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

The Legislative Commission held its fourth meeting in Calendar Year 2016 on Friday, September 9, 2016. The meeting began at 10:13 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and was videoconferenced to Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada.

COMMISSION MEMBERS PRESENT:

Senator Michael Roberson, Chair
Senator James A. Settelmeyer, Vice Chair
Senator Kelvin D. Atkinson
Senator Moises (Mo) Denis
Senator Aaron D. Ford
Senator Joseph (Joe) P. Hardy, M.D. for Senator Ben Kieckhefer
Assemblyman Nelson Araujo
Assemblywoman Teresa Benitez-Thompson
Assemblyman Ira Hansen
Assemblywoman Dina Neal for Assemblywoman Irene Bustamante Adams
Assemblyman Stephen H. Silberkraus for Assemblyman John Hambrick
Assemblyman Lynn D. Stewart

OTHER LEGISLATORS PRESENT:

Senator Patricia Farley, Senate District No. 8
Senator Tick Segerblom, Senate District No. 3
Assemblyman David M. Gardner, Assembly District No. 9

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Rocky J. Cooper, Legislative Auditor, Audit Division
Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division
Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division
Brenda J. Erdoes, Legislative Counsel, Legal Division
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division

Susan E. Scholley, Research Director, Research Division
Debbie Gleason, Secretary for Minutes, Research Division
Sylvia A. Wiese, Executive Assistant, Administrative Division

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

AGENDA ITEM I—ROLL CALL

Chair Roberson called the meeting to order and asked the record to reflect that all members were present and accounted for.

AGENDA ITEM II—PUBLIC COMMENT

Chair Roberson called for public comment. He invited Senators Farley and Segerblom to the witness table.

Senator Tick Segerblom, Senate District No. 3, expressed support of Legislative Counsel Bureau (LCB) File No. R148-15 (Agenda Item IV A-6) regarding establishing provisions relating to the medical use of marijuana.

Senator Patricia Farley, Senate District 8, briefly spoke in favor of R148-15, and remarked the regulation is a good start.

Carolyn Edwards, Trustee, District F, Clark County School District (CCSD); Chris Garvey, Vice President and Trustee, District B, CCSD; and Patrice Tew, Clerk and Trustee, CCSD, shared a statement from the CCSD regarding the protection of students and teachers in the classrooms, increasing the focus on student achievement, and transparency in the process should R142-16 be approved (Agenda Item IV A-1) (Agenda Item II A).

Lindsey Dalley, Chair, Moapa Valley Community Education Advisory Board Task Force, affirmed the four Moapa Valley schools are behind R142-16 (Agenda Item IV A-1); he also stressed clarity and transparency at all levels.

Caryne Shea, Vice President, Honoring Our Public Education (H.O.P.E.), testified that HOPE'S and parents' concerns voiced during the State Board of Education (SBE) meeting on September 1, 2016, are a priority for HOPE. She emphasized the difference between simply implementing the plan to reorganize the CCSD and implementing the plan well with safeguards for all children.

Amanda Morgan, Esq., Legal Director, Educate Nevada Now (ENN), provided letters from her and Sylvia Lazos, Policy Director, ENN, regarding the development of regulations pursuant to Assembly Bill 394 (Chapter 543, *Statutes of Nevada 2015*) presented at today's meeting and at previous meetings of the SBE and the Advisory Committee to Develop a Plan to Reorganize the Clark County School District (Advisory Committee) (Agenda Item II B-1), (Agenda Item II B-2), (Agenda Item II B-3), and (Agenda Item II B-4). She discussed the following points ENN deems important concerning the success of the reorganization: (1) outreach

to parents in understanding the impact of the reorganization and their involvement; (2) leadership from principals; and (3) the usage of *actual* versus *average* salaries.

Ms. Lazos congratulated the joint, bipartisan effort of the Advisory Committee and the SBE in benefitting all students. She cautioned empowerment alone does not result in better student achievement, and the "empowerment model" works best when: leadership is strong; parents are fully engaged; and Tier 1 Educational Coaching and Consulting Services teaching is applied.

José Solorio, Nevada resident, stated he wanted to ensure all children's educational needs are met. He focused his comments on three areas: (1) empowerment; (2) equality and equity in student funding; and (3) parental engagement.

Lisa Mayo-DeRiso, Member, Break Free CCSD; Member and Parent Ambassador, Parent Advisory Committee, Bonanza High School (BHS), Las Vegas, Nevada; and parent of two students at BHS, conveyed BHS is ready for the reorganization. She remarked the secret to the success of the CCSD's reorganization is parent-to-parent recruiting engagement and, in her opinion, empowerment, equality, and equity will be met.

Stephen Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees (Association), indicated the Association fully supports A.B. 394, it is ready for the reorganization challenge, and it looks forward to working with the Commission during the 2017 Session in regard to the weighted, student-funding formula.

Tod Story, Executive Director, American Civil Liberties Union of Nevada, (ACLU) commented on two issues: (1) questions raised concerning the manner in which regulations regarding the reorganizational process were approved; and (2) organizational teams' exemption from the Open Meeting Law (OML). Mr. Story stated the ACLU is of the opinion the 30 days that gives the public the opportunity to read, decipher, and digest regulations should have started over once the regulations were revised substantively. Further, he said exempting organizational teams from the OML usurps the Legislature's authority and sets a precedent for other regulatory agencies.

Vicki Courtney, President, Clark County Education Association (CCEA), expressed the CCEA's enthusiasm in regard to the reorganizational challenge, and it looks forward to working with the community.

Holly Welborn, State Policy Director, ACLU, addressed procedural and substantive issues pertaining to R142-16 (Agenda Item IV A-1): (1) the differences of opinion between the ACLU and the LCB regarding the requirement for posting meeting notices; and (2) the exemption of organizational teams from the OML.

Barry Smith, Executive Director, Nevada Press Association, expressed concern regarding the exemption of organizational teams from the OML. He is of the opinion if changes to the OML are needed they should be made legislatively rather than through regulations. Of particular concern is the language in Section 26 of R142-16 (Agenda Item IV A-1) that refers to exemptions to the OML for meetings containing "confidential information"; he urged the Commission to not move forward with the regulation with that section in it.

Riana Durrett, Executive Director, Nevada Dispensary Association (NDA), testified in support of R148-15 (Agenda Item IV A-6). She elaborated on the NDA's role in developing and promoting best practices in the medical marijuana industry and its part in issuing 40 of the 66 dispensary licenses issued throughout Nevada. Ms. Durrett also commented on members' concerns that were addressed in the regulation, noting areas of improvement remain, and the NDA would appreciate the continued support of the Division of Public and Behavioral Health (DPBH), Department of Health and Human Services (DHHS).

Former Assemblyman David Goldwater, Secretary, NDA, echoed Ms. Durrett's remarks.

Susan Bunce, Chief Executive Officer (CEO), DB Labs, Las Vegas, Nevada, and President, Nevada Cannabis Laboratory Association (NCLA), spoke in favor of R148-15 (Agenda Item IV A-6), noting there are several aspects of the program that can be improved, and the NCLA looks forward to working with interested parties in making those improvements.

Phillip Peckman, President, Nevada Cannabis Coalition (NCC), remarked the NCC has issued approximately one-third of the licenses issued in Nevada for the sale of medical marijuana, noting he is also a licensee with two dispensaries. Regarding R148-15 (Agenda Item IV A-6), he stated the NCC is concerned about the use of independent contractors and lab testing.

Van McConnan, CEO, Clear River Wellness, and operator of two dispensaries, commented although he is not 100 percent pleased with every provision of R148-15 (Agenda Item IV A-6), as a whole, the process resulted in a good set of recommendations for the marijuana dispensary industry, and he encouraged all parties to continue with the same process.

William Adler, Executive Director, Nevada Medical Marijuana Association, commented the medical marijuana program has resulted in a very long and extensive regulatory process, and although it is not perfect, he encouraged the passage of R148-15.

Paul Enos, CEO, Nevada Trucking Association (NTA), testified in opposition to R001-15 (Agenda Item IV A-2). He encouraged the Commission not to pass the

regulation today, noting J. David Wuest, R.Ph., Deputy Executive Secretary, State Board of Pharmacy (SBP), and he agreed to further discuss the NTA's concerns in regard to the regulation and the Drug Supply Chain Security Act, and the NTA's desire to wait for guidance from the United States Food and Drug Administration (FDA), U.S. Department of Health and Human Services, in an effort to achieve semblance of uniformity throughout the states.

Marla McDade-Williams, Nevada resident, discussed Section 27 of R148-15 (Agenda Item IV A-6). She expressed concern with a medical marijuana establishment (MME) assuming responsibility for reporting requirements of other businesses. Ms. McDade-Williams stated prior to today's meeting, Chad Westom, Health Bureau Chief, Public Health Preparedness Program, DPBH, DHHS, and Cody L. Phinney, M.P.H., Administrator, DPBH, DHHS, agreed to rereview Section 27 of R148-15, and if possible, remove the language. If removal is not an option, she requested the Commission consider temporary regulations to address that issue as well as batch sizes and testing for dry product.

Brett Scolari, General Counsel, Tryke Companies (Tryke), testified in support of R148-15, noting Tryke holds eight MME licenses.

Lea Tauchen, Vice President of Administration and Government Affairs, Retail Association of Nevada (RAN), representing the Chain Drug Council (CDC), voiced the CDC's concerns pertaining to R058-16 (Agenda Item IV A-3) that requires pharmacies to report the sale of opioid antagonists.

AGENDA ITEM III—APPROVAL OF MINUTES OF THE JUNE 28, 2016 MEETING – Senator Michael Roberson, Chair

MOTION: Assemblyman Stewart moved approval of the minutes of the June 28, 2016, meeting. Senator Atkinson seconded the motion. The motion carried.

AGENDA ITEM IV—LEGISLATIVE COMMISSION POLICY

A. Review of Administrative Regulations Submitted Pursuant to NRS 233B.067 —Brenda J. Erdoes, Legislative Counsel

Please see attached list of regulations to be considered or access list electronically at: http://www.leg.state.nv.us/Register/IndexesRegsReviewed/LCMtg_List_2016_Sept9.pdf.

Chair Roberson asked members to identify the regulations they would like held for discussion.

The following regulations were requested to be held for discussion:

- R053-16 – Assemblywoman Benitez-Thompson;
- R001-15, R015-16, and R058-16 – Vice Chair Settelmeyer and Assemblyman Hansen;
- R148-15 – Senator Hardy;
- R142-16 – Senator Atkinson;
- R027-16 and R037-16 – Senator Denis; and
- R023-16 – Assemblywoman Neal.

Chair Roberson announced R097-15 was pulled by the State Board of Equalization, Department of Taxation (Taxation), and would not be heard today.

MOTION: Vice Chair Settelmeyer moved approval of R130-14; R101-15; R112-15; R121-15; R126-15; R145-15; R146-15; R013-16; R014-16; R028-16; R030-16; R032-16; R034-16; R054-16; and R062-16. Assemblyman Silberkraus seconded the motion. The motion carried.

Regulation 142-16

A REGULATION relating to education; deeming each public school within the Clark County School District, with certain exceptions, to be a local school precinct; providing for the transfer of authority to carry out certain responsibilities on behalf of the Clark County School District to local school precincts; requiring the School District to allocate money on a per-pupil basis to local school precincts to carry out those responsibilities; providing the manner in which to determine the allocations to be made to the local school precincts; requiring the Superintendent of the School District to make certain financial estimates and determinations regarding local school precincts each year for the next school year; providing for the appointment of school associate superintendents to oversee local school precincts; providing for the establishment of an organizational team at each local school precinct; requiring a plan of operation to be developed for each local school precinct; requiring surveys to be administered each year to all persons involved with local school precincts and Central Services of the School District; requiring the Superintendent of the School District to prepare an annual report concerning the local school precincts and Central Services; requiring the School District to cooperate with the legislative Advisory Committee to Develop a Plan to Reorganize the Clark County School District during the transition to local school precincts; requiring the Department of Education to determine whether to recommend additional licensing requirements for principals of local school

precincts; requiring the State Board of Education to assess the equity of certain budgeting methods used by local school precincts; and providing other matters properly relating thereto (Agenda Item IV A-1).

Steve Canavero, Ph.D., Superintendent of Public Instruction, Department of Education (DOE), commented on: (1) the development of regulations for A.B. 394; (2) the role of the SBE in carrying out the Advisory Committee's plan to reorganize the CCSD; and (3) the approval of R142-16 by the SBE on September 1, 2016. He noted the SBE's first step was to approve the *initial* regulatory framework while also recognizing the eventual need for refinement. Dr. Canavero highlighted the SBE's topics of interest in implementing the plan:

- Preparedness of principals for leading school precincts;

- Impact of the SBE upon professional development and licensing in carrying out the plan;

- Carrying out of statutes, policies, and programs, particularly those from the 2015 Legislative Session, by the SBE and DOE;

- Implications and accountability for increasing student outcomes and the invested dollars; and

- Implications and opportunities of the weighted, student-funding formula.

Mark Newburn, Vice President, SBE and State Board for Career and Technical Education, emphasized the SBE's primary role in implementing the plan is to adopt regulations.

Chair Roberson, Senator Atkinson, and Dr. Canavero discussed the following subjects:

- Timeline for the implementation of the plan;

- Nominating and electing organizational team members and the composition of a team;

- Autonomy of school precincts over budgets and expenditures;

- Role of principals, organizational teams, superintendent, and associate superintendent concerning the budget process and the handling of disagreements;

- Equality of funding throughout the schools, including average unit costs verses actual costs; the transition to a weighted, student-funding formula for students

qualified as: "gifted and talented"; English Language Learners; students in poverty; and students who qualify under an individualized education plan for special education; and

- Benefits of the organizational plan for the communities and schools.

Chair Roberson remarked that for the first time in Nevada money will truly follow the child; each principal and organizational team will have a budget based upon a per-pupil amount; and the school site will make decisions with more money. He discussed unrestricted General Fund education dollars, noting during the first year of the plan's implementation at least 80 percent of those funds must be spent at the schools within those budgets; thereafter, the funds are increased to 85 percent, so no more than 15 percent of unrestricted education dollars may be spent outside of the schools. The plan refocuses the CCSD from a top-down system to a bottom-up system, and the Tier 1 schools will be the biggest financial beneficiaries of the legislation.

Continuing, Chair Roberson said the plan also gives parents a voice in their children's education with the hope they will get more involved in the schools. He also touched upon the duties of the associate superintendents and the hiring process. Chair Roberson concluded there is a sense that all interested parties are invested in the education of the 320,000-plus students, and several mayors advocate for more involvement from local governments in schools.

Additional items discussed included:

- Hiring process of principals;

- Additional responsibility placed on principals; and

- Accountability.

Senator Atkinson commented the plan makes the schools resemble businesses with the principals as the CEOs when most of the principals do not have business degrees. Speaking on behalf of the schools and students in his district, he said there is a concern that an increase in school funding allocations is not the only answer.

Discussion ensued among Chair Roberson, Senator Ford, and Ms. Lazos, previously identified, regarding:

- The ENN's position of not legally constituting a precinct that does not have parent membership on an organizational team;

- A bill draft request to immunize parent members on organizational teams;

- Parental involvement; and

- The principals' role in and different approaches to ensuring parental involvement.

Chair Roberson stated it is unacceptable for a school to be of the position that if it cannot get parents involved, it will not have a precinct; and, therefore, it will not change. He acknowledged parents cannot be forced to participate, but he refused to accept there is a single principal in the CCSD who cannot find one or two parents to serve on an organizational team.

Assemblywoman Neal pointed out that the practice of not allowing parents to accompany their children onto school campuses after the third day of school does not promote parental involvement.

Pat Skorkowsky, Superintendent, CCSD, responded it is an independent school policy, which he speculated is intended to minimize classroom disruption in order to proceed with the instructional day, and although he is not familiar with any specific schools that practice that policy, he would follow up with Assemblywoman Neal with more information.

Senator Denis emphasized the reorganization is to encourage parental involvement while recognizing there are issues. In his view it will provide an opportunity to train parents to be on a board that helps make decisions for the school, noting providing the training will be one of the biggest challenges.

Mr. Newburn indicated the SBE realized the sections of the regulation concerning the makeup of the organizational teams would need revising later while also recognizing the regulation represents a viable first step.

Senator Hardy commented the empowerment is not just for the principal, but also for the parents, and when parents are empowered, they get involved.

Commission members and Ms. Erdoes addressed the following concerns in regard to subsection 3 of Section 26 of R142-16 (Agenda Item IV A-1):

- Requirements for the posting of meeting notices;

- Handling of complaints against organizational teams;

- Checks and balances between principals and organizational teams;

- Potential abrogation of statutory authority by the Legislature;

- Exemptions from the OML and the definition of "confidential";

- Involvement of parents; and

- Increased transparency for parents, support staff, and teachers.

Chair Roberson emphasized regulations do not become law until they are approved by a majority of the members of the Commission—the Legislature's policymaking body between sessions.

A conversation took place between Assemblywoman Neal and Mr. Skorkowsky pertaining to: (1) whether the money being allocated to the precincts exists within the CCSD budget, and, if not, the source and expenditure of the money; (2) the CCSD's timing for informing local school precincts of the anticipated allocations for the next school year and its effect upon current school budgets; and (3) salary differentials for long-term substitute teacher positions converted to full-time licensed teacher positions.

Assemblywoman Neal and Dr. Canavero discussed Section 34 and its effect upon the minority representation of principals within the CCSD. Dr. Canavero provided assurance that the section does not apply to existing principal positions but rather to the DOE's request to offer adequate support to the new principals and teacher leaders in order to assume the role outlined in the school precinct. Dr. Canavero stated the DOE will likely work with the Commission on Professional Standards in Education, DOE, in establishing preparatory programs and possible licensing refinement.

Dr. Canavero responded to questions concerning: (1) additional funds needed for the implementation of the weighted, student-funding formula and its effect upon current school budgets; and (2) cultural competency in terms of organizational team members, staff, and parents.

Chair Roberson, Senator Ford, and Dr. Canavero discussed the ACLU's concerns regarding exempting organizational teams from the OML. The following points were discussed: (1) the financial argument for the exemption to the OML; (2) the cost for training school precincts in the OML; (3) legal protection for parents under the OML; (4) policy versus the legal ability for the exemption; and (5) retention of parental rights.

Chair Roberson, Senator Atkinson, Senator Ford, Assemblyman Stewart, and Dr. Canavero considered the effects of R142-16 on the schools. The following issues were raised: (1) weighted, student-funding formula calculations; (2) Senate Bill 508 (Chapter 536, *Statutes of Nevada 2015*) and how it relates to reporting information; (3) transparency of per-pupil allocations and school precinct budgets; (4) average teachers' salary versus actual teachers' salary; (5) accountability and redress should the reorganization plan fail; (6) vetting of R142-16; (7) magnitude of the sole responsibility being placed on the Commission;

(8) arguments for and apprehensions to passing R142-16; and (9) the manner in which S.B. 508 was passed.

Chair Roberson empathized with Senator Atkinson's reluctance to vote for or against a regulation of this importance without further deliberation by the entire Legislature. He spoke on the passing of major policy issues during legislative sessions and how sometimes they get passed in a way that is not the most thoughtful or they are not deliberated as much as legislation should be.

Chair Roberson continued that in his six years in the Legislature, he has not seen a bill deliberated as thoroughly as S.B. 508 nor has he ever seen a bill that has created such dramatic change receive unanimous bipartisan support. He stated it does not mean the process ends today, but rather the Advisory Committee will continue to meet for the next two years to oversee the implementation of S.B. 508, and, during the next session, all members will have the opportunity to take a look at the progress of the bill's implementation. Chair Roberson opined that as the implementation continues, corrections will need to be made because everything cannot be anticipated. He conveyed to Senator Atkinson that he was right to have concerns because the reorganization of the CCSD is a dramatic change.

MOTION: Assemblyman Silberkraus moved to approve R142-16. Assemblyman Stewart seconded the motion. The motion carried.

Chair Roberson recognized Assemblyman Gardner for his contribution in authoring S.B. 508.

Regulation 001-15

A REGULATION relating to pharmacy; revising provisions governing the licensure of a third-party logistics provider; and providing other matters properly relating thereto (Agenda Item IV A-2).

Vice Chair Settelmeyer questioned the appearance of inconsistencies between the requirements of the Drug Supply Chain Security Act and R001-15 concerning licensing of third-party logistics providers (3PLs) and wholesalers, noting it appears the federal government is treating the two groups differently whether they own the product or are simply carrying the product.

J. David Wuest, previously identified, explained the change in regulation does not modify the SBP's licensing process, and all 3PLs in Nevada are licensed with the SBP. He said adding *wholesaler* to the definition of a 3PL assists in legitimizing the transporting of prescription drugs. The SBP has been licensing 3PLs as either wholesalers or warehouses and the federal law requires 3PLs to be licensed simply as 3PLs so it can tell how the drugs are being moved and where. Mr. Wuest referred to a letter from the Healthcare Distribution Management Association, a

group of wholesalers and 3PLs who expressed support of the SBPs efforts while awaiting federal regulations (Agenda Item IV B). He also mentioned a 2014 *Reno Gazette-Journal* newspaper article about a case involving the sale of illicit cancer medications in Nevada and in other states by 3PLs not licensed in Nevada, emphasizing the need for the regulation.

Vice Chair Settelmeyer and Mr. Wuest discussed the following points: (1) the ramifications on interstate commerce of not approving R001-15; (2) the federal government's delay in passing 3PL licensure regulations and its recognition of state-issued 3PL licenses; (3) the federal government's and the State's distinction between a wholesalers license and a warehouse license; and (4) the argument for not approving R001-15 until the FDA passes 3PL licensing regulations.

Michael D. Hillerby, Director of Legislative Affairs, Kaempfer Crowell, on behalf of the SBP, referenced NRS 639.233 and spoke on the SBP's authority in requiring licensing of wholesalers and entities that operate warehouses that are shipping drugs into Nevada, whether they are from Nevada or out-of-state. He also discussed the SBP's role in protecting the public and its willingness to work with the Legislature in clarifying laws concerning the regulation of out-of-state entities. Mr. Hillerby noted if the Commission does not approve R001-15, the SBP will continue licensing organizations as they do currently.

Vice Chair Settelmeyer surmised the issue is the federal government passed a law that created uniformity, but it has yet to provide guidance on how to carry out that law, which leaves the states in the position of passing different rules and regulations, and creates problems for carriers who operate in multiple states. He stated that is why he is hesitant to pass R001-15 because people who are simply in possession of the drugs are being treated the same as those who own the drugs, which, in his opinion, is a huge difference, especially when dealing with someone from out-of-state. He commented there is potential to find common ground between the SBP and the NTA.

Paul J. Enos, previously identified, explained the NTA's opposition to R001-15. He stated the NTA acknowledges the SBP has the right to license 3PLs in Nevada; however, the federal law created a 3PL license in an attempt to facilitate uniformity across the states and eliminate the need for a "patchwork" of different regulations and licensing requirements. In addition, Mr. Enos said the federal government has preempted states from doing anything that is inconsistent with federal regulations, noting the renewal period for the federal license is three years while Nevada's 3PL licensure is required to be renewed every two years. In Mr. Enos' view, R001-15 does not treat wholesalers and 3PLs differently, noting their activities are similar, but the business models are completely different. He concluded the NTA does not engage in wholesaling.

MOTION: Vice Chair Settelmeyer moved to defer R001-15. Assemblyman Stewart seconded the motion. The motion carried. Senator Hardy was absent for the vote.

Regulation 058-16

A REGULATION relating to controlled substances; establishing standardized procedures for pharmacists furnishing opioid antagonists to certain persons under certain circumstances; authorizing physicians to establish written protocols for the furnishing of opioid antagonists by registered pharmacists; adopting certain requirements for the written protocols established by a physician; requiring certain records to be kept confidential; and providing other matters properly relating thereto (Agenda Item IV A-3).

Vice Chair Settelmeyer expressed concern that more regulations are being applied to the pharmacies rather than trying to keep opioid antagonists away from certain people through other means. He also questioned the regulation's effectiveness to keep drugs out and commented on the additional burdens placed on pharmacists due to additional regulations.

J. David Wuest, previously identified, gave background information on S.B. 459 (Chapter 26, *Statutes of Nevada 2015*) that requires the SBP to create regulations concerning the providing of Narcan, an antidote for the overdose of opioids, directly to patents by pharmacists and without a prescription. He explained that initially there was considerable opposition to the recordkeeping requirements; therefore, the annual reporting requirements were reduced to three items: (1) what drug was given; (2) who gave the drug; and (3) the date the drug was given. Mr. Wuest said the SBP agrees other health care professionals should also be required to collect the data, but the SBP was trying to be proactive by providing regulations for registered pharmacists.

Mr. Wuest and Assemblywoman Benitez-Thompson briefly discussed a circumstance where there was evidence illicit cancer drugs were delivered into Nevada by an unlicensed 3PL company. Mr. Wuest commented the matter is the subject of an ongoing investigation.

Vice Chair Settelmeyer stated the SBP indicated it will continue to work with the RAN to mitigate some of the issues. He expressed concern that R058-16 allows for a gigantic loophole by not addressing some items and that he would be voting *no* on the regulation.

MOTION: Assemblyman Hansen moved to defer R058-16. Assemblyman Stewart seconded the motion.

Before the vote, there was discussion between Assemblywoman Benitez-Thompson and Mr. Wuest regarding whether pharmacists would be allowed to give Narcan if

the regulation was not passed—Mr. Wuest confirmed pharmacists would be prohibited from giving out the drug.

Chair Roberson was concerned with the SBP's position that the prescribing of the opioid antagonist by pharmacists would be delayed if the regulation was not passed, noting S.B. 459 dealt with the dispensing of an opioid antagonist, not the recordkeeping requirements.

Mr. Hillerby stated S.B. 459 specifically requires the SBP to adopt regulations on the training of pharmacies and pharmacists, which is included in one subset of R058-16.

Assemblyman Hansen requested to withdraw his motion to defer R058-16.

MOTION: Vice Chair Settelmeyer moved to revise the motion to approve R058-16 under the condition the SBP continue to work with the RAN concerning reporting requirements. Assemblyman Hansen seconded the motion. The motion carried. Senator Hardy was absent for the vote.

Regulation 027-16

A REGULATION relating to education; revising requirements for a norm-referenced test that a private school is required to administer to each pupil for whom grant money is provided pursuant to the Nevada Educational Choice Scholarship Program; and providing other matters properly relating thereto (Agenda Item IV A-4).

Dr. Canavero stated the initial regulations to facilitate the Nevada Educational Choice Scholarship Program (NECSP) have been in place for two years; R027-16 clarifies the assessments, their quality, the terms *high validity* and *high content validity*, and the narrowing of the subject areas to comparable areas in public K-12 to English language arts and mathematics.

Senator Denis and Dr. Canavero discussed: (1) the term *norm-referenced test*; (2) the difference between the test administered by private schools and the test administered by public schools; and (3) the ability to make a comparable assessment of student performance.

MOTION: Senator Denis moved to approve R027-16. Senator Ford seconded the motion. The motion carried. Senator Hardy was absent for the vote.

Regulation 037-16

A REGULATION relating to education; approving certain assessments for use to assess a pupil's proficiency in the subject area of reading; providing that certain teachers employed by a school district or charter school are required to complete certain training or professional development; prescribing the duties and

responsibilities of a learning strategist; and providing other matters properly relating thereto (Agenda Item IV A-5).

Dr. Canavero provided an overview of the SBE's obligations under S.B. 391 (Chapter 334, *Statutes of Nevada 2015*), which is to: (1) prescribe a list of literacy assessments for students K–3 for use by districts; (2) identify the roles, responsibilities, professional development, training, and duties of a learning strategist, and the interaction between teachers and learning strategists; and (3) combine various programs seeking the same outcome, particularly pertaining to assessments.

Senator Denis and Dr. Canavero discussed the implementation of the Read by Grade Three Program. Dr. Canavero stated the program is in its second round of funding—the first round was approximately $5 million; the second round is approximately $22 million. The DOE has established a statewide literacy plan; provides direct support to the learning strategists in the districts with professional development; and is in the process of hiring a second, full-time staff to support the Program.

Karl Wilson, Programs Supervisor, DOE, expanded on the Program's implementation, emphasizing the development of charter literacy plans by each district and charter school that impact delivery services by schools as well as support when students struggle to meet literacy expectations. He also commented on the training of learning strategists and one assessment that would be comparable from district-to-district and school-to-school in measuring the student effectiveness. The preliminary report from the Phase 1 districts indicated there was a significant decrease in the number of students at risk of not achieving literacy in the primary grades as a result of the interventions.

MOTION: Senator Denis moved to approve R037-16. Senator Ford seconded the motion. The motion carried. Senator Hardy was absent for the vote.

Regulation 148-15

A REGULATION relating to the medical use of marijuana; establishing provisions relating to the use of concentrated cannabis by a medical marijuana establishment; revising provisions relating to the sale of marijuana and related products by a medical marijuana establishment to a person who holds a letter of approval or his or her designated primary caregiver; revising provisions relating to the cultivation, production, handling and labeling of marijuana and related products by a medical marijuana establishment; revising various provisions relating to the licensing and operation of a medical marijuana establishment and medical marijuana establishment agent; authorizing certain activities for research and development purposes by certain medical marijuana establishments; and providing other matters properly relating thereto (Agenda Item IV A-6).

Chair Roberson noted Senator Hardy requested R148-15 be pulled for discussion; however, Senator Hardy was not present.

Cody L. Phinney, previously identified, in response to a question from Chair Roberson, provided information concerning the status of issues raised by the medical marijuana industry regarding certain aspects of the regulation. She said R148-15 contains improvements to the original regulation, and she assured the Commission the DBPH plans on continuing to work with interested parties concerning the enforcement of regulations and developing a consensus on certain matters.

Chad Westom, previously identified, in response to a question from Assemblyman Stewart, reported on the utilization of successes and concerns from states with medical marijuana laws in establishing regulations. He named several states with which the DPBH works closely in sharing information. Mr. Westom stated the first medical marijuana regulations had a lot in common with Arizona. He said Nevada has some of the most stringent requirements in the country concerning the protection of children and patients, and it continues to explore ways to improve safety.

There was a discussion between Assemblywoman Neal and Mr. Westom pertaining to subsections 1 and 3 of Section 20 regarding the prohibition of individuals with a chronic or debilitating disease who have been issued a registry identification card from being a primary caregiver and the exception thereof. The discussion included Section 68 regarding the testing, retesting, and disposition of usable marijuana that fails a quality assurance test.

MOTION: Vice Chair Settelmeyer moved to approve R148-15. Senator Ford seconded the motion. Assemblywoman Neal voted no. Senator Hardy was absent for the vote. The motion carried.

Regulation 015-16

A REGULATION relating to vessels; revising the requirements for applications for certificates of number and certificates of ownership; revising requirements for the contents of certificates of number and certificates of ownership; revising the contents required in a certificate of number; invalidating and requiring the surrender of a certificate of number under certain circumstances; providing for the assignment of a state hull number to certain vessels; revising certain requirements for the transfer or sale of certain vessels; and providing other matters properly relating thereto (Agenda Item IV A-7).

Tyler Turnipseed, Chief Game Warden, Department of Wildlife (NDOW), and Maureen Hullinger, Management Analyst III, Operations Division, NDOW, confirmed for Vice Chair Settelmeyer that registration is required only for motorized watercraft.

MOTION: Vice Chair Settelmeyer moved to approve R015-16. Senator Silberkraus seconded the motion. The motion carried. Senator Hardy was absent for the vote.

Regulation 023-16

A REGULATION relating to dairy products; revising provisions relating to the production, sale and delivery of dairy products; and providing other matters properly relating thereto (Agenda Item IV A-8).

Anna Vickrey, Operations Manager, Food Safety, State Dairy Commission, State Department of Agriculture, explained to Assemblywoman Neal the purpose for deleting the average of the last four test results for bacterial conditions or cooling temperatures and replacing it with only one, as indicated in subsection 3 of Section 2. She also clarified Section 23 concerning the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the northern Nevada marketing area.

MOTION: Assemblywoman Neal moved to approve R023-16. Senator Denis seconded the motion. The motion carried. Senator Hardy was absent for the vote.

Regulation 053-16

A REGULATION relating to local government finance; excluding certain money from collective bargaining negotiations and from consideration in determining the ability of local governments to pay compensation and monetary benefits; and providing other matters properly relating thereto (Agenda Item IV A-9).

Assemblywoman Benitez-Thompson commented there are no questions concerning R053-16 but rather there was a desire to have it removed from the consent agenda.

Chair Roberson clarified R053-16 was not on the consent agenda; therefore, the Commission is considering the regulation.

Vice Chair Settelmeyer recognized R053-16 is contentious, that S.B. 168 (Chapter 490, *Statutes of Nevada 2015*) did not receive bipartisan approval, and some Commission members would like to vote *no* on the regulation. He argued R053-16 is about providing clarity and whether it is in line with legislation; it is not about policy. He asked the Legal Division whether the statute would override the regulation and whether the counties would be able to keep 25 percent of the total budgeted expenditures, less capital outlay, for their general funds if the regulation is not approved.

Ms. Erdoes confirmed the statute clearly applies and the 25 percent would be allowed to be withheld.

Chair Roberson questioned whether the language in the regulation is helpful to the implementation of the law. He also reminded members the Commission has a duty to pass regulations so long as they are consistent with the underlying legislation and its intent.

Assemblywoman Benitez-Thompson suggested there is no need to vote on R053-16 if it is overridden by law.

Terry E. Rubald, Deputy Executive Director, Local Government Services, Taxation, stated the Committee on Local Government Finance (Committee) (NRS 354.105), Taxation, concluded the regulation makes a distinction between the two kinds of funds.

Senator Denis questioned whether the distinction between the 8.3 percent and the 25 percent was only in Section 1 of the regulation.

Ms. Rubald pointed out subsection 2 is the original language except it includes *school district* general *fund* or *a local government* special revenue fund, and the remainder of the new language is directly from the statute. She indicated if the regulation was not approved, the Committee would go forward, noting there will be some confusion due to people not being aware of the change in statute.

After further discussion, Chair Roberson announced no action would be taken on R053-16.

B. Approval of Session Hires for the 2017 Legislative Session – Susan E. Scholley, Research Director

Susan E. Scholley, previously identified, drew the Commission's attention to a memorandum dated September 6, 2016, from Rick Combs, previously identified, regarding session hires for the 2017 Legislative Session (Agenda Item IV C). She indicated 53 positions had been approved as early session hires. Continuing, Ms. Scholley said the Administrative Division is requesting another 24 positions; the Legal Division is requesting 1 more position; and the Research Division is requesting another 4 positions, which brings the total of session hires to 82 as compared to 93 approved for the 2015 Legislative Session. She also pointed out in the memorandum the justification for the upgrade to the Lobbyist Clerk position.

MOTION: Assemblyman Stewart moved to approve the additional 29 session-hire positions for the 2017 Legislative Session. Assemblyman Silberkraus seconded the motion. The motion carried. Senator Hardy was absent for the vote.

C. Approval of an Extension of the September 1, 2016, Deadline for Requesting Bill Draft Requests for the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency (TRPA) and the Marlette Lake Water

System (MLWS) (NRS 218E.555) – Senator James Settelmeyer, Vice Chair, Legislative Committee for the Review and Oversight of the TRPA and the MLWS.

Vice Chair Settelmeyer explained the request for extending the bill draft request deadline was primarily due to scheduling conflicts that had delayed the Committee's work session and the fact that the Committee was awaiting a report from a stakeholder group prior to finalizing its requests.

MOTION: Assemblyman Stewart moved to approve extending the bill draft request deadline. Senator Denis seconded the motion. The motion carried. Senator Hardy was absent for the vote.

AGENDA ITEM V—APPOINTMENT OF MEMBERS TO THE NEVADA COMMISSION ON MINORITY AFFAIRS (NRS 232.852) – Susan E. Scholley, Research Director

Susan E. Scholley, previously identified, provided an overview of the appointment of three members and the reappointment of two members to the Nevada Commission on Minority Affairs, Department of Business and Industry, as indicated in a letter from Miriam Lira-Hickerson, Ombudsman, Office of Ombudsman of Consumer Affairs for Minorities, Department of Business and Industry (résumés attached) (Agenda Item V A).

Ms. Lira-Hickerson introduced herself and confirmed the number of vacant positions to be appointed as well as the positions available for reappointment.

MOTION: Senator Denis moved to approve the appointment of Janelle Mack, Ender Austin, III, and Gaspar Montanez to the Nevada Commission on Minority Affairs. Senator Ford seconded the motion. The motion carried. Senator Hardy was absent for the vote.

MOTION: Senator Ford moved to approve the reappointment of Jane Lee and Kari A. Emm to the Nevada Commission on Minority Affairs. Senator Atkinson seconded the motion. The motion carried. Senator Hardy was absent for the vote.

AGENDA ITEM VI—PUBLIC COMMENT

Chair Roberson called for public comment; however, no testimony was presented.

AGENDA ITEM VII—ADJOURNMENT

There being no further business to come before the Commission, the meeting was adjourned at 3:18 p.m.

Respectfully submitted,

Debbie Gleason
Secretary for Minutes

APPROVED BY:

Senator Michael Roberson, Chair
Legislative Commission

MEETING MATERIALS

AGENDA ITEM	WITNESS/ENTITY	DESCRIPTION
Agenda Item II A	Carolyn Edwards, Trustee, District F, Clark County School District (CCSD), Chris Garvey, Vice President and Trustee, District B, CCSD, and Patrice Tew, Clerk and Trustee, CCSD	Statement
Agenda Item II B-1	Amanda Morgan, Esq., Legal Director, Educate Nevada Now (ENN), and Sylvia Lazos, Policy Director, ENN	Letter
Agenda Item II B-2	Amanda Morgan, Esq., Legal Director, ENN, and Sylvia Lazos, Policy Director, ENN	Letter
Agenda Item II B-3	Amanda Morgan, Esq., Legal Director, ENN, and Sylvia Lazos, Policy Director, ENN	Letter
Agenda Item II B-4	Amanda Morgan, Esq., Legal Director, ENN, and Sylvia Lazos, Policy Director, ENN	Letter
Agenda Item IV A-1	Legal Division, Legislative Counsel Bureau (LCB)	Adopted Regulation of the State Board of Education (SBE), LCB File No. R142-16
Agenda Item IV A-2	Legal Division, LCB	Adopted Regulation of the State Board of Pharmacy (SBP), LCB File No. R001-15
Agenda Item IV A-3	Legal Division, LCB	Adopted Regulation of the SBP, LCB File No. R058-16
Agenda Item IV A-4	Legal Division, LCB	Adopted Regulation of the Department of Education, LCB File No. R027-16
Agenda Item IV A-5	Legal Division, LCB	Adopted Regulation of the SBE, LCB File No. R037-16

Agenda Item IV A-6	Legal Division, LCB	Adopted Regulation of the Division of Public and Behavioral Health, Department of Health and Human Services, LCB File No. R148-15
Agenda Item IV A-7	Legal Division, LCB	Adopted Regulation of the Board of Wildlife Commissioners, LCB File No. R015-16
Agenda Item IV A-8	Legal Division, LCB	Adopted Regulation of the State Dairy Commission, LCB File No. R023-16
Agenda Item IV A-9	Legal Division, LCB	Adopted Regulation of the Committee on Local Government Finance, LCB File No. R053-16
Agenda Item IV B	Healthcare Distribution Management Association	Letter
Agenda Item IV C	Rick Combs, Director, LCB	Memorandum
Agenda Item V A	Miriam Lira-Hickerson, Ombudsman, Office of Ombudsman of Consumer Affairs for Minorities	Letter (résumés attached)

This set of "Minutes of the Legislative Commission" is an informational service. Meeting materials are on file in the Director's Office of the Legislative Counsel Bureau, Carson City, Nevada.