing treatment. The DOM can approve or disapprove of the chemicals if they pose a danger to the environment. He said subsection 5 of Section 12 relates to proprietary information, which is covered under Chapter 600A of NRS, "Trade Secrets (Uniform Act)," and that the DOM does not have the legal right to disclose those trade secrets under current Nevada statutes.

Assemblyman Daly countered he was not talking about disclosing proprietary information to the public. Referring to subsection 5 of Section 9, which states, "The Administrator may require an operator to collect and test samples of an available water source in addition to the collection and testing protocol prescribed by this section if the Administrator finds that additional testing is warranted," he expressed concern with the word "may." Assemblyman Daly asked under what circumstances the Administrator might require more testing and whether the Administrator would err on the side of transparency.

Mr. Perry said subsection 5 of Section 9 allows the Administrator to hold operators beyond the minimum criteria of the regulations. If an application raises concerns for the nearby population, the Administrator can require a higher density of sampling wells or a higher setback requirement, which could be identified as conditions of approval in the permit.

Assemblyman Daly said he is not opposed to fracking, but he wants to ensure the public is comfortable that the process is safe and properly monitored.

Chair Kirkpatrick added that Kyle Davis, Political Director, Nevada Conservation League, worked with the group that put the regulations in place, and said he offered to discuss more details with legislators before the 2015 Session.

ASSEMBLYMAN DALY MOVED APPROVAL OF R011-14.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 019-14

A REGULATION relating to contractors; revising provisions relating to the imposition of fines; and providing other matters properly relating thereto. (Please see [Exhibit GG](#).)

Chair Kirkpatrick reported the State Contractors' Board submitted a document addressing the intent of the proposed language, enabling statutes, and a public notice of a workshop and hearing regarding R019-14. (Please see [Exhibit HH](#).)

Assemblyman Hansen expressed concern with the significant expansion of fees.

Misty Grimmer, representing the State Contractors' Board, explained the fees are for administrative violations, which are mandated by current statute but were not included in the regulations.

Chair Kirkpatrick clarified the fee levels proposed in this regulation are authorized by statute.

Responding to Assemblyman Hansen's question regarding the last time the fines were increased, whether they have been adjusted for inflation, and whether they are new increases resulting from this regulation, Ms. Grimmer replied she would seek clarification from the State Contractors' Board. She noted the minimum fines are low, and the Board has discretion regarding the range of fines.

ASSEMBLYMAN HANSEN MOVED APPROVAL OF R019-14.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 024-14

A REGULATION relating to emergency medical services; providing for the issuance of an endorsement as a critical care paramedic; providing for the assessment of administrative penalties; revising the categorization of providers of emergency care to consist of emergency medical responders, emergency medical technicians, advanced emergency medical technicians and paramedics; revising various provisions relating to standards and training for providers of emergency care; revising provisions relating to the preparation, inspection and use of ambulances, air ambulances and vehicles not used for the transportation of

patients; revising provisions relating to emergency medical dispatchers; revising provisions relating to ambulance or air ambulance services; and providing other matters properly relating thereto. (Please see [Exhibit II.](#))

In Section 72, Assemblyman Daly questioned the fees assessed to a person who has had a complaint filed against them. He did not agree with charging a fee to investigate a complaint; he suggested including the fee in a penalty charge if the person is found guilty.

Mary Wherry, Deputy Administrator, Division of Public and Behavioral Health (DPBH), DHHS, said the DPBH is trying to standardize this practice across all of its regulatory areas in addition to reducing its General Fund burden. She explained the DPBH must cover the cost of its staff involved in complaint investigations, and if a complaint is substantiated, this proposed regulatory language will charge the fee to the permittee. Ms. Wherry noted this regulatory language is consistent with the regulations for other licensing Boards.

Assemblyman Daly commented that other regulations do not make R024-14 acceptable to him. He questioned whether the DPBH operates only on fees, or does it also receive money from the State.

Steven Tafoya, Program Manager, Emergency Medical Systems (EMS), DPBH, DHHS, said the DPBH receives money from the General Fund in addition to fees received from the licensing of individuals and the permitting of agencies. He noted the fees are invested in grants to provide training.

Assemblyman Daly asked whether an agency receives a penalty or citation for noncompliance. If an agency wants to contest a violation, he stated there must be due process; in his opinion, the proposed investigation fee eliminates the agency's due process. Since the DPBH is given General Fund money to administer its laws and regulations, he suggested the cost of the investigation should be included in a fine if a violation is found.

Chair Kirkpatrick asked whether the regulation is adding EMS services to current regulations or to the fine process already in place.

Mr. Tafoya stated R024-14 applies only to EMS, which includes ambulances and their providers. Currently, there is no fee if a vehicle is removed from service upon inspection. He noted it is not preferable to take a vehicle out of service, especially in the rural areas. Subsections 3(a) and (b) of Section 6 add fees for day-to-day violations, which require compliance within 3 working days from the inspection.

Assemblyman Daly questioned how the DPBH can charge and collect a fee from any service or person against whom a complaint has been alleged for an investigation, whether the provider is found guilty or not of a violation.



Referring to Section 72, Mr. Tafoya said there is no upfront fee for the complaint. The DPBH only imposes a fee if a complaint has been substantiated based on the investigation.

Senator Brower questioned the definition of “substantiated.” In other areas of the law, he said subjects of complaints might be required to pay fees and costs if a hearing and a decision by a neutral judge finds them to be liable or in violation. He asked how the DPBH determines a substantiated complaint.

Mr. Tafoya said an investigator from the EMS program and any other necessary regulatory body investigate the complaint. The Deputy AG receives the findings and sends a notice to the individual or agency indicating whether the complaint is substantiated or unsubstantiated.

Based on Mr. Tafoya’s explanation, Senator Brower stated his understanding that the enforcement agency makes the decision as to whether the complaint is substantiated, which he pointed out is different from the usual due process situation. He asked whether it is common in these situations for the target of the complaint to learn that the investigation has substantiated the complaint, and if the individual or agency agrees to pay the costs of the investigation, formal charges will not be pursued. Or, if the target of the complaint disagrees with the decision, he asked whether the case could go to a formal hearing where the target of the complaint might incur more costs. Senator Brower questioned how the process typically works.

Ms. Wherry said the goal of the Division is to have safe providers. She gave an example of an investigation that finds an ambulance stocking expired medications; the Division will not shut the ambulance down but will give it time to appropriately stock and monitor its medications and supplies in order to respond to 911 calls.

Senator Brower commented that part of an acceptable goal is to make money and recoup costs.

Ms. Wherry said if a customer filed a complaint because an ambulance did not have proper IV tubing, the Division must investigate, which means staff is not able to perform its normal licensing duties. In order to respond to the demands of the Division, it needs to recoup its costs of the investigation. She mentioned there is an appeal process in Chapter 439 of NRS and Chapter 439 of the NAC, both titled “Administration of Public Health.” Ms. Wherry stressed the Division is not a profit industry; its philosophy is to assure public safety with adequate supplies and a network of providers.

Responding to Vice Chair Frierson’s question regarding whether the imposition of fees could be undone under existing statute pursuant to a successful appeal of

a substantiated complaint, Ms. Wherry said she would need to consult with the Division's Deputy AG for the appropriate answer.

Assemblyman Oscarson asked whether the investigative fees are in lieu of fines for noncompliance, and he questioned who actually investigates the complaints. He recognized the Division's goal is not to shut agencies down but to provide safe service for communities, especially in the rural areas of the State. Pointing out that Section 72 states the Division "may" charge a fee, Assemblyman Oscarson asked whether this was intentional in order for the Division to be discretionary.

Mr. Tafoya said the type of investigation determines the fines. For example, a provider using the ambulance's narcotics and becoming a drug addict requires a different type of investigation than an ambulance missing equipment. He noted the Division could consider an agency's history during the investigation. Mr. Tafoya said the Division uses a trained investigator, but the Division is looking at a standardized training program for the DHHS.

Vice Chair Frierson said a provision in NAC 439 addresses the appeals process by stating the imposition of any penalty associated with a disciplinary action would be stayed pending an appeal.

Based on the work she has done in the past with group home regulations, Chair Kirkpatrick said she is comfortable with R024-14. She asked what the current fee is for an investigation.

Mr. Tafoya said the Division determines the initial fee for the investigator rate based on the budget for travel expenses. He stated Category A fines are for violations that can be solved immediately, and Category B violations constitute reinspection fees.

Chair Kirkpatrick said she does not want the Division to set aside what it thinks it will get from investigations in its budget.

Assemblyman Daly commented he still was uncomfortable with the regulation and will be voting no.

Acknowledging Assemblyman Daly's concerns, Senator Brower stated he is comfortable with the regulation, assuming that a person or agency can appeal the finding of a substantiated complaint.

SENATOR BROWER MOVED APPROVAL OF R024-14.

VICE CHAIR FRIERSON SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Daly voted no.)

#### Regulation 025-14

A REGULATION relating to social workers; revising provisions relating to examinations which must be passed by applicants for licenses to engage in the practice of certain social work; revising the requirements for the restoration of an expired license to engage in the practice of social work; revising fees for the issuance, renewal and restoration of certain licenses to engage in the practice of social work; revising the requirements for licensure by endorsement; revising the requirements for licensure as an independent social worker and as a clinical social worker; revising provisions governing the supervision of a social work intern; revising provisions relating to professional responsibility and unprofessional conduct; and providing other matters properly relating thereto. (Please see [Exhibit JJ.](#))

Assemblyman Hansen questioned the rationale for raising the fees.

Kim Frakes, Licensed Clinical Social Worker, Executive Director, Board of Examiners for Social Workers, said a number of fees are capped pursuant to NRS 641B.300, but the Board could raise the fees for licensed associates in social work and those individuals renewing and restoring delinquent or expired licenses. Referring to the Small Business Impact Statement, Ms. Frakes pointed out the anticipated revenue from the increased fees would enhance the Board's technology so that it could provide interactive forms online. She added the Board would like to increase the number of phone lines for office staff, increase its office space, and contract with investigators to handle the burgeoning disciplinary caseloads.

In response to a question from Assemblyman Hansen, Ms. Frakes confirmed the regulation would increase all of the fees to the statutory maximum.

Chair Kirkpatrick suggested the Board present a long-term budget when it appears before the budget committees during the 2015 Legislative Session rather than a budget for one session.

ASSEMBLYMAN HANSEN MOVED APPROVAL OF R025-14.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 044-14

A REGULATION relating to wells; revising various provisions governing the licensure and continuing education of well drillers; revising provisions governing the duties of well drillers; making various changes regarding the construction, drilling and plugging of wells and monitoring wells; revising provisions governing the waiver of certain requirements governing the drilling of wells; and providing other matters properly relating thereto. (Please see [Exhibit KK.](#))

Senator Settelmeyer said the original title of R044-14 stated, "A regulation revising provisions related to dam safety," yet the entire regulation refers to the well drillers' log. He asked for clarification if the regulation was mislabeled.

Timothy Wilson, Manager 2, Professional Engineer, Division of Water Resources, SDCNR, confirmed the regulation applies only to well drilling.

Chair Kirkpatrick reported the mistake has been corrected.

SENATOR SETTELMAYER MOVED APPROVAL OF R44-14.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 046-14

A REGULATION relating to public health; establishing requirements for the licensure of psychiatric residential treatment facilities; establishing grounds for the suspension and revocation of such a license; imposing certain fees for the issuance and renewal of such a license; and providing other matters properly relating thereto. (Please see [Exhibit LL](#).)

Referring to Section 10, Assemblyman Daly questioned why an applicant only has to be in "substantial compliance" with the provisions of Sections 3 through 34.

Franklin (Paul) Shubert, Health Facilities Inspection Manager, Bureau of Healthcare Quality and Compliance, DPBH, explained this is statutory language commonly used to refer to substantial compliance with regulations and full compliance with statutes. He mentioned there are times when facilities are not in full compliance with regulations but are attempting to correct the problems. In those cases, the DPBH issues a license as long as the facilities have submitted a plan of correction for compliance.

Chair Kirkpatrick agreed this is common language used throughout the statutes.

Assemblyman Daly asked whether Section 10 applies to facilities already open or new applicants.

Mr. Shubert verified Section 10 applies to facilities that have applied but are not yet open. He explained the application process contains several levels of inspections involving other agencies, at the conclusion of which the DPBH will complete on-site inspections of the facilities to determine compliance.

Chair Kirkpatrick clarified there are local and federal inspections; the State ensures the facilities meet these other benchmarks, which is why the phrase “substantial compliance” is used.

Mr. Shubert affirmed Chair Kirkpatrick’s clarification. He added psychiatric residential treatment facilities must also obtain accreditation from an accrediting body as well as maintain compliance with the regulations of the centers for Medicare and Medicaid services.

ASSEMBLYMAN DALY MOVED APPROVAL OF R046-14.

VICE CHAIR FRIERSON SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 054-14

A REGULATION relating to dams; revising provisions relating to hazard classifications of dams; revising provisions relating to the notice of, and application for approval of, construction, reconstruction, alteration and decommissioning of dams; revising provisions governing the abandonment of a dam; revising provisions relating to a request for approval to impound water; specifying the manner in which the storage capacity for a flood control detention basin will be determined for the purpose of charging a certain fee; requiring an inspection of a dam that is the subject of a certain complaint; revising requirements regarding the maintenance of an operation manual and log for each dam; revising provisions governing the transfer of an approval to impound water that is associated with a dam; and providing other matters properly relating thereto. (Please see [Exhibit MM.](#))

Senator Settlemeyer asked if R054-14 applies to private reservoirs or only to those on public lands.

Robert Martinez, Manager 2, Professional Engineer, Division of Water Resources, SDCNR, replied that Nevada looks at all dams in the State. He said the statutes only accept dams built and designed by the U.S. Army Corps of Engineers and the U.S. Bureau of Reclamation, U.S. Department of the Interior.

Responding to Senator Settlemeyer’s question regarding whether the regulations pertain to too much vegetation on the bottoms of dams in case they break out, Mr. Martinez replied the regulations update the practices as they have changed over the years.

SENATOR SETTELMAYER MOVED APPROVAL OF R054-14.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 060-14

A REGULATION relating to state financial administration; establishing procedures for the conduct by the State Controller of a hearing in which a licensee whose debt to an agency has been assigned to the State Controller for collection may contest the validity of the debt; providing for the conduct of a prehearing conference under certain circumstances; and providing other matters properly relating thereto. (Please see [Exhibit NN.](#))

Assemblyman Daly questioned subsection 2 of Section 11 regarding the deviation from the regular process for addressing the validity of a debt. He asked whether all three points must be met and whether all parties must stipulate to the deviation.

Jennifer Chisel, Deputy AG for the Office of the State Controller, confirmed all three of the criteria must be met in order for the Controller to deviate from any of the provisions outlined as part of the regular process.

Regarding Section 14, Assemblyman Daly questioned whether the prehearing conferences are confidential.

Ms. Chisel stated the hearing is conducted to determine the validity of the debt. The regulation gives the Controller discretion in cases involving a low dollar amount or a simple case of getting the parties to the table to forge a settlement. She acknowledged Assemblyman Daly's point regarding confidentiality and suggested keeping the hearings confidential might be considered as policy, if warranted.

Referring to Section 21, Assemblyman Daly suggested the agency should record the hearing, which should then be considered the official transcript. Questioning the part of the regulation that allows for a rehearing, he assumed this is in the context of a contested case where a final determination has been made, which is a final order of the agency. He said the regulation provides for a 20-day period, but he pointed out that subsection 4 of NRS 233B.130 provides a 30-day period for judicial review. This means a person can file for a rehearing within 15 days, which requires the agency to give an answer to that petition for rehearing not less than 5 days before the end of the 30-day period, leaving 10 days to make a decision. If a petitioner must submit a transcript, the transcript could be received after the deadline for making a decision.

Ms. Chisel acknowledged this section may need further review.

Chair Kirkpatrick asked Ms. Chisel if the Office of the State Controller would be willing to bring the regulation back to the Commission's December meeting.

Ms. Chisel agreed to defer the regulation.

ASSEMBLYMAN DALY MOVED TO DEFER R060-14.

VICE CHAIR FRIERSON SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 063-14

A REGULATION relating to education; revising the performance standards for courses of study in world languages; replacing the term "foreign language" with "world language"; and providing other matters properly relating thereto. (Please see [Exhibit OO.](#))

Assemblyman Hansen suggested the regulation addresses a nonexistent problem, noting that the sections revising the performance standards are almost identical to the deleted text. He requested an explanation for the change.

Steve Canavero, Ph.D., Deputy Superintendent for Instructional, Research and Evaluative Services, Nevada's Department of Education (NDE), replied that many states have changed their standards from "foreign" to "world" languages, in addition to Bishop Gorman High School in Las Vega, Nevada. Referring to American Sign Language and the Native American languages spoken in Nevada for a significant period as "foreign" or "other" does not ring true to the "world" language community, thus the reason for the change. He said the change is a recommendation from a national association that leads the way in standards. Dr. Canavero added the State last revised its foreign language standards in 1998. He explained the regulation not only changes the name but also eliminates grade level standards. The old standards anchored content to grade levels, but the new standards follow the professional recommendation of identifying proficiency in the language.

Expressing concern with changing the standards simply because other states have done so, Assemblyman Hansen said he opposes the regulation.

Senator Denis mentioned that "world" language is not new to the State, sharing that all of his children received "world" language instruction in their public elementary education.

Vice Chair Frierson commented that more time has been spent debating the word rather than embracing it.

SENATOR DENIS MOVED APPROVAL OF R063-14.

VICE CHAIR FRIERSON SECONDED THE MOTION.

Assemblyman Stewart questioned who would determine whether a student is proficient in a language and who would instruct the various "world" languages.

Dr. Canavero said the course offerings would determine whether a student proficient in a world language entering Nevada schools would receive credit for proficiency in that language. The regulation accepts "foreign" language endorsements on teacher licensures as endorsements for "world" language, and the languages subject to credit would fall under the purview of local school districts, which would then hire appropriate credentialed instructors.

THE PREVIOUS MOTION BY SENATOR DENIS AND SECONDED BY VICE CHAIR FRIERSON PASSED. (Assemblyman Hansen voted no.)

#### Regulation 064-14

A REGULATION relating to state personnel; revising provisions relating to the rate of pay for employees in the classified service of the State; and providing other matters properly relating thereto. (Please see [Exhibit PP.](#))

Referring to subsection 1(c) of Section 1, Assemblyman Hansen asked why the regulation gives the Administrator so much discretion regarding the approval of a promotional increase.

Peter Long, Deputy Administrator, Division of Human Resource Management (DHRM), Department of Administration, said this refers to the Administrator of the DHRM not the administrator of a particular section or division and applies only to extenuating circumstances.

Responding to Assemblyman Hansen's question regarding the reason for this change in regulation, Mr. Long explained that during the last few years, people who demoted and were then promoted had to have their pay maintained at the same level before they demoted. There were instances where agencies did not catch this and employees had to return money. He said the regulation gives the Administrator the ability to make the necessary corrections in these types of circumstances.



ASSEMBLYMAN HANSEN MOVED APPROVAL OF R064-14.

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 068-14

A REGULATION relating to education; revising provisions governing the receipt of a diploma evidencing graduation from high school; and providing other matters properly relating thereto. (Please see [Exhibit K.](#))

There was no discussion on the regulation.

ASSEMBLYMAN STEWART MOVED APPROVAL OF R068-14.

VICE CHAIR FRIERSON SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 083-14

A REGULATION relating to education; replacing existing standards for mathematics with the Common Core State Standards for mathematics developed by the Common Core State Standards Initiative for high school; providing for the implementation of the Common Core State Standards in prescribed school years; and providing other matters properly relating thereto. (Please see [Exhibit QQ.](#))

Dr. Canavero, previously identified, explained the origin of the standards provided in R083-14. On March 18, 2010, the State Board of Education began revising the math and English language arts standards to reflect the Common Core State Standards Initiative (CCSS). Seven public meetings regarding the adoption of these standards culminated in January 2011, when the revised standards for math and English language arts were filed with the Office of the Secretary of State. Between August 10, 2011, and May 30, 2012, the permanent regulations were considered. On May 30, 2012, the Legislative Commission approved R019-11, which adopted the revised standards in English language arts. Due to an administrative oversight, the standards for mathematics were not adopted. Dr. Canvero claimed he became aware of this after he started working for the NDE, and in May 2014, the State Board held a workshop to hear the standards in their present form. He noted the State Board of Education and the Council to Establish Academic Standards for Public Schools, NDE, are empowered to collaboratively adopt standards.

Assemblyman Stewart pointed out that 43 people attended one of the hearings, but only one person testified. He questioned why there was not more interaction

or challenges to the standards during these hearings regarding the CCSS when there are so many debates now.

Dr. Canavaro said the NDE has heard from a number of people opposed to the CCSS as well as organizations and individuals who support them. In addition to posting the meetings as required by the Open Meeting Law, the NDE's public information officer has improved its nontraditional ways of communicating with the public via the Internet and Twitter. He pointed out there is a vigorous, national conversation regarding the CCSS, and Nevada is not experiencing anything different from other states. Since its original inception, 46 states and the District of Columbia adopted the CCSS; Alaska, Nebraska, Texas, and Virginia did not. Minnesota adopted the English language arts component but not the mathematics, and in 2014, Indiana, Oklahoma, and South Carolina retreated from the standards.

Assemblyman Stewart asked who was involved in Nevada with the development of the CCSS curriculum in mathematics.

Dr. Canavaro replied that teachers and professional educators have been involved with vetting the standards. He noted that anybody has the opportunity to weigh in on standards during the hearing process. Dr. Canavaro said he would send a list of the people involved in developing the CCSS to the LCB staff per Assemblyman Stewart's request.

Senator Settelmeyer expressed concern about teachers being micromanaged. He asked whether Nevada could establish its own standards, possibly standards higher than the CCSS.

Dr. Canavaro said the State adopts the standards and the school districts develop the curriculum. He stated a number of teachers have helped the NDE and school districts appreciate what it means to the teaching profession when standards are adopted that are significantly different from those of the past. He stressed the State establishes the base standards, from which the schools can build up.

Referring to Section 2, Assemblyman Hansen questioned what happens to students who do not meet the standards.

Dr. Canavaro explained that the State Board adopted the standards in 2010, and there are tools in place to accommodate the transition of becoming operational in 2014-2015. He said there is no proficiency standard at a particular grade for holding a student back, which lends itself to the cumulative notion of learning. Districts have various policies regarding middle school and advancement into high school, but they are not addressed by these standards.

Assemblyman Hansen described a scenario where a 12th grader in his district has been unable to pass numerous attempts of the language arts portion of the

proficiency test. Questioning how this could happen with the No Child Left Behind Act of 2001 in place, he shared his concern about mandating more federal programs.

Dr. Canavero expressed his opinion that the end-of-course exams and the college and career readiness exam will be the first time Nevada has had a truly aligned assessment system to measure knowledge every year and provide a trajectory for students.

Assemblyman Hansen said he is hopeful, but reported the consensus among his constituents is opposition to the CCSS.

Dr. Canavero said the State has particular standards it must adopt, and the federal government is not suggesting specifically that it adopt the CCSS. Nevada has decided, through various meetings and stakeholder groups that the CCSS fits the needs of the State in order to graduate students who are not going to go immediately into remedial programs, but rather into credit-bearing coursework in high school or a living wage job after high school.

SENATOR SETTELMAYER MOVED TO DEFER R083-14.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 087-14

A REGULATION relating to trapping; increasing the required frequency of visitation to certain traps, snares or similar devices used in the taking of wild mammals; and providing other matters properly relating thereto. (Please see [Exhibit D.](#))

#### Regulation 088-14

A REGULATION relating to wildlife; increasing the number of demerit points that the Department of Wildlife must assess for certain wildlife violations; expanding the wildlife violations for which the Department must assess demerit points; and providing other matters properly relating thereto. (Please see [Exhibit RR.](#))

ASSEMBLYMAN HANSEN MOVED TO DEFER R087-14 AND R088-14 UNTIL AFTER THE 2015 LEGISLATIVE SESSION.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 098-14

A REGULATION relating to the tax on special fuels; defining the phrase “incidentally operated or moved upon a highway” for the purposes of provisions relating to the use of dyed special fuel; and providing other matters properly relating thereto. (Please see [Exhibit SS.](#))

Senator Settelmeyer asked for clarification that R098-14 does not affect any current or pending litigation.

Wayne A. Seidel, Administrator, Motor Carrier Division, Department of Motor Vehicles, clarified the regulation will not affect any pending litigation relative to special mobile equipment that is incidentally operated or moved upon a highway.

SENATOR SETTELMEYER MOVED APPROVAL OF R098-14.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED.

#### Regulation 099-14

A REGULATION relating to public water systems; revising provisions relating to the Account for the Revolving Fund and applications for financial assistance from the Account; revising provisions applicable to the recipients of such assistance; and providing other matters properly relating thereto. (Please see [Exhibit TT.](#))

Referring to subsection 3(c) of Sections 12 and 13, Assemblyman Daly questioned how the DEP determines the significance of comments received pertaining to the process of environmental review.

Daralyn Dobson, Administrative Services Officer III, DEP, SDCNR, stated the regulations are federal regulations. She said the DEP rarely receives any complaints, but carefully considers them if received.

Responding to Assemblyman Daly’s question whether there is an appeal process, Ms. Dobson said a person could appeal to the federal government if necessary.

ASSEMBLYMAN DALY MOVED APPROVAL OF R099-14.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION CARRIED.

Regulation 010-14

A REGULATION relating to state personnel; revising provisions relating to the selection of a hearing officer for certain personnel hearings; and providing other matters properly relating thereto. (Please see [Exhibit UU.](#))

Assemblyman Daly stated his opinion that the strike process is fair and that he cannot support the regulation as written.

Shelly D. Blotter, Deputy Administrator, DHRM, Department of Administration, said the DHRM has a contract with the Hearings Division, Department of Administration, to conduct certain personnel hearings. She stated a strike process has been included in the Hearing Officer Rules of Procedure whereby the Hearings Division sends out a list of three officers to both parties. Each party has the option of striking one name, and the remaining officer is assigned to the case. Alternates who are not employees of the Hearings Division are also available. Ms. Blotter explained that the Hearing Officer Rules of Procedure, which is a document approved by the Personnel Commission, DHRM, Department of Administration, includes the strike language. Originally, the Administrator of the DHRM appointed the hearing officer, but now the Administrator of the Hearings Division assigns the hearing officer based on the agreement between the two divisions.

ASSEMBLYMAN DALY MOVED APPROVAL OF R010-14.

VICE CHAIR FRIERSON SECONDED THE MOTION.

THE MOTION CARRIED.

B. Approval of Regulations Concerning Lobbying for the 2015 Legislative Session—  
Rick Combs, Director, LCB

Rick Combs, previously identified, explained this is the regulation ([Exhibit VV](#)) on lobbying that the Commission adopts any time there are changes for the upcoming legislative session. He said some of the recommended changes are a result of the 28th (2014) Special Session. Mr. Combs discussed registration, photo identification for State employees, expenditure reports, training, and a transitory provision for lobbyists who registered for the 28th Special Session.

VICE CHAIR FRIERSON MOVED APPROVAL OF THE  
REGULATION ON LOBBYING FOR THE 2015 LEGISLATIVE  
SESSION.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION CARRIED.

C. Approval of Session Hires for the 2015 Legislative Session—Rick Combs, Director, LCB

Mr. Combs presented a revised memorandum regarding session hires for the 2015 Legislative Session. (Please see [Exhibit WW](#).) He noted the addition of three document control clerks for the Legal Division. Mr. Combs reminded the Commission that it approved 67 positions at its June meeting; he is requesting the Commission approve an additional 29 session hires for a total of 96 positions.

SENATOR DENIS MOVED APPROVAL OF 29 ADDITIONAL SESSION HIRES FOR THE 2015 LEGISLATIVE SESSION.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION CARRIED.

D. Recommendations for the Elimination of Obsolete or Redundant Reports to the Legislature and Revisions of Reporting Requirements Pursuant to NRS 218D.385— Rick Combs, Director, LCB

Chair Kirkpatrick reminded the Commission that it was given a list of obsolete or redundant reports at its June 23, 2014, meeting.

Regarding report No. 7, Mr. Combs indicated there was a choice to either eliminate or modify the report to ensure there was no duplication with A.B. 333 (Chapter 168, *Statutes of Nevada 2013*). He recommended eliminating the report.

Mr. Combs discussed the reports added to the list from the Department of Transportation, the Department of Veterans' Services, and the Division of Minerals. (Please see [Exhibit XX](#).)

ASSEMBLYMAN STEWART MOVED APPROVAL OF THE LIST OF RECOMMENDATIONS FOR THE ELIMINATION OR MODIFICATION OF 15 OBSOLETE OR REDUNDANT REPORTS.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED.

E. Review of Requirements in State Legislation for Submitting Reports to the Legislature Enacted During the 2007, 2009, and 2011 Legislative Sessions Pursuant to Section 2 of A.B. 350 (Chapter 30, *Statutes of Nevada 2013*)— Rick Combs, Director, LCB

Chair Kirkpatrick asked to hold Agenda Item V E.

F. Request for the Nevada Legislature to Join the National Council of Legislators from Gaming States—Senator Greg Brower

Senator Brower referred to a letter he submitted to the Legislative Commission requesting that Nevada join the National Council of Legislators from Gaming States (NCLGS). (Please see [Exhibit YY](#).) He explained that membership is by State, not by legislator, and requested the Commission approve the \$3,000 membership dues for 2015. Senator Brower noted the January 2015 meeting of NCLGS is going to take place in Las Vegas, Nevada.

Chair Kirkpatrick declared her support for the request.

Mr. Combs explained that during the budget process of the last two sessions, annual dues for organizations were included in a one-shot bill. In the past, dues and membership fees were part of the Legislative Commission's budget, but were eliminated because of the recession. He said the bill from the 2013 Session included a lump sum of money for dues and registrations, but it did not indicate which organizations would be joined. Mr. Combs stated he presented a list of organizations and their dues to both money committees, which determined the amount of money requested in the bill. After paying all the registrations for 2015, Mr. Combs reported there is \$4,254 left from the appropriation. He is of the opinion that dues for the NCLGS would be appropriate under the terms of the bill.

Senator Denis discussed the budget process for paying registration fees. Mr. Combs explained the money is available because registrations for the second year of the biennium were not as expensive as assumed during the budget process of the 2013 Session. Senator Denis questioned the procedure used if there are other organizations the State would like to join. Mr. Combs said if the dues of an organization were greater than the money left over, the Commission would have to decide whether to use the money in the Legislative Fund or money from another source. In this case, since there is money left over from dues and registrations, it seems to be the most appropriate source.

Responding to a question from Senator Denis regarding whether all State legislators will be able to participate in the organization once the State joins, Senator Brower said legislators from member states pay a reduced registration fee for the meetings held twice a year.

Chair Kirkpatrick suggested a policy regarding payment of dues to new organizations should be discussed during the next session.

ASSEMBLYMAN STEWART MOVED APPROVAL OF THE REQUEST FOR \$3,000 IN MEMBERSHIP DUES FOR THE NEVADA LEGISLATURE TO JOIN THE NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION CARRIED.

G. Approval to Use Sums Approved by the Legislative Commission for Interim Studies and Statutory Committees in Either Fiscal Year (FY) of the 2013-2015 Biennium—Rick Combs, Director, LCB

Mr. Combs said when the interim committees were appointed in October 2013, budgets were approved for each fiscal year (FY). However, some committees met more times in the first FY than their budgets allowed and fewer times in the second FY, and vice versa. He requested the authority to use sums approved by the Legislative Commission for interim studies and statutory committees in either FY of the 2013-2015 biennium.

SENATOR DENIS MOVED APPROVAL TO USE SUMS APPROVED BY THE LEGISLATIVE COMMISSION FOR INTERIM STUDIES AND STATUTORY COMMITTEES IN EITHER FISCAL YEAR OF THE 2013-2015 BIENNIUM.

SENATOR ATKINSON SECONDED THE MOTION

THE MOTION CARRIED.

## **INFORMATIONAL ITEMS**

A. Interim Committee Reports

B. Summary of Quarterly Reports on Disciplinary Action from Licensing Boards and State Agencies

C. Miscellaneous Reports or Correspondence from State Agencies and Others:

1. Fiscal Year 2014 Bidder Preference Reports Pursuant to NRS 338.0117(7):
  - a. Department of Transportation
  - b. State Public Works Division, Department of Administration
  - c. Clark County
  - d. Las Vegas Valley Water District
  - e. City of Las Vegas
  - f. City of Reno



- g. City of Sparks
  - h. Southern Nevada Water Authority
2. Clark County Department of Air Quality, FY 2014 Report on Use of Funds from the Pollution Control Account Pursuant to NRS 445B.830
  3. Office of the Attorney General, Report of the Advisory Committee to Study Laws Regarding Sex Offenders Pursuant to A.B. 85 (Chapter 116, *Statutes of Nevada 2009*)—(The Advisory Committee’s minutes disk is filed with exhibit material for this meeting in the LCB Director’s Office.)
  4. Las Vegas Metropolitan Police Department, Report on Forfeiture Account Funds Distributed to the Clark County School District Pursuant to NRS 179.1187
  5. Office of the State Treasurer’s FY 2014 Annual Report Pursuant to NRS 226.120
  6. 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. Las Vegas Metropolitan Police Department
    - b. City of North Las Vegas
  7. Office of Energy, Office of the Governor, Biannual Report on Energy Reduction in State-Owned Buildings Pursuant to NRS 701.215(3)(c)
  8. Annual Report of the City of Reno’s Tourism Improvement District Pursuant to NRS 271A.105
  9. Annual Report of the Department of Taxation’s Tourism Improvement District Pursuant to NRS 271A.105
  10. State Public Works Division, Department of Administration, Bidders’ Preference Report for Local Businesses Owned by Veterans with Service-Connected Disabilities Pursuant to NRS 338.13846
  11. Department of Veterans’ Services, Recommendations Regarding Purchase Preferences for Businesses Owned by Veterans with Service-Connected Disabilities Pursuant to NRS 417.105
  12. Report Regarding the Transportation of Persons to Medical Facilities by Fire Departments and Ambulance Services in Clark County Pursuant to NRS 244.2962

There was no discussion on any of the informational items.

## **PUBLIC COMMENT**

Chair Kirkpatrick called for public comment.

Chair Kirkpatrick asked LCB staff to create a proclamation for Monday's memorial service for Assemblyman Peter Livermore and to include the names of all the legislators.

E-mail messages regarding R011-14 ([Exhibit ZZ](#) ) and R087-14 ([Exhibit ZZ-1](#)) were received after the meeting.

A letter from Kyle Davis, Nevada Conservation League, regarding hydraulic fracturing was received after the meeting. (Please see [Exhibit ZZ-2](#).)

There being no further business to come before the Commission, Chair Kirkpatrick adjourned the meeting at 3:07 p.m.

Respectfully submitted,

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Janet Coons, Secretary for Minutes  
Legislative Commission

APPROVED BY:

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Assemblywoman Marilyn Kirkpatrick, Chair  
Legislative Commission

## LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda,” dated October 24, 2014, provided by Sylvia A. Wiese, Executive Assistant, Administrative Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is the attendance sign-in sheets dated October 24, 2014, from Las Vegas, Nevada, and Carson City, Nevada.

[Exhibit C](#) is the written testimony of Jana Wright, resident of Las Vegas, Nevada, regarding R087-14.

[Exhibit D](#) is the Adopted Regulation of the Board of Wildlife Commissioners, LCB File No. R087-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit E](#) is the written testimony of Bob Fulkerson, State Director, Progressive Leadership Alliance of Nevada (PLAN), regarding R011-14.

[Exhibit F](#) is the Adopted Regulation of the Commission on Mineral Resources, LCB File No. R011-14, effective October 24, 2014, furnished by the Legal Division, LCB.

[Exhibit G](#) is an article titled “Risks and Risk Governance in Unconventional Shale Gas Development,” *Environmental Science and Technology*, 2014, presented by Bob Fulkerson, State Director, PLAN.

[Exhibit H](#) is a letter dated August 15, 2014, to the Division of Minerals, Commission on Mineral Resources, and David Gaskin, Deputy Administrator, Division of Environmental Protection (DEP), State Department of Conservation and Natural Resources (SDCNR), from John Hadder, Director, Great Basin Resource Watch, regarding R011-14.

[Exhibit I](#) is the written testimony of Dawn Harris, representative of Nevadans Against Fracking and Frack Free Living, regarding R011-14, dated October 24, 2014.

[Exhibit J](#) is the written testimony of Ginny Jackson, representative of the Education Alliance of Washoe County, Inc., regarding R068-14 and R082-14, dated October 24, 2014.

[Exhibit K](#) is the Adopted Regulation of the State Board of Education, LCB File No. R068-14, effective October 24, 2014, furnished by the Legal Division, LCB.

[Exhibit L](#) is the Adopted Regulation of the State Board of Education, LCB File No. R082-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit M](#) is the written testimony of Trish Swain, Co-founder and Director, TrailSafe Nevada, regarding R087-14, dated October 24, 2014.

[Exhibit M-1](#) is a document titled "State Trap Visitation Regulations," dated October 24, 2014, presented by Trish Swain, Co-founder and Director, TrailSafe Nevada.

[Exhibit N](#) is the written testimony of Christian Francisco Gerlach, private citizen of North Las Vegas, Nevada; member of the Sierra Club; Executive Director, Save Nevada's Water: Ban Fracking in Nevada; and a member of Nevadans Against Fracking, regarding R011-14.

[Exhibit N-1](#) is a copy of the *Oilfield Review*, Number 3, Volume 15, Autumn 2003, submitted by Christian Francisco Gerlach, private citizen of North Las Vegas, Nevada; member of the Sierra Club; Executive Director, Save Nevada's Water: Ban Fracking in Nevada; and a member of Nevadans Against Fracking.

[Exhibit N-2](#) is a petition to ban hydraulic fracturing in the extraction of natural gas and oil in Nevada furnished by Christian Francisco Gerlach, private citizen of North Las Vegas, Nevada; member of the Sierra Club; Executive Director, Save Nevada's Water: Ban Fracking in Nevada; and a member of Nevadans Against Fracking.

[Exhibit N-3](#) is a petition to ban hydraulic fracturing in the extraction of natural gas and oil in Nevada furnished by Christian Francisco Gerlach, private citizen of North Las Vegas, Nevada; member of the Sierra Club; Executive Director, Save Nevada's Water: Ban Fracking in Nevada; and a member of Nevadans Against Fracking.

[Exhibit O](#) is a letter dated October 6, 2014, to Members of the Legislative Commission, from Assemblywoman Maggie Carlton, Chair, Audit Subcommittee of the Legislative Commission, requesting the Legislative Commission's approval of four audit reports of the Legislative Auditor.

[Exhibit P](#) is a document containing the highlights of the performance audit report on the Supreme Court of Nevada, Judicial Branch of Government, Report #LA14-20, issued on October 6, 2014, submitted by Paul V. Townsend, Legislative Auditor, Audit Division, LCB.

[Exhibit Q](#) is a document containing the highlights of the performance audit report on the Use of Certain Assessments Paid by Counties, Department of Health and Human Services, Report #LA14-19, issued on October 6, 2014, submitted by Paul V. Townsend, Legislative Auditor, Audit Division, LCB.

[Exhibit R](#) is a document containing the highlights of the performance audit report on the Rehabilitation Division, Department of Employment, Training and Rehabilitation, Report #LA14-18, issued on October 6, 2014, submitted by Paul V. Townsend, Legislative Auditor, Audit Division, LCB.

[Exhibit S](#) is a document containing the highlights of the performance audit report on the Review of Governmental and Private Facilities for Children, October 2014, Report #LA14-21, issued on October 6, 2014, submitted by Paul V. Townsend, Legislative Auditor, Audit Division, LCB.

[Exhibit T](#) is a letter dated August 15, 2014, to Brenda Erdoes, Legislative Counsel, Legal Division, LCB, from Daniel Hamilton, Dean, Richard J. Morgan Professor of Law, William S. Boyd School of Law, University of Las Vegas, Nevada, regarding the Board of Commissioners on Uniform State Laws.

[Exhibit U](#) is a document titled "Appointment of Members to Various Committees and Similar Entities," regarding the National Conference of Commissioners on Uniform State Laws (*Nevada Revised Statutes* [NRS] 219.020), submitted by Rick Combs, Director, LCB.

[Exhibit V](#) is a document titled "Appointment of Members to Various Committees and Similar Entities," regarding the Task Force on Alzheimer's Disease (NRS 439.5083), submitted by Rick Combs, Director, LCB.

[Exhibit W](#) is a document titled "Appointment of Members to Various Committees and Similar Entities," regarding the Southern Nevada Enterprise Community Board (Assembly Bill 304 [Chapter 481, *Statutes of Nevada 2009*]), submitted by Rick Combs, Director, LCB.

[Exhibit X](#) is a document titled "Home Means Nevada, Inc., Resolution to Create Advisory Committee to Advise and Consult on the Home Retention Program," submitted by Rick Combs, Director, LCB.

[Exhibit X-1](#) is a list of candidates and their personal information for the Home Retention Program Advisory Committee, submitted by the Division of Mortgage Lending, Department of Business and Industry (DBI), furnished by Rick Combs, Director, LCB.

[Exhibit X-2](#) is a list of candidates and their personal information for the Home Retention Program Advisory Committee, submitted by the Division of Financial Institutions, DBI, furnished by Rick Combs, Director, LCB.

[Exhibit Y](#) is the written testimony of Assemblywoman Irene Bustamante Adams, District No. 42, Chair, Sunset Subcommittee of the Legislative Commission, dated October 24, 2014.

[Exhibit Y-1](#) is the Interim Study Report of the Sunset Subcommittee of the Legislative Commission, Bulletin No. 15-13, dated January 2015, furnished by Assemblywoman Irene Bustamante Adams, District No. 42, Chair, Sunset Subcommittee of the Legislative Commission.

[Exhibit Y-2](#) is a table titled "Sunset Subcommittee of the Legislative Commission 2013-2014, Summary of Recommended Revisions to *Nevada Revised Statutes*," furnished by Assemblywoman Irene Bustamante Adams, District No. 42, Chair, Sunset Subcommittee of the Legislative Commission.

[Exhibit Z](#) is a list of State agency regulations to be reviewed by the Legislative Commission, dated October 24, 2014, furnished by the Legal Division, LCB.

[Exhibit AA](#) is the Adopted Regulation of the State Board of Cosmetology, LCB File No. R106-12, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit BB](#) is the Adopted Regulation of the State Library and Archives Administrator, LCB File No. R118-12, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit CC](#) is the Adopted Regulation of the State Environmental Commission, LCB File No. R037-13, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit DD](#) is an e-mail message from Scott Seastrand, Vice President, Western Elite Inc., regarding proposed solid waste permit fees, submitted by David Emme, Deputy Administrator, Air Programs and Waste Management, DEP, SDCNR.

[Exhibit EE](#) is the Adopted Regulation of the Division of Minerals of the Commission on Mineral Resources, LCB File No. R108-13, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit FF](#) is the Adopted Regulation of the State Land Registrar, LCB File No. R135-13, Sections 1-26 become effective October 24, 2014, or when R149-13 is filed with the Secretary of State, whichever is later, submitted by the Legal Division, LCB.

[Exhibit GG](#) is the Adopted Regulation of the State Contractors' Board, LCB File No. R019-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit HH](#) is a document titled "Nevada State Contractors Board, Proposed Regulation Regarding NAC 624.7251, LCB File No. R019-14," submitted by the State Contractors' Board.

[Exhibit II](#) is the Adopted Regulation of the State Board of Health, LCB File No. R024-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit JJ](#) is the Adopted Regulation of the Board of Examiners for Social Workers, LCB File No. R025-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit KK](#) is the Adopted Regulation of the State Engineer, LCB File No. R044-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit LL](#) is the Adopted Regulation of the State Board of Health, LCB File No. R046-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit MM](#) is the Adopted Regulation of the State Engineer, LCB File No. R054-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit NN](#) is the Adopted Regulation of the State Controller, LCB File No. R060-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit OO](#) is the Adopted Regulation of the State Board of Education, LCB File No. R063-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit PP](#) is the Adopted Regulation of the Personnel Commission, LCB File No. R064-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit QQ](#) is the Adopted Regulation of the State Board of Education, LCB File No. R083-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit RR](#) is the Adopted Regulation of the Board of Wildlife Commissioners, LCB File No. R088-14, effective October 24, 2014, submitted by the Legal Division, LCB.



[Exhibit SS](#) is the Adopted Regulation of the Department of Motor Vehicles, LCB File No. R098-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit TT](#) is the Adopted Regulation of the State Environmental Commission, LCB File No. R099-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit UU](#) is the Adopted Regulation of the Personnel Commission, LCB File No. R010-14, effective October 24, 2014, submitted by the Legal Division, LCB.

[Exhibit VV](#) is a document titled "Regulation on Lobbying Adopted by the Legislative Commission," dated October 24, 2014, furnished by Rick Combs, Director, LCB.

[Exhibit WW](#) is a revised memorandum dated October 24, 2014, to the Chair and Members of the Legislative Commission, from Rick Combs, Director, LCB, regarding session hires for the 2015 Legislative Session.

[Exhibit XX](#) is a document titled "Recommendations for the Elimination of Obsolete or Redundant Reports to the Legislature and the Revisions of Reporting Requirements, Pursuant to NRS 218D.385," submitted by Rick Combs, Director, LCB.

[Exhibit YY](#) is a letter dated October 2, 2014, to Members of the Legislative Commission, from Senator Greg Brower, District No. 15, and Senator Tick Segerblom, District No. 3, regarding the National Council of Legislators from Gaming States.

[Exhibit ZZ](#) is a collection of e-mails regarding R011-14, submitted by Rick Combs, Director, LCB.

[Exhibit ZZ-1](#) is a collection of e-mails regarding R087-14, furnished by Rick Combs, Director, LCB.

[Exhibit ZZ-2](#) is a letter dated October 23, 2014, to Chair Marilyn Kirkpatrick and members of the Legislative Commission, from Kyle Davis, Nevada Conservation League, regarding hydraulic fracturing.

<p>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.</p>
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