

BULLETIN 19-17

**Sunset Subcommittee of the
Legislative Commission
(NRS 232B.210)**



Legislative Counsel Bureau

SEPTEMBER 2018

SUNSET SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION

Nevada Revised Statutes 232B.210

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Nevada Revised Statutes

NRS 232B.210 Creation; membership; election of Chair and Vice Chair; vacancies; meetings; quorum; compensation; expenses.

1. The Sunset Subcommittee of the Legislative Commission, consisting of nine members, is hereby created. The membership of the Sunset Subcommittee consists of:

(a) Three voting members of the Legislature appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party;

(b) Three voting members of the Legislature appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party; and

(c) Three nonvoting members of the general public appointed by the Chair of the Legislative Commission from among the names of nominees submitted by the Governor pursuant to subsection 2.

2. The Governor shall, at least 30 days before the beginning of the term of any member appointed pursuant to paragraph (c) of subsection 1, or within 30 days after such a position on the Sunset Subcommittee becomes vacant, submit to the Legislative Commission the names of at least three persons qualified for membership on the Sunset Subcommittee. The Chair of the Legislative Commission shall appoint a new member or fill the vacancy from the list, or request a new list. The Chair of the Legislative Commission may appoint any qualified person who is a resident of this State to a position described in paragraph (c) of subsection 1.

3. Each member of the Sunset Subcommittee serves at the pleasure of the appointing authority.

4. The voting members of the Sunset Subcommittee shall elect a Chair from one House of the Legislature and a Vice Chair from the other House. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

5. The membership of any member of the Sunset Subcommittee who is a Legislator and who is not a candidate for reelection or who is defeated for reelection terminates on the day next after the general election.

6. A vacancy on the Sunset Subcommittee must be filled in the same manner as the original appointment.

7. The Sunset Subcommittee shall meet at the times and places specified by a call of the Chair. Four voting members of the Sunset Subcommittee constitute a quorum, and a quorum may exercise any power or authority conferred on the Sunset Subcommittee.

8. For each day or portion of a day during which a member of the Sunset Subcommittee who is a Legislator attends a meeting of the Sunset Subcommittee or is otherwise engaged in the business of the Sunset Subcommittee, except during a regular or special session of the Legislature, the Legislator is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers generally; and

(c) Travel expenses provided pursuant to [NRS 218A.655](#).

The compensation, per diem allowances and travel expenses of the members of the Sunset Subcommittee who are Legislators must be paid from the Legislative Fund.

9. While engaged in the business of the Sunset Subcommittee, the members of the Subcommittee who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

(Added to NRS by [2011, 2992](#); A [2013, 787](#))

EXECUTIVE SUMMARY

[Senate Bill 251](#) of the 2011 Session created the Sunset Subcommittee of the Legislative Commission. The Subcommittee's membership, powers, and duties are codified in [Nevada Revised Statutes \(NRS\) 232B.210](#).

The Subcommittee consists of six legislators appointed by legislative leaders. Three nonvoting members are appointed by the chair of the Legislative Commission from nominations submitted by the governor.

The primary duties of the Subcommittee are to: (1) conduct reviews of all boards, commissions, and similar entities in Nevada, created by statute, and determine whether each entity should be continued, modified, consolidated with another entity, or terminated; (2) recommend improvements to the entities that are to be continued, modified, or consolidated; and (3) determine whether any tax exemptions, abatements, or money set aside for an entity should be continued, modified, or terminated.

The Subcommittee held seven meetings, including four work sessions, during the course of the interim. All meetings were open to the public and conducted through simultaneous videoconferences between legislative meeting rooms at the Grant Sawyer State Office Building in Las Vegas, Nevada, and the Legislative Building in Carson City, Nevada. The public hearings afforded an opportunity for each board or related entity to present information on its operations, including the management of its staff and services, its revenues and budgeting processes, the effectiveness of its regulations, and the disciplining of licensees. Further, the hearings offered the public an opportunity to comment on the presentations and raise additional issues relating to the entities.

The members reviewed 25 entities during the 2017–2018 Interim. The Subcommittee took action on each entity and made recommendations either to continue, revise, or terminate each board or related entity. In addition, the Subcommittee received status reports from several entities that it had reviewed in the 2015–2016 Interim.

The Subcommittee's final report will contain an overview of its activities and a discussion of its recommendations.

SUMMARY OF RECOMMENDATIONS

This summary presents the recommendations approved by the Sunset Subcommittee of the Legislative Commission at its meetings on March 21, April 23, May 21, and June 13, 2018. The recommendations will be submitted to the Legislative Commission for its consideration and possible inclusion in bill draft requests (BDRs) to be forwarded to the 80th Session of the Nevada Legislature.

Recommendations for Legislation

Entities Recommended for Continuation With Statutory Revisions

1. State Board of Landscape Architecture ([NRS 623A.080](#)) (**BDR –518**)
2. Board of Registered Environmental Health Specialists ([NRS 625A.030](#)) (**BDR –518**)
3. Nevada Physical Therapy Board ([NRS 640.030](#)) (**BDR –518**)

Entity Recommended for Termination With Functions Transferred

1. Board of Homeopathic Medical Examiners ([NRS 630A.100](#)) (**BDR –519**)

Further Legislation Recommended

1. Authorize each board or commission, created in Title 54 (“Professions, Occupations and Businesses”) of NRS, to enter into or participate in a contract for the acceptance of credit cards and other electronic transfers of money or to participate in such a contract entered into by the director of the Office of Finance, Office of the Governor. (**BDR –518**)
2. Establish an interim study of the operations of the professional and occupational licensing boards during the 2019–2020 Interim. (**BDR –520**)

Recommendations for Committee Action

Entities Recommended for Continuation

1. State Contractors’ Board ([NRS 624.040](#))
2. State Board of Professional Engineers and Land Surveyors ([NRS 625.100](#))
3. Advisory Committee on Nursing Assistants and Medication Aides ([NRS 632.072](#))

Entities Recommended for Continuation With Additional Actions and Reporting

1. Peace Officers’ Standards and Training Commission ([NRS 289.500](#))
2. State Board of Architecture, Interior Design and Residential Design ([NRS 623.050](#))
3. Commission on Construction Education ([NRS 624.570](#))
4. Nevada State Board of Accountancy ([NRS 628.035](#))
5. Board of Medical Examiners ([NRS 630.050](#))

6. State Board of Nursing ([NRS 632.020](#))
7. State Board of Osteopathic Medicine ([NRS 633.181](#))
8. Chiropractic Physicians' Board of Nevada ([NRS 634.020](#))
9. State Board of Podiatry ([NRS 635.020](#))
10. State Board of Pharmacy ([NRS 639.020](#))
11. Board of Occupational Therapy ([NRS 640A.080](#))
12. Board of Massage Therapy ([NRS 640C.150](#))
13. Board of Psychological Examiners ([NRS 641.030](#))
14. Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors ([NRS 641A.090](#))
15. Board of Examiners for Social Workers ([NRS 641B.100](#))
16. Board of Examiners for Alcohol, Drug and Gambling Counselors ([NRS 641C.150](#))
17. Private Investigator's Licensing Board ([NRS 648.020](#))
18. Certified Court Reporters' Board of Nevada ([NRS 656.040](#))

I. INTRODUCTION

The Sunset Subcommittee is a permanent subcommittee of the Legislative Commission whose authorization and duties are set forth in [Chapter 232B](#) of NRS. Created in 2011 with the enactment of [SB 251](#), the Subcommittee is responsible for conducting reviews of all boards, commissions, and similar entities in Nevada that are not provided in the *Nevada Constitution* or established by an executive order of the governor. Charged with determining whether those entities should be continued, modified, terminated, or consolidated with another entity, the Subcommittee must make its recommendations on or before June 30 of each even-numbered year.

The creation of the Subcommittee, its membership, powers, and duties, are codified in [NRS 232B.210 through 232B.250](#). Membership consists of six legislators, appointed by legislative leadership, and three nonvoting members, selected by the chair of the Legislative Commission from nominations submitted by the governor. The chair and vice chair are elected by the legislative members of the Subcommittee.

The statutory charge of the Subcommittee is to evaluate the major policies and programs of the boards or commissions, specifically to determine whether any services provided are duplicates of services offered by other programs and whether any revenues provided to the boards or commissions should be continued, revised, or terminated. The Subcommittee may recommend to the Legislative Commission that the legislative auditor conduct audits of selected boards or commissions under its review; such recommendations are limited to no more than four entities per interim. Pursuant to [NRS 232B.240](#), the board or commission under review has the burden of proving a public need for its continued existence.

The Subcommittee held seven meetings during the 2017–2018 Interim. All of the meetings were conducted through simultaneous videoconferencing between legislative hearing rooms in the Grant Sawyer State Office Building in Las Vegas and the Legislative Building in Carson City. The following list of dates includes links to each meeting:

- [December 8, 2017](#)
- [January 22, 2018](#)
- [February 21, 2018](#)
- [March 21, 2018](#)
- [April 23, 2018](#)
- [May 21, 2018](#)
- [June 13, 2018](#)

The Subcommittee selected and reviewed 25 professional and occupational licensing boards and related entities. The members heard briefings on all of the entities and made final recommendations

on each of them. In addition, the Subcommittee received reports from several boards and commissions that had been reviewed in the previous interim. The Subcommittee received briefings on several issues related to the review of professional and occupational licensing boards.

More information about the Subcommittee’s activities—including minutes, recordings of meetings, and copies of presentations and other exhibits—may be accessed on the Legislature’s website for the [2017–2018 Interim](#).

II. BACKGROUND

During the 2017–2018 Interim, the Subcommittee received two presentations relating to professional and occupational licensing in Nevada. These included a report on Nevada’s participation in the Occupational Licensing Policy and Practice Learning Consortium. The Subcommittee also received an overview of data on occupational licensing.

A. Report on Nevada’s Participation in the Occupational Licensing Policy and Practice Learning Consortium

At the Subcommittee’s [December 8, 2017](#), meeting, Assemblyman Nelson Araujo summarized Nevada’s participation in the Occupational Licensing Policy and Practice Learning Consortium. Along with ten other states, Nevada was selected to participate in the Consortium, which is supported by the Council of State Governments, the National Conference of State Legislatures, and the National Governors Association Center for Best Practices. Additional support is provided by the United States Department of Labor.

Each participating state identified four target occupations based on certain criteria: occupations licensed in at least 30 states and occupations that require less than a bachelor’s degree. Nevada selected occupations in construction and health care.

The purpose of the study is to identify and implement licensing best practices that support a skilled workforce, deliver high-quality services, and remove barriers to licensing. Assemblyman Araujo stated the Consortium plans to complete its work and make recommendations in December 2019.

B. Report From the Office of Workforce Innovation, Office of the Governor

[Senate Bill 69](#) of the 2017 Session requires the executive director of the Office of Workforce Innovation (OWINN), Office of the Governor, to report to the Legislature on the number of persons in Nevada who are engaged in an occupation or profession that is regulated by a regulatory body and the demand for the services of such persons.

At the Subcommittee’s [May 21, 2018](#), meeting, Manny Lamarre, Executive Director, OWINN, provided an analysis of regulated occupations. He reported that Nevada ranks second among the 50 states for “burdensome” licensing laws, a designation based upon the average amount of education and experience required, as well as the amount of fees for registration, examination, and

licensing. Mr. Lamarre reported that approximately 30 percent of Nevada’s workforce is regulated through a licensing board.

Mr. Lamarre also provided information on core strategies and policies relating to occupational licensing. He stated that priorities for 2018–2019 include aligning workforce training with labor market data, scaling work-based learning and apprenticeships, and outreach and awareness of workforce opportunities and partnerships.

III. DISCUSSION OF TESTIMONY AND RECOMMENDATIONS

The Sunset Subcommittee of the Legislative Commission reviewed 25 professional and occupational licensing boards and related entities during the 2017–2018 Interim. The Subcommittee held work sessions on March 21, April 23, May 21, and June 13, 2018. In addition to recommending continuation, modification, or termination of each entity, the Subcommittee also considered proposed actions for legislation, letters, or statements to include in its final report. Additional information regarding all recommendations considered is available in the Subcommittee’s Work Session Documents at: <https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2017/Committee/1415/Meetings>. All approved letters sent to various professional and occupational licensing boards are available on the Subcommittee’s [overview webpage](#).

The Subcommittee requested from each entity a completed review form and supporting documents including audits, budgets, governance structure, and reports required by the Legislature. In addition, the Subcommittee requested that each entity provide information on licensing fees charged in Nevada and in neighboring states. These documents are available on the Subcommittee’s [website](#) on the date of the initial review by the Subcommittee, as provided in the following information.

A. Entities Recommended for Continuation With Statutory Revisions

1. The **State Board of Landscape Architecture** ([NRS 623A.080](#)) was established in 1975. The Board consists of five members appointed by the governor. The Board is responsible for implementing the provisions of [Chapter 623A](#) of NRS. The Board was reviewed by the Sunset Subcommittee at its meeting on [February 21, 2018](#). Discussion among the Subcommittee members and representatives of the Board concerned accessibility to forms and other functions via the Internet for the convenience of certificate holders, continuing education, fees, travel expenses, and videoconferencing.

The Board offered one suggestion for revision to the statutes governing its operations. Existing law provides that the president of the Board or a designated Board member must review a complaint filed with the executive director. Consideration of the complaint by a member of the Board in this manner eliminates that person from subsequent participation in a later hearing on the complaint. The Board suggested revising these provisions by substituting the executive director for the president or any Board member, so that all Board members may participate in a hearing without violating the due process rights of the person named in the complaint.

Subsequent to the review, the Board reported that it had proposed a permanent regulation for inclusion in [Chapter 623A](#) of *Nevada Administrative Code*, which had been submitted to the Legal Division of the Legislative Counsel Bureau.

At the [March 21, 2018](#), work session, the Subcommittee recommended continuation of the Board. It further recommended amending NRS to provide that the executive director, rather than the president of the Board or any designated Board member, consider a complaint that is filed with the Board to determine whether further proceedings are warranted. (BDR –518)

The Subcommittee also voted to send a letter to the Board requesting to be informed when the Board’s continuing education policy is implemented.

2. The **Board of Registered Environmental Health Specialists** ([NRS 625A.030](#)) was created by the Legislature in 1987. The Board includes the chief medical officer and four members appointed by the governor to represent the general public and the health districts of Washoe and Clark Counties. The Board determines continuing education requirements, establishes standards of professional conduct, issues certificates of registration, sets fees, and takes disciplinary actions.

The Sunset Subcommittee reviewed the Board at its meeting on [February 21, 2018](#). Members of the Subcommittee and representatives of the Board discussed the impact of legalized marijuana on the requirements for registration with the Board. Representatives of the Board discussed changes to the practice of environmental health specialists, the Board’s disciplinary options, and its lack of authority to impose fines.

The Board recommended revisions to provisions of [Chapter 625A](#) of NRS to authorize the Board to issue licenses rather than certificates and impose civil penalties as a means of disciplinary action. The Board recommended that it be given the option to delegate to a hearing officer its authority to take disciplinary action.

At the [April 23, 2018](#), work session, the Subcommittee voted to recommend continuation of the Board and revision of NRS to provide the Board with the option to delegate to a hearing officer its authority with regard to disciplining a certificate holder. (BDR –518)

3. The Legislature established the **Nevada Physical Therapy Board** ([NRS 640.030](#)) in 1955. The Board consists of five members appointed by the governor. In addition, in 2017, the Legislature authorized the Board to select any person to serve as a nonvoting advisory member of the Board. The Board is authorized to enforce the provisions of [Chapter 640](#) of NRS, evaluate applicants, issue licenses, investigate complaints, discipline licensees, forward to law enforcement any substantiated information concerning a person who allegedly practices without a license, and approve educational programs leading to licensure.

The Sunset Subcommittee reviewed the Board at its meeting on [April 23, 2018](#). Subcommittee members and Board representatives discussed the following:

- Lack of internal controls in Board operations, including the segregation of duties and maintenance of adequate records to enable the financial audit;
- Expenditures exceeding revenues;
- Budgets not prepared for Fiscal Year (FY) 2014–2015 or FY 2015–2016;
- The previous executive director’s unauthorized payments to herself prior to resignation;
- Moving to an annual audit to assist the Board in the accountability and maintenance of its financial records; and
- Board training consisting of providing members with lists of websites relating to ethics, government, and the Open Meeting Law; instruction in the legislative process provided by a lobbyist; and recommendations for education and training events.

The Board has taken the following steps to address some of these issues:

- Working with the Office of the Attorney General (OAG) rather than full-time, outside legal counsel;
- Reviewing invoices and regulations;
- Establishing internal financial controls;
- Providing online access to licensing renewals; and
- Putting employee performance evaluations in place.

On its review form, the Board indicated that it is undertaking a comprehensive review of its administrative regulations for the purpose of updating and revising disciplinary actions, licensing procedures, and professional standards and conduct.

At its work session on [June 13, 2018](#), the Sunset Subcommittee voted to recommend continuation of the Board. The Subcommittee also voted to recommend improvements to the Board’s training by revising provisions of Chapter 640 of NRS to require Board members to attend training offered by the OAG. The Subcommittee also voted to require the Board to report to the Subcommittee during the 2019–2020 Interim with documentation of training in which each Board member participated. (BDR –518)

The Subcommittee also voted to send a letter to the Board urging it to establish an annual audit cycle, create an annual budget, and improve its budgeting process and maintenance of records. The Subcommittee also will require the Board in the 2019–2020 Interim to report on its investigation into the conduct of the previous executive director and its steps taken to correct problems identified during the Board’s review.

B. Entity Recommended for Termination With Functions Transferred

1. The **Board of Homeopathic Medical Examiners** ([NRS 630A.100](#)) was established by the Legislature in 1983. The Board consists of seven members appointed by the governor. The Board has the authority to regulate the practice of homeopathic medicine, determine qualifications of applicants, issue licenses or certificates, and investigate complaints.

The Subcommittee reviewed the Board at its meeting on [March 21, 2018](#). Discussion between Subcommittee members and representatives of the Board included a review of the Board's expenditures, revenues, and debt of approximately \$145,000 owed to the OAG, which has been accruing since 2004. Representatives of the Board indicated most patients are not Nevada residents; they generate medical tourism revenue during their stay for treatment. In addition, the Board reported that new applications for license indicate a growing trend in homeopathic medicine.

The Subcommittee requested additional information, as follows:

- Subsequent to the March review, the chair requested information on the amount of money generated from homeopathic medical tourism, the number of pending applications, and the number of individuals practicing homeopathic medicine without a license in Nevada. A report addressing the requested information was submitted by Capitol Partners, LLC, on behalf of the Board. The report and letters of support are included in the informational items on the agenda for the Subcommittee's meeting on [June 13, 2018](#).
- At the Subcommittee's meeting on [April 23, 2018](#), the members voted to request information from the OAG regarding the circumstances of the amounts payable and any suggestions for resolution. The OAG submitted a response for the Subcommittee's consideration at the June 13, 2018, meeting.

At its work session on [June 13, 2018](#), the Subcommittee addressed issues relating to the Board in separate actions. First, the Subcommittee voted to send a letter to the Board, the OAG, the Legislature's Interim Finance Committee, and the next governor, explaining the details of the debt owed by the Board to the OAG and requesting a resolution of the debt. Second, the Subcommittee voted to recommend termination of the Board and the transfer of its licensing duties to the Division of Public and Behavioral Health (DPBH), Department of Health and Human Services (DHHS). (BDR –519)

C. Entities Recommended for Continuation

1. The **State Contractors' Board** ([NRS 624.040](#)) was established in 1941. The Board consists of seven members appointed by the governor, including six licensed contractors and one representative of the general public. The Board is authorized to make bylaws, rules of procedure, and regulations that are necessary to carry out the provisions of [Chapter 624](#) of NRS, including issuing licenses and disciplining licensees, establishing an Investigations Office, administering the Recovery Fund, and adopting regulations for the Commission on Construction Education.

The Sunset Subcommittee reviewed the Board at its meeting on [February 21, 2018](#). Members of the Subcommittee and representatives of the Board discussed the delegation of the authority to discipline licensees to an administrative law judge and licensure by endorsement. Representatives indicated the Board is considering revisions to its strategic plan. The Board reported that, due to the economic downturn, it refunded approximately \$2.6 million to both active and inactive licensees. The Board has a practice of maintaining a one-year operating reserve. Representatives responded to questions relating to increased expenses for professional services.

At its work session on [May 21, 2018](#), the Subcommittee voted to recommend continuation of the Board without any revisions.

2. The **State Board of Professional Engineers and Land Surveyors** ([NRS 625.100](#)) was initially established by the Legislature in 1919, when it defined the practice of professional engineering. The practice of land surveying was recognized by the Legislature in 1947. The Board consists of nine members appointed by the governor. The Board is responsible for issuing licenses, defining the scope of the disciplines by regulation, disciplining licensees, and investigating complaints.

The Sunset Subcommittee considered the Board at its meeting on [February 21, 2018](#). A review of the Board's financial audit indicated the Board has a reserve balance that would cover approximately 35 months of operating expenses. The Board reported it does not have a reserve policy, and it retains all money from the imposition of fines collected pursuant to [NRS 625.150](#).

Following the review, a letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on [May 21, 2018](#). The Board indicated that "internal procedures have been implemented to ensure that all future fines" imposed by the Board will be deposited with the Office of the State Treasurer.

Subsequently, the Board submitted a reserve policy it adopted in May 2018 and a business plan effective June 2018.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board without any revisions.

3. The **Advisory Committee on Nursing Assistants and Medication Aides** ([NRS 632.072](#)) was established by the Legislature in 1989. As part of a budget reconciliation act, the federal government developed procedures for approving nursing assistant training programs. In 2011, the Legislature added the certification of medication aides.

The Advisory Committee consists of 11 members, as provided in statute, including representatives of certain types of agencies or organizations, certain divisions of DHHS, and various levels of nursing licensure. The Advisory Committee must advise the State Board of Nursing on matters relating to nursing assistants and medication aides-certified.

In 1995, the Legislature authorized the State Board of Nursing to create other advisory committees as it deemed appropriate.

The Sunset Subcommittee reviewed the Advisory Committee at its meeting on [March 21, 2018](#). Subcommittee members asked whether the Board might prefer more flexibility by establishing the Advisory Committee through regulation rather than statute. Members also inquired about the pass/fail rates of educational and training programs.

Subsequent to the meeting, the executive director of the State Board of Nursing reported that the Board has not experienced any problems or limitations because the Advisory Committee is established in statute. Further, the Board can see no advantage to moving the Advisory Committee from statute to regulation. The Board also provided information on success rates of educational and training programs, which was provided to the Subcommittee as an attachment to the Work Session Document.

At its work session on [April 23, 2018](#), the Subcommittee voted to recommend continuation of the Advisory Committee without any revisions.

D. Entities Recommended for Continuation With Additional Actions and Reporting

1. The **Peace Officers' Standards and Training Commission** (P.O.S.T.) ([NRS 289.500](#)), created by the Legislature in 1981, consists of nine members appointed by the governor. Members must represent geographic areas of the state as well as categories of peace officers.

The Commission provides training opportunities for law enforcement personnel and establishes minimum standards for the certification, recruitment, selection, and training of peace officers. It shall determine whether agencies of state and local government are complying with its standards.

The Sunset Subcommittee reviewed P.O.S.T. at its [January 22, 2018](#), meeting. Subcommittee members and representatives of P.O.S.T. discussed funding for the activities of the Commission. The executive director stated that the only source of funding is through court assessment fees. Subcommittee members requested information on funding available to similar agencies in other states. The response from the executive director was included in the informational items provided to the Subcommittee at its meeting on [February 21, 2018](#).

To stabilize and increase its budget, P.O.S.T. suggested statutory revisions to provide a specific and mandatory portion of court assessment fees or to add a source of funding, such as a surcharge, or other methods of funding utilized in other states.

At the [June 13, 2018](#), work session, the Subcommittee voted to include a statement in its final report encouraging P.O.S.T. to request additional funding for the 2019–2021 Biennium and to seek a sponsor for a BDR to provide an increased portion of court assessment fees or a new source of funding. In addition, the Subcommittee also voted to send a letter to the governor and the chairs of the Senate Committee on Finance and the Assembly Committee on Ways and Means recommending funding for the Northern Nevada Emergency Vehicle Operations

Course that had been approved in 2007 but not constructed due to the ensuing economic recession.

2. The **State Board of Architecture, Interior Design and Residential Design** ([NRS 623.050](#)) was created by the Legislature in 1949 to recognize the profession of architecture. Subsequently, the practice of residential design was defined in 1975, and the practice of interior design was defined in 1995. The name of the Board was revised each time another practice was licensed. The Board consists of nine members appointed by the governor to represent the three practices and the general public. The Board is authorized to issue licenses, discipline licensees, impose civil penalties, establish education and training requirements, and adopt a code of ethics.

The Sunset Subcommittee reviewed the Board at its meeting on [February 21, 2018](#). Subcommittee members and representatives of the Board discussed the Board's policy of offering longevity pay to employees, budgeted travel costs, fees as they compare to surrounding states, and the retention of revenues from fines.

The Board provided a response to questions raised, which was included in the informational items provided to the Subcommittee at its meeting on [May 21, 2018](#). The Board indicated the following:

- Longevity pay has been an employment policy since 2001 as part of its compensation package. The Board offered to discontinue this policy;
- In-state travel costs include travel for board meetings, continuing education seminars, educational outreach programs, and examination administration. Several Board members participate in national organizations, generating out-of-state travel expenses;
- First-time registration fees are higher than surrounding states because the Board is entirely self-funded. It provides certain services, including faster licensing, free continuing education, and participation in an alternative path to licensure for some qualified interior designers;
- [NRS 623.310](#) provides a ceiling of \$800 for an examination. Fees have not been raised since 2002; and
- With regard to fines and assessments, the Board takes the position that its legal authority “seems to differ from the authority that governs other” licensing boards in Nevada.
 - [NRS 623.365](#) provides for a civil penalty not to exceed \$10,000.
 - No provision in [Chapter 623](#) of NRS specifically directs the Board to deposit money from fines in the Office of the State Treasurer, although [NRS 623.165](#) provides that if the Board does make such deposits, it can request reimbursement for investigative costs from the Interim Finance Committee. The Board asserts that its “present processes do not pose the kinds of due process risks” of concern to the Sunset Subcommittee.

At the [June 13, 2018](#), work session, the Subcommittee voted to continue the Board. It also voted to send a letter to the Board urging it to discontinue the practice of longevity pay, reduce its travel expenses, review its fees for examinations and first-time registrations, and bring its procedures regarding fines in line with the other professional licensing boards. The Board is directed to report to the Subcommittee during the 2019–2020 Interim on the results of the review. Finally, the Subcommittee voted to make a statement in its final report that the Board’s practice of retaining revenues from levying fines and civil penalties is not aligned with the provisions of other practice acts.

3. The **Commission on Construction Education** ([NRS 624.570](#)) was established in 2001. It consists of seven members, including one member of the State Contractors’ Board, four members who represent the construction industry, and two members who are knowledgeable about construction education.

The Commission is authorized to establish a grant program and distribute grants from the Construction Education Account to projects relating to education in building construction. Money deposited in the Account includes voluntary contributions, fines assessed for disciplinary actions, and fines assessed for participating in certain prohibited acts. The State Contractors’ Board is authorized to adopt regulations for the Commission.

The Sunset Subcommittee reviewed the Commission at its meeting on [February 21, 2018](#). A summary of recent grants awarded was included in informational items to the Subcommittee at its meeting on [April 23, 2018](#).

At the work session on [May 21, 2018](#), the Subcommittee voted to recommend continuation of the Commission. The Subcommittee also voted to make a statement in its final report supporting revisions to the Commission’s grant program to require grant recipients to evaluate the outcomes of a grant proposal and report those findings to the Commission. In addition, the Subcommittee voted to include a statement encouraging the Commission to align the priorities of the grant program with the vision of OWINN to support state apprenticeships and work-based learning. The Subcommittee further requested that the Commission report to the Subcommittee in the 2019–2020 Interim on the enactment of both recommendations.

4. The **Nevada State Board of Accountancy** ([NRS 628.035](#)) was established by the Legislature in 1913. The Board consists of seven members appointed by the governor. The Board has the authority to regulate [Chapter 628](#) of NRS, including adopting regulations concerning professional conduct, issuing certificates, establishing educational requirements, prescribing examinations, registering corporations for the practice of public accounting, and disciplining holders of certificates.

The Subcommittee reviewed the Board at its meeting on [January 22, 2018](#). Subcommittee members and representatives of the Board discussed the following:

- The Board has approximately 22 months of operating reserves;

- Cost efficiencies implemented by the Board resulted in a reduction of operating expenses; and
- Board members who are involved in enforcement committee proceedings abstain from voting.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on [March 21, 2018](#). The Board explained the actions it implemented in 2004 to improve its financial position, which resulted in a growing reserve. The Board noted its concerns with a suggestion that it maintain reserves of only three to six months to cover operating costs.

The Board included on the agenda for its own March 2018 meeting a discussion of a reserve policy. A message from the executive director indicated that the Board has approved the drafting of a reserve policy, which will likely be adopted at its scheduled meeting in July 2018.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board. It also voted to include a statement in its final report that the Board indicated it is in the process of developing and adopting a reserve policy.

5. The **Board of Medical Examiners** ([NRS 630.050](#)) was created by the Legislature in 1899. It consists of nine members appointed by the governor. The Board enforces the provisions of [Chapter 630](#) of NRS. It establishes standards for the practice of licensure, conducts examinations, and investigates applicants. Pursuant to statute, the Board holds hearings, conducts investigations, inspects premises, and disciplines licensees.

The Board was reviewed by the Subcommittee on [March 21, 2018](#). Subcommittee members and representatives of the Board discussed the Board's reserve policy and fees. Representatives reported the Board established a policy to maintain reserves equal to approximately 12 months of operating expenses, based on an audit from the Federation of State Medical Boards. Subsequently, the Board reduced fees for all licensure categories. The members noted that the Board's fees remain higher than surrounding states in most categories, including background checks, initial application fees, and renewal fees.

Representatives explained the use of hearing officers in administrative hearings. The hearing officers are independent contractors who conduct initial proceedings, make a finding of the credibility of witnesses, and prepare a record that is provided to the Board members who conduct the formal hearing.

At its [June 13, 2018](#), work session, the Subcommittee voted to recommend continuation of the Board. The Subcommittee also voted to send a letter to the Board urging it to review its fee schedule, including aligning fees charged for background checks with costs to obtain the information and directing the Board to report the results of its review to the Subcommittee during the 2019–2020 Interim.

6. The **State Board of Nursing** ([NRS 632.020](#)) was established by the Legislature in 1923. The Board consists of seven members appointed by the governor, including representatives of the practice of nursing, a representative of the interests of certain health care providers, and one representative of the public. The Board is responsible for determining qualifications, administering examinations, and issuing licenses. The Board may discipline licensees.

At its meeting on [March 21, 2018](#), the Sunset Subcommittee reviewed the Board. The legislative auditor reported the amount of reserves maintained by the Board is \$5.6 million, which is equal to 22 months of operating expenses, and highlighted certain budget items. The Board stated that it has a two-year reserve policy.

Representatives of the Board indicated that it does not rely on hearing officers to consider complaints against licensees, although it has the authority to do so. The Board does collect costs associated with investigating complaints, but it deposits fines in the State General Fund.

Board members receive training, which is recorded in each individual Board member's file. The Board indicated that it intends to pursue the Enhanced Nurse Licensure Compact in the 2019 Session of the Legislature.

At the [April 23, 2018](#), work session, the Subcommittee voted to recommend continuation of the Board. It also voted to send a letter to the Board directing it to report to the Sunset Subcommittee during the 2019–2020 Interim on its reserves, including its plans to provide value to its licensees in the form of professional development, continuing education, and other increased services.

7. The **State Board of Osteopathic Medicine** ([NRS 633.181](#)) was created by the Legislature in 1925. The Board consists of seven members appointed by the governor. The Board adopts regulations to carry out its duties, issues licenses, investigates complaints, and disciplines licensees.

The Board was reviewed by the Subcommittee at its meeting on [March 21, 2018](#). Subcommittee members and representatives of the Board discussed:

- The Board's reserves of approximately \$1 million, which are equal to 20 months of operating costs;
- An increase in applications that generated increased revenue;
- The Board's retention of fines for disciplinary actions;
- The Board's hearing process, including the selection of a hearing officer;
- The level of fees in Nevada, which are higher than most surrounding states; and
- The Board's plans to review its fees and consider necessary adjustments.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on [April 23, 2018](#). The Board provided information in response to questions from the Subcommittee, including the following:

- The Board will consider a reserve policy at its scheduled meeting in June 2018;
- Criteria considered when selecting a hearing officer include education, experience, and references; and
- The Board will review licensing, renewal, and fingerprint processing fees to determine whether adjustments are necessary.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board. The Subcommittee also voted to send a letter to the Board requesting it to review its fee schedules, including aligning fees charged for background checks with costs to obtain the information, and direct the Board to report the results of its review to the Subcommittee during the 2019–2020 Interim.

8. The Legislature created the **Chiropractic Physicians’ Board of Nevada** ([NRS 634.020](#)) in 1923. The Board consists of seven members appointed by the governor. The Board adopts regulations to carry out its duties, issues licenses, inspects premises, investigates complaints, and disciplines licensees.

The Sunset Subcommittee reviewed the Board at its meeting on [April 23, 2018](#). Subcommittee members and representatives of the Board discussed the following:

- The Board possesses marketable securities with no plans for liquidation and no policy on investments;
- The Board has reserves of \$206,000, which are equivalent to seven months of operating costs, and it has no reserve policy; and
- Licensing fees are higher than most surrounding states.

At the meeting, Board counsel explained how the Board came to hold stock in a publicly traded company. Counsel stated the Board will place on the agenda for its July 2018 meeting items proposing to divest itself of this stock and to establish a reserve policy.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on [May 21, 2018](#). The Board provided information in response to questions from the Subcommittee, including doubtful accounts turned over to the Office of the State Controller, sources of other income, variances in budgeted and actual revenues and expenditures, and services provided to licensees that are funded from fees.

The Board indicated that it may seek legislation to revise provisions of [Chapter 634](#) of NRS during the 80th Session of the Legislature.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board. It also voted to send a letter to the Board recommending it divest itself of certain securities, establish a reserve policy, and improve its budgeting process. Finally, the Subcommittee voted to direct the Board to report to the Subcommittee during the 2019–2020 Interim on steps taken to improve its budgetary process and management of its finances.

9. The Legislature established the **State Board of Podiatry** ([NRS 635.020](#)) in 1949, although it first regulated the practice by requiring certification through the Board of Medical Examiners in 1917. The Board consists of five members appointed by the governor.

The Board adopts regulations to carry out the provisions of [Chapter 635](#) of NRS. It examines applicants, issues licenses, requires training, inspects premises, and disciplines licensees.

The Board was reviewed by the Sunset Subcommittee at its meeting on [April 23, 2018](#). Subcommittee members and representatives of the Board discussed the former director's restitution for felony embezzlement; contractual and professional services, which represent significant expenditures for a relatively small board; electronic payments; lack of a reserve policy; the need for licensed podiatric hygienists; and fines included as part of the Board's operating revenues.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on [May 21, 2018](#). The Board provided information in response to questions from the Subcommittee, including the following:

- Civil penalties, not previously deposited with the Office of the State Treasurer, will be deposited there in the future;
- Online renewals will be considered by the Board;
- Board training will be considered at future Board meetings; and
- The need for podiatric hygienists may be considered by the Board at a later date.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board. It also voted to send a letter to the Board urging it to adopt electronic renewals and payments. In addition, the Subcommittee voted to recommend to the Legislative Committee on Health Care (LCHC) that it review the need to license for podiatric hygienists.

10. The **State Board of Pharmacy** ([NRS 639.020](#)) was created by the Nevada Legislature in 1901. The Board consists of seven members appointed by the governor, including six registered pharmacists and one member who represents the general public.

The Board regulates the practice of pharmacy and registers pharmacies, providers of medical devices, various health care facilities, warehouses, and wholesalers. The Board also monitors

and regulates activity involving prescription drugs. It operates on a biennial licensing cycle, pursuant to statute.

The Sunset Subcommittee reviewed the Board at its meeting on [April 23, 2018](#). Members of the Subcommittee and representatives of the Board discussed the Board's deficit in 2017; expenditures exceeded revenues by approximately \$337,000. Representatives indicated the Board does not have a reserve policy. The Board reported that it issues over 27,000 licenses across 19 different categories.

At its [May 21, 2018](#), work session, the Subcommittee voted to recommend continuation of the Board. It also voted to send a letter to the Board and make a statement in its final report urging the Board to develop a policy to provide guidelines for maintaining adequate reserves to cover its operating expenses. The Subcommittee also voted to direct the Board to report to the Subcommittee in the 2019–2020 Interim on its budget and actual revenues and expenditures for FY 2017–2018 and FY 2018–2019, including an analysis of the adequacy of its fees to support its operations.

11. The **Board of Occupational Therapy** ([NRS 640A.080](#)) was established by the Legislature in 1991. The Board consists of five members appointed by the governor, including four practitioners and a representative of the public.

The Board enforces the provisions of [Chapter 640A](#) of NRS. It examines applicants, issues licenses, establishes standards of practice, investigates complaints, disciplines licensees, inspects premises, and refers to law enforcement any reports of individuals practicing without a license.

The Board was reviewed by the Sunset Subcommittee at its meeting on [April 23, 2018](#). At that time, members and representatives of the Board discussed the Board's reserves of approximately \$650,000, growth in license applications, electronic access to Board forms and services, and a vacancy on the Board for a public member. The Board has no policy regarding the level of reserves necessary to maintain its operations, although representatives of the Board indicated operating costs are low due to cost-effective and efficient procedures.

The Board reported that a retreat is planned for August 2018 to review its operations and fee structure and to establish a reserve policy in accordance with its long-term plan.

At its work session on [May 21, 2018](#), the Subcommittee voted to recommend continuation of the Board. It also voted to send a letter to the Board urging it to develop a policy to provide guidelines for maintaining adequate reserves to cover its operating costs.

12. The **Board of Massage Therapy** ([NRS 640C.150](#)) was established by the Legislature in 2005. The Board consists of nine voting members, including eight practitioners and a representative of the public, and one nonvoting advisory member appointed by the governor. The nonvoting advisory member must be a resident of Clark County, certified by P.O.S.T., and a current or former police officer with the Las Vegas Metropolitan Police Department.

The Board enforces the provisions of [Chapter 640C](#) of NRS, including examining applicants, issuing licenses, disciplining licensees, establishing standards for the profession, and requiring continuing education. It also adopts regulations regarding curriculum for schools of massage therapy, reflexology, and structural integration.

The Sunset Subcommittee reviewed the Board at its meeting on [April 23, 2018](#). At that time, members and representatives of the Board discussed the Board's doubtful accounts, which had been turned over to the Office of the State Controller for collection. They also discussed disciplinary procedures, investigations, training for new Board members, and implementation of new regulations in compliance with [Assembly Bill 179](#) (2017). This legislation authorized the Board to issue licenses to practice reflexology and structural integration.

The Board recommended a statutory revision to reduce the size of its membership. The Board suggested that, as terms expire (one in 2019 and one in 2021), those positions should be eliminated.

At its work session on [May 21, 2018](#), the Subcommittee voted to recommend continuation of the Board and to direct the Board to report to the Subcommittee in the 2019–2020 Interim on the implementation of regulations to regulate and license reflexologists and structural integrationists.

13. The **Board of Psychological Examiners** ([NRS 641.030](#)) was established by the Legislature in 1963. The Board consists of six members appointed by the governor. In 2017, the Legislature created the Board of Applied Behavior Analysis, transferred the responsibility for regulation of that profession from the Board of Psychological Examiners, and reduced the membership from seven members to six, effective January 1, 2019.

The Board enforces the provisions of [Chapter 641](#) of NRS, including licensing applicants, disciplining licensees, investigating complaints, and requiring a mental or physical examination of a licensee who is named in a complaint.

In 2017, the Legislature enacted [AB 457](#) to require the Board to establish policies concerning compensation and performance of its staff, to authorize the Board to enter into agreements with DHHS to assist in improving performance of duties, and to adopt online application forms for issuance or renewal of licenses and certificates.

The Subcommittee reviewed the Board at its meeting on [May 21, 2018](#). Subcommittee members and representatives of the Board discussed the following:

- A lack of oversight, segregation of duties, and proper documentation as reported in the financial audit;
- A decline in the reserve balance over the past several years and large variances in the budget regarding certain fees;
- Reserves equivalent to approximately five months of operating costs;

- Loss in revenue due to the creation of the new Board of Applied Behavior Analysis; and
- Testing and licensing procedures, including the development of a computer-based exam.

The Board reported that it has developed procedures to separate duties; the executive director and the secretary-treasurer meet monthly to reconcile statements. The deficit was due to services of an accountant, an examination commissioner, an examination developer, and a lobbyist. The Board represented that its actual expenditures will be closer to the budget as it finishes its two-year budget.

The Board recommended its membership be returned to seven. It also requested an increase in the statutory limits placed on fees, which have not been increased since 1997.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board. It also voted to recommend that the LCHC and the Commission on Behavioral Health (CBH), DPBH, DHHS, continue to monitor the Board, pursuant to [AB 457](#). The Subcommittee voted to require the Board to report to the Subcommittee during the 2019–2020 Interim on its progress in complying with the provisions of AB 457.

14. The Legislature initially established the **Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors** ([NRS 641A.090](#)) in 1973 when it licensed marriage counselors. The practice of clinical professional counselors was recognized in 2007; the name of the Board was revised to reflect that licensing. The Board currently consists of nine members appointed by the governor.

The Board enforces the provisions of [Chapter 641A](#) of NRS, including examining applicants, granting licenses, disciplining licensees, and establishing criteria for courses of study for licensing and continuing education.

In 2017, the Legislature enacted [AB 457](#) to require the Board to establish policies concerning the compensation and performance of Board staff, to authorize the Board to enter into agreements with DHHS to assist in improving performance of duties, and to adopt online application forms for issuance or renewal of licenses and certificates.

The Sunset Subcommittee reviewed the Board at its meeting on [May 21, 2018](#). Subcommittee members and representatives of the Board discussed the following:

- An employee loan that was not authorized or approved by the Board and other loss attributed to theft;
- Lack of documentation to prepare a budget and an audit;
- Efforts to manage Board operations without a staff director; and
- A records retention policy.

The Board reported that it has developed a policy and operations manual, will interview applicants to fill the executive director position, and has requested the OAG investigate the loss attributed to theft.

The Board reported that, at its April 2018 meeting, it voted to support a number of revisions to Chapter 641A, including increases in the statutory limits on fees, which have not been increased since 1989. It may propose a biennial license to increase revenues and address cash flow problems.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board. It also voted to recommend that the LCHC and the CBH continue to monitor the Board, pursuant to [AB 457](#). The Subcommittee voted to require the Board to report to the Subcommittee during the 2019–2020 Interim on its progress in complying with the provisions of AB 457.

15. The **Board of Examiners for Social Workers** ([NRS 641B.100](#)) was established by the Legislature in 1987. The Board consists of five members appointed by the governor.

The Board adopts regulations to carry out the provisions of [Chapter 641B](#) of NRS, including issuing licenses and disciplining licensees. The Board must maintain a list of licensed social workers.

In 2017, the Legislature enacted [AB 457](#) to require the Board to establish policies concerning the compensation and performance of Board staff, to authorize the Board to enter into agreements with DHHS to assist in improving performance of duties, and to adopt online application forms for issuance or renewal of licenses and certificates.

The Board was reviewed by the Sunset Subcommittee at its meeting on [May 21, 2018](#). Subcommittee members and the Board discussed the following:

- The Board’s reported deficit and expenditures exceeded revenues according to the financial audit;
- Online licensing, including the purchase of computer software and contracting with a new vendor; and
- The increasing demand for social workers in Nevada.

The Board reported it is proposing to increase the application fee and the initial licensure fee for licensed clinical social workers, which will bring in additional revenue. If its statutory limits are increased, the Board plans to use the additional revenue to provide computer programming, improve office efficiencies, and build its reserve funds. Representatives stated statutory fees were last increased in 1995.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board. It also voted to recommend that the LCHC and the CBH continue to monitor

the Board, pursuant to [AB 457](#). The Subcommittee voted to require the Board to report to the Subcommittee during the 2019–2020 Interim on its progress in complying with the provisions of AB 457.

16. In 1999, the Legislature created the predecessor to the **Board of Examiners for Alcohol, Drug and Gambling Counselors** ([NRS 641C.150](#)), when it required persons who counsel alcohol and drug abusers to be licensed. The Board was revised in 2003 to include gambling counselors. The Board consists of seven members appointed by the governor. The Board is authorized to adopt regulations relating to discipline, examinations, and licensing.

In 2017, the Legislature enacted [AB 457](#) to require the Board to establish policies concerning the compensation and performance of Board staff, to authorize the Board to enter into agreements with DHHS to assist in improving performance of duties, and to adopt online application forms for issuance or renewal of licenses and certificates.

The Board was reviewed by the Sunset Subcommittee at its meeting on [May 21, 2018](#). Subcommittee members and Board representatives discussed the following:

- Reserves equivalent to nine months of operating costs;
- Examination expenses and revenue collected from examinations and fees, indicating growth in the field;
- Initial application fee, which is higher than surrounding states; and
- Expenditures exceeding revenues due to lobbyist fees expended during the 79th Session of the Legislature.

The Board reported it has not entered into an agreement with DHHS because it has a solid system of governance in place. The Board also reported it updated its policies and procedures in 2017 and has offered online renewals since 2014.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board. It also voted to recommend that the LCHC and the CBH continue to monitor the Board, pursuant to [AB 457](#). The Subcommittee voted to require the Board to report to the Subcommittee during the 2019–2020 Interim on its progress in complying with the provisions of AB 457.

17. The **Private Investigator’s Licensing Board** ([NRS 648.020](#)) was established by the Legislature in 1953. Prior to that, the Legislature authorized the Nevada State Police to issue a private detective’s license in 1947. The Board consists of five members appointed by the governor.

The Board carries out the provisions of [Chapter 648](#) of NRS, including classifying licensees according to the type of business. The Board may limit the operations of a licensee. It establishes criteria for authorizing self-insurance and levying fines for violations. It may

establish qualifications of licensees and the directors and officers of corporate licensees. It may also require licensees to attend courses in firearms safety.

The Board was reviewed by the Sunset Subcommittee at its meeting on [January 22, 2018](#). Subcommittee members and representatives of the Board discussed the vetting process for new applicants; the high cost of personnel due to employing six investigators, running background checks, and providing state benefits to all employees; online processing of license applications, renewals, and credit card payments; and licensing fees in Nevada compared to surrounding states.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on [March 21, 2018](#). The Board provided information in response to questions from the Subcommittee, including the following:

- A comparison of fees in Nevada with selected states indicating that Nevada's fees are higher;
- A report that Nevada is the only state that performs an in-depth background investigation on applicants and their companies, including credit checks and other public records; and
- A suggestion that funding from the state would enable the Board to obtain Rap Back services from the Federal Bureau of Investigation, which allows authorized agencies to receive notification of activity by individuals who hold positions of trust or who are under criminal justice supervision or investigation. This would eliminate the need for repeated background checks on a person from the same applicant agency.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board with further review by the Subcommittee during the 2019–2020 Interim, including a study of its fees and operations.

18. The **Certified Court Reporters' Board of Nevada** ([NRS 656.040](#)) was created by the Legislature in 1973. The Board consists of five members appointed by the governor.

The Board examines applicants for certification, issues licenses to conduct business as a court reporting firm, fixes the fees, and disciplines licensees. In 2017, the Legislature enacted [SB 406](#), which changed examination requirements and qualifications.

The Board was reviewed by the Subcommittee at its meeting on [January 22, 2018](#). Subcommittee members and representatives of the Board discussed the following:

- The increasing use of videography in depositions and changes in technology;
- Concerns for the protection of the public and the accuracy of the record created via videography;
- The lack of authority provided to the Board to oversee these methods; and

- The impact of declining numbers of licensees on the revenues of the Board.

A staff memorandum was submitted to the Subcommittee at its meeting on [April 23, 2018](#), that provided the following information relating to the regulation and licensing of videography in Nevada and other states:

- States do not regulate legal videographers as they do certified court reporters;
- The National Court Reporters Association (NCRA) has taken no position on state licensure; and
- The Certified Legal Video Specialist Council, NCRA, holds that a court reporter should be present during a deposition and should be responsible for creating and maintaining the written testimony.

In addition, in 2017, the Nevada Supreme Court created the Nevada Rules of Civil Procedure Committee to review and make recommendations concerning updates and revisions to the *Nevada Rules of Civil Procedure* and related rules. By the date of the Subcommittee’s work session on the Board, the Committee had made no recommendations regarding the structure of rules to accommodate both videography and court reporting.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend continuation of the Board. The Subcommittee also voted to require the Board to report to the Subcommittee in the 2019–2020 Interim on the impact of the provisions of [SB 406](#) relating to revisions of examination requirements and qualifications and any recommendations from the Nevada Rules of Civil Procedure Committee of the Nevada Supreme Court regarding the regulation of videographers. The Subcommittee also voted to urge the Board to seek statutory revisions to [Chapter 656](#) of NRS with its own BDR.

E. Further Legislation Recommended

1. During its review of professional and occupational licensing boards, the Subcommittee became aware that some boards do not accept electronic transfer of funds from individuals who wish to pay for services offered by the board. Some of these functions include enrolling in continuing education courses, paying fines or assessments, purchasing materials, registering for licensing examinations, and renewing licenses. Some boards have chosen not to accept electronic transfers, while other boards view statutory provisions as limiting their options to accept electronic transfer of funds.

As an example, at its meeting on [February 21, 2018](#), the Subcommittee received testimony from the State Board of Landscape Architecture regarding accessibility of its forms and functions via the Internet. Representatives of the Board reported that [NRS 623A.240](#) limits certain financial transactions involving the Board to U.S. currency in the form of a “check, cashier’s check or money order.” Discussion among the Subcommittee members and representatives of the Board concerned revisions to sections of NRS limiting methods of

payment. Subcommittee members questioned the convenience of access and service to licensees.

At its work session on [March 21, 2018](#), the Subcommittee voted to recommend revisions to statutory provisions to authorize, but not require, each board or commission provided for in Title 54 (“Professions, Occupations and Businesses”) of NRS to enter into or participate in a contract to accept credit cards and other electronic transfers of money or to participate in such a contract entered into by the director of the Office of Finance, Office of the Governor. (BDR –518)

2. During the 2017–2018 Interim, the Sunset Subcommittee reviewed 23 professional and occupational licensing boards. Over the previous three interims, the Subcommittee had reviewed an additional nine licensing boards. As the Subcommittee conducted its work, members became aware of issues that the Legislature may wish to address. These observations and findings are provided in Section V of this report.

At its work session on [June 13, 2018](#), the Subcommittee voted to recommend the Legislature establish an interim study of the operations of the professional and occupational licensing boards during the 2019–2020 Interim. (BDR –520)

IV. SUGGESTED LEGISLATION

The following bill draft requests* will be available during the 2019 Legislative Session at the following website: <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/BDRs/List>.

- | | |
|----------|--|
| BDR –518 | Makes various changes relating to professional and occupational licensing boards |
| BDR –519 | Revises provisions governing the practice of homeopathic medicine |
| BDR –520 | Provides for the creation of an interim study regarding professional and occupational licensing boards |

*The following explains the numbers or letter preceding the dash in the BDR number:

- | | |
|------------|--|
| BDR 40–368 | A number denotes the NRS Title (i.e., Title 40), which encompasses the main subject of the bill draft. |
| BDR R–369 | The letter “R” denotes the bill draft is a resolution. |
| BDR S–370 | The letter “S” denotes the bill draft is a special act. |

V. GENERAL FINDINGS AND RECOMMENDATIONS

Along with recommendations regarding specific boards, the Subcommittee noted issues that the members voted to bring to the attention of the Legislature. The following is a summary of the Subcommittee's concerns, findings, and observations about Nevada's professional and occupational licensing boards.

- A. In many instances, NRS provides that a board may delegate its authority to hear complaints made against licensees. It would appear that NRS does not provide for qualifications of hearing officers who receive this delegated authority from licensing boards.
- B. The training of board members is not uniform among the boards. While [NRS 622.200](#) provides that a member of a regulatory body must be given training on duties and responsibilities by the attorney general, it appears that not all board members and staff participate.
- C. Although the legislative auditor receives financial audits and balance sheets, these documents are not available for public inspection, creating a lack of transparency.
- D. Some boards obtain only biennial audits. The lack of oversight by a board reduces accountability, which increases the possibility of mismanagement, fraud, and embezzlement. Annual audits may provide more structure to the budgeting processes of some boards, while other boards with more limited resources may utilize other methods to obtain financial information to increase oversight of their budgeting and management.
- E. Revenues held in reserve to pay anticipated operating costs vary widely among the boards. Some hold available reserves that would cover operating expenses for fewer than three months while others hold reserves in amounts large enough to pay for more than three years of board expenses. Many boards have no policy with regard to reasonable reserves.
- F. Most boards are empowered to discipline licensees, including levying a fine or a civil penalty as a form of discipline. Practice acts are not uniform with regard to provisions requiring the deposit of such revenues with the Office of the State Treasurer. Some boards follow that practice, while other boards retain the revenues, creating a potential for conflict of interest.
- G. Fee structures are not uniform. Some boards charge more than is required to obtain fingerprint and background check information. Some boards are provided a range and limitation on the amounts they may charge licensees, while the fees for other boards are set in NRS. Some boards charge fees that are considerably more than the amounts levied by neighboring states.
- H. Not all boards have explicit authority to investigate individuals reported as practicing the profession without a license. Others are required to report such alleged activity to law enforcement. Some have the authority to seek injunctive relief.
- I. A review of budgets informed the Subcommittee that many boards utilize outside legal counsel, instead of obtaining assistance from the OAG, and hire the services of a lobbyist,

leading to increased expenditures. Some boards fail to obtain approval of such contracts from the State Board of Examiners.

- J. The status of staff is not consistent among the boards. Some employees are members of the Public Employees' Retirement System, others participate in Social Security, and some are contractors, receiving few if any benefits at all.
- K. Not all boards provide electronic access to documents and payments of fees. The Subcommittee suggests that the Legislature consider requiring all boards to implement electronic renewals and filings for the convenience of licensees. The elimination of cash transactions would also reduce opportunities for financial mismanagement.
- L. Because board budgets include many duplicated operations and expenditures, including compensation, information technology, legal fees, lobbying expenses, and office overhead, the Subcommittee suggests that the Legislature explore the idea of central personnel consolidation.

VI. REPORT TO THE LEGISLATIVE COMMISSION

On August 30, 2018, the Sunset Subcommittee members and staff presented an overview of the Subcommittee's activities to the Legislative Commission, which accepted the Subcommittee's report. The Commission also directed the drafting of legislation for introduction in the 80th Session of the Nevada Legislature, as recommended by the Subcommittee. Information about suggested legislation, resulting from the recommendations, may be found in Section IV of this report.