

NEVADA TAX COMMISSION MEETING
MINUTES

Nevada Legislative Building
401 S. Carson Street, Room 2134
Carson City, Nevada

Legislative Counsel Bureau
Grant Sawyer State Office Building
555 E. Washington Ave., Room 4401
Las Vegas, Nevada

January 16, 2018
9:00 a.m.

Members Present:

James DeVold, Chairman
Randy Brown, Commissioner
Craig Witt, Commissioner
Sharon Rigby, Commissioner
Tony Wren, Commissioner
Ann Bersi, Commissioner
George Kelesis, Commissioner
Francine Lipman, Commissioner

Chairman DeVold called the meeting to order at 9:00 a.m.

I. Public Comment

There was no public comment.

Director Contine administered an oath to all meeting participants.

II. Consideration of and possible approval to adopt Nevada Tax Commission Resolutions 2018-1 and 2018-2 commending John Marvel and Thomas Sheets for their service to the Nevada Tax Commission.

Chairman DeVold read Resolutions 2018-1 into the record and welcomed any comments from the commissioners.

Commissioner Witt echoed the language in the Resolution. John Marvel's input was appreciated at the meetings. John spent 27 years working with the Tax Commission. Both commissioners will be missed.

Commissioner Lipman thanked John Marvel for his service to Nevada, to this Commission and to the Department of Taxation. His service is greatly appreciated by all Nevadans. That is a testament to the state and to Commissioner Marvel as an individual to have represented this Commission for so many years and through so many administrations. As a Nevadan and as a Commissioner, I thank Mr. Marvel for his service.

Chairman DeVold stated the true test of character is doing something for someone that can never be repaid. Commissioner Sheets and Commissioner Marvel should be proud of what they have done for all of us and we can never repay them.

Commissioner Kelesis moved to approve Resolution 2018-1 commending John Marvel for his service on the Nevada Tax Commission. Commissioner Lipman seconds the motion. All in favor. Motion carries.

Chairman DeVold read Resolution 2018-2 into the record and welcomed any comments from the commissioners.

Commissioner Lipman stated Commissioner Sheets is missed in Southern Nevada and his role as a leader is unquestionable. Commissioner Sheets has risen to every challenge and the State of Nevada is a better place because of him. That is a testament to his hard work, diligence and dedication to our state. Thank you Commissioner Sheets.

Commissioner Kelesis moved to approve Resolution 2018-2 commending Thomas R. Sheets for his service on the Nevada Tax Commission. Commissioner Bersi seconds the motion. All in favor. Motion carries.

III. Consideration for Approval of the December 4, 2017 Nevada Tax Commission Meeting Minutes.

Commissioner Wren moved to approve the meeting minutes of the December 4, 2017 Nevada Tax Commission meeting. Commissioner Witt seconds the motion. All in favor. Motion carries.

IV. CONSENT CALENDAR:

A. Matters of General Concern:

1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):

- a) Walker Marine Inc.
- b) R&L Sales & Service
- c) Haris Industrial Gases Inc.
- d) Hickory Hollow Rentals LLC
- e) Old Hickory Sheds LLC

B. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) Sprint Telephony PCS LP
- 2) Lhoist North America of Arizona, Inc.
- 3) Advanced Concepts & Designs LLC
- 4) Speedway Auto Center Inc.
- 5) INT-Sourcing, Inc.

C. Approval of Refund/Credit Request in Excess of \$250,000:

- 1) American Telephone and Telegraph Company (AT&T Corp.)
- 2) AT&T Global Network Services LLC

D. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax):

- 1) Biotronik Inc.
- 2) Brown Jordan Company LLC
- 3) La Quinta Franchising LLC
- 4) Stratix Corporation

E. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (sales/use and/or modified business tax)

- 1) Dave's Specialty Cars
- 2) Papa's Pizza

F. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (civil penalties)

- 1) Vegas Bros. LTD dba Boulder City Cigarette Factory
- 2) SCCF Craig dba Sin City Cigarette Factory 2
- 3) Vegas Bros. LTD dba Laughlin Cigarette Factory
- 4) Vegas Bros. LTD dba Pahrump Valley Smokes
- 5) Vegas Bros. LTD dba Sin City Cigarette Factory
- 6) SCS Nellis LLC dba Sin City Smokes
- 7) RYO Cigarettes of Nevada, Inc. dba Double D's Tobacco Emporium
- 8) RYO Cigarettes of Nevada, Inc. dba Smoke 4 Less

G. Consideration for Approval of Payment Plan Request: 12 Month Review (Sales/Use and/or Modified Business Tax:

- 1) Gina Siripak dba Sakun Thai

Chairman DeVolld requested to pull Items IV. C. 1) American Telephone and Telegraph Company (AT&T Corp.) and 2) AT&T Global Network Services LLC for further discussion.

Commissioner Kelesis made a motion to approve the consent calendar as a whole, excluding Items IV. C. 1) and 2). Commissioner Bersi seconds the motion. All in favor. Motion carries.

Commissioner Brown stated NRS 281A.420 requires him to disclose a conflict of interest. The matter before this body effects my commitment in a private capacity to my employer, AT&T. Commissioner Brown stated he currently serves as the Director of Regulatory Affairs to AT&T and he has worked for AT&T for two decades. Commissioner Brown abstained from voting on agenda items IV. C. 1) and 2).

Bill Steves, Tax Manager, and Samantha Turner are present on behalf of the Department of Taxation.

Samantha Turner stated the company reported Use Tax on inventory shipped into Nevada for resale. Ms. Turner stated that she has verified that this was reported to the Department in error and should be refunded to the Taxpayer.

Rick Blattner, Principal with KPMG, and Brandon Vollmer, Senior Manager with KPMG, were present on behalf of AT&T.

Chairman DeVolld stated that he has been inundated with emails on this request. The Chairman asked Mr. Blattner and Mr. Vollmer for an overview of AT&T's refund policy.

Mr. Blattner stated the question would need to be referred to AT&T. He will take the question back to AT&T.

Chairman DeVolld stated that he has heard from clients of AT&T and the company does not refund a client after six months.

Mr. Vollmer stated they will take the question back to AT&T and report to Director Contine.

Commissioner Lipman asked what the Department's statute of limitation is for a Use Tax refund claim.

Samantha Turner stated the statute of limitations is three years from the date a return is filed. These claims were filed within the three year limitation, including the first claim that was filed.

Commissioner Wren asked how the Nevada Revised Statutes deal with a refund.

Director Contine stated that with respect to Sales and Use Tax, the Department reviews refund requests for three years. If a taxpayer overpays, the Department refunds the amount of the overpayment with any offsets there might be. This has been reviewed with these particular requests.

Commissioner Lipman moved to approve the refund claims for American Telephone and Telegraph Company (AT&T Corp.) and AT&T Global Network Services LLC. Commissioner Bersi seconds the motion. Commissioner Brown abstained from voting. No opposed. Motion carries.

V. DIVISION OF LOCAL GOVERNMENT SERVICES:

A. Consideration of Appointment or Re-Appointment to the Appraiser Certification Board (NRS 361.221)

- 1) Shannon Silva
- 2) William C. Bailey

Jeff Mitchell, Deputy Director, is present on behalf of the Department of Taxation. The Appraiser Certification Board consists of six members, three of which are appointed by the Assessor's Association and three are appointed by the Nevada Tax Commission. Shannon Silva is up for re-appointment to the Board. Ms. Silva's current term expires February 5, 2018 and her new term would go until February 4, 2020. William C. Bailey is filling a vacant seat on the Board, his term would begin as of today, if approved, and would serve through June 2, 2018.

Shannon Silva has been a property appraiser with the Department since 2003. She has served on the ACB Board since 2008 and has served as both Vice Chair and a Chair. She is fully certified since July of 2004 and is highly qualified. Shannon Silva is present at the meeting today.

William C. Bailey has 17 years of appraisal experience. He has worked as a residential fee appraiser and holds a certified residential appraiser certificate. He has worked for Washoe County and has worked for the Department of Taxation for approximately 9 years. He is a certified appraiser with the Department and is currently the supervisor of the locally assessed properties section within the Department.

Commissioner Rigby moved to approve the re-appointment of Shannon Silva and the appointment of William C. Bailey to the Appraiser Certification Board. Commissioner Witt seconds the motion. All in favor. Motion carries.

VI. COMPLIANCE DIVISION:

A. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:

- 1) Jonathan Beltran

Adriane Roberts-Larson, Tax Program Supervisor, is present on behalf of the Department of Taxation.

Jonathan Beltran, Taxpayer, is present.

Commissioner Wren asked why the \$300 monthly payments are for an 11 year period. It is such an extended period of time. Commissioner Wren asked that the matter be set for review in five years.

Commissioner Kelesis made a motion to approve the offer-in-compromise of Jonathan Beltran. Commissioner Kelesis stated the Department shall do a five year review of the matter and bring it back to the Commission if the Department feels it is necessary at that time. Commissioner Wren seconds the motion. All in favor. Motion carries.

2) Mark Sender

Adriane Roberts-Larson, Tax Program Supervisor, is present on behalf of the Department of Taxation.

Mark Sender, Taxpayer, is present.

Commissioner Kelesis made a motion to approve the offer-in-compromise of Mark Sender. Commissioner Witt seconds the motion. All in favor. Motion carries.

3) Wilbur D. Dorothy II and Michele K. Dorothy

Leticia Baltazar is present on behalf of the Department of Taxation.

The Taxpayers are not present.

Commissioner Kelesis made a motion to approve the offer-in-compromise of Wilbur D. Dorothy II and Michele K. Dorothy. Commissioner Bersi seconds the motion. All in favor. Motion carries.

B. Petition for Reconsideration of Department's Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes pursuant to NRS 372.3261 (Sales/Use Tax):

1) Legacy Law & Finance Group, LLC

Melissa Flatley, Deputy Attorney General, was present on behalf of the Department of Taxation. Ms. Flatley stated this matter has been carried over from the December 4, 2017 Tax Commission meeting.

The taxpayer is not present.

Commissioner Rigby motioned to uphold the Department's denial. Commissioner Witt seconds the motion. All in favor. Motion carries.

2) Intercompany Long Term Care Insurance Conference Association, Inc.

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Department of Taxation.

James Glickman, Volunteer Executive Director of Intercompany Long Term Care Insurance Conference Association, Inc. was present.

Commissioner Kelesis made a motion to uphold the Department's denial. Commissioner Bersi seconds the motion. All in favor. Motion carries.

C. Consideration for Adoption of Permanent Regulations (this item will not commence before 10:00 a.m.):

- 1) Adoption of permanent regulation to establish procedures for the issuance, suspension or revocation of licenses issued by the Department of Taxation, provide operating requirements to licensed marijuana establishments, require monthly filing of returns and remittance of tax imposed on the sales of marijuana, require the maintenance of certain records, and provide for the inspection of such records relating to the regulation and taxation of marijuana pursuant to NRS 453D, and other related matters. LCB File No. R092-17.

Deonne Contine, Executive Director, was present on behalf of the Department of Taxation.

Director Contine stated the Department held around sixty meetings where interested parties could come to discuss the different marijuana regulation topics. Task force meetings were held where recommendations were presented. A report was then published. After the legislative session ended in July, we held around eight workshops for the permanent regulations. After the workshop process, we had some review, some changes, and some incorporation of suggestions. During this time we had an open public comment process where people could submit their suggestions in writing. The regulations were sent to the Legislative Counsel Bureau in early September and we just received them back about a month ago. We have made a few additional changes which are redlined in the document provided today and it is also available on the Department's website.

Jorge Pupo, Deputy Director, Steve Gilbert, Health Program Manager II, and Kara Cronkhite, Medical Marijuana Program Supervisor, were present on behalf of the Department of Taxation.

Director Contine reviewed a summary of the proposed permanent regulations (LCB File No. R092-17).

Public Comment:

Las Vegas:

Cindy Brown, representing patients, stated this program was started for patients by patients. Now it has turned into a major money maker for the state and everybody else. We have issues with Section 17. We would like Hexa Hydro Cannibinol added to one of the things that is looked for. One plant here had some of this in their plant product. People were smoking it and getting very sick. I believe this is being addressed by ILAC also, so you need to check into that. In Section 145, you want to track the purchases of everybody using state identifications. A number of people refused to get on the medical program because they do not want to be tracked. If you continue with the constant tracking, you are opening the doors for the black market. In Section 230, your advertising is too restrictive. You don't want to allow any advertising in Uber, Lyft or Taxi vehicles. In Section 234, it appears that you are allowing for the sale of seeds and plants. Is this cultivation to cultivation, or are patient's allowed to buy seeds and plants? In Section 106, I would like to see unusable cannabis be turned into usable goods, like paper, plastics or other durable goods.

Jefferson Boswell, partner of the law firm of Peel Bremley. We are representing For Fairness in the Cannabis Industry, LLC and other interested parties seeking a fair, partial and transparent process for the issuance of new retail licenses. We have submitted a letter that outlines our concerns in greater detail that we would like to be part of the record. We ask that you read it and consider the arguments and concerns put forth therein. Our primary concern with the regulation is that it does not adequately address the inconsistent application of vertical integration. Most states with legal marijuana take measures to be sure certain license holders do not control the sales channels that are detrimental to the overall market. Vertically integrated licenses can purchase inventory exclusively from their own cultivation facilities. This is forcing non-vertically integrated cultivation production licensees out of the market. We believe that before additional retail licenses are issued to current retail license holders, the Department should award all marijuana establishments the opportunity to obtain a retail license. The proposed regulations have a significant bias in favor of current retail licenses. As you know, in Question 2, the Nevada voters urged you to employ an impartial and numerically scored competitive bidding process when determining who receives a license. Section 76 through 80 includes a bias toward existing retailers and against other marijuana industry businesses. The regulations direct the Department to consider the taxes and other financial contributions paid, not just by the applicant, but also by the applicant's owners, officers, directors, board members, etc. When initial licenses were issued, this made sense. Now, if we look to the financial contributions of owners, operators, directors, etc., we are only inviting gamesmanship or corruption and rewarding those well connected. We believe the Department should only be looking at the taxes being paid by the applicant. However, if we only look at the taxes paid by the applicant, cultivation and production licensees will be impaired. For example, if we sell \$100 of wholesale marijuana, we will pay an excise tax of \$15. When the retailer resells that marijuana for \$200, they will pay a \$20 excise tax, plus a \$16.20 sales tax. For the same

product sold, the retailers get a \$26 kicker in favor of their application. This isn't fair and it doesn't account for the significant capital investments made by these cultivation and production licensees in our state. Members of our coalition have invested tens of millions of dollars into our economy and yet they are disadvantaged when it comes time for them to compete with these vertically integrated retailers when they apply for their own retail license. This provision should be revised to account for the taxes paid by the applicant, not their well-hilled backers, and also consider the investments that members have invested into the State of Nevada. Finally, the regulation is aimed at preventing monopolies by saying that it will not issue to any person, group of persons, or entity, the greater of one license, or more than 10% of the allocable available licenses during a given application period. That is vague and ambiguous. I would not be able to explain to my client if it is 10% of the available licenses or 10% of the overall licenses in a county. There are items that have not been adequately addressed.

Chairman DeVold asked Mr. Boswell if he participated in the workshops.

Mr. Boswell stated several of his clients participated and it is has only been in the last several weeks that they made the decision to bind together as a group to participate in this process.

Michael Alvarez, Director of Retail Operations for Terra Tech which operates Blüm Dispensaries. Mr. Alvarez thanked Director Contine and her team. We are in full support of the revisions to the regulations being voted on today. We are happy with the revisions of milligrams available to purchase for concentrates and the definition of industrial hemp. In addition, we are grateful for the changes to advertisements. Blüm has been in a social media lockdown since the emergency regulations went into effect. To be completely compliant, we would need to seek DOT approval for every social media post. This is one issue that will help build up our digital following again which will in turn hopefully increase sales. My request to this Board is to further the conversation on advertisement. I feel that this is our bottleneck in the industry. To submit every single item for approval is excessive. The Board has given us clear rules to follow. Please allow us the opportunity to advertise like any other business in Nevada. If we violate the rules, act accordingly. Your inspectors and auditors are already out in force and they are checking to see what has or has not been approved. To me it makes a lot more sense if the auditor or inspector sees an advertisement out there that does not violate the rules, why take the time to see if it has been submitted. In addition, the process has taken upwards of four to six weeks. I know that only one person was responsible at that time. I am concerned with advertisements on our merchandise, such as hats and shirts. Do we need to say keep out of the reach of children and for use by adults 21 years or older on them? I am seeking and asking for a more streamlined process that will streamline our industry's advertisement needs as a whole. I feel strongly that if this Board allows us to manage our advertising while holding us accountable by imposing fines and or demerits on our licenses if we violate said rules. Please know we will take extra precautions in releasing anything. I am not asking for anything that is not being allowed to other businesses in Nevada. Thank you for hearing our concerns.

Frank Fosco on behalf of Greenleaf Farms. Mr. Fosco asked to make a statement with regard to how licenses are given to people. One of the most inspiring words that I have heard today were from the Chairman, he said that he represented all people in Nevada. There are words in the regulations as to how you would give away dispensary licenses that are a little bit more confined and they don't represent all of the Nevadans that have invested or have put time into building this marketplace. There are some that may consider if you are not already paying taxes or if you are not already a dispensary, you may not be of value. However, the diversity that all of the investors have created are different timings. Some people may not have been able to get up and running on time and they may now be waiting to get a dispensary license. My request is that if you have made an investment, and have made the foundations of building a business, that you have the opportunity for a dispensary license. Thank you.

Nick Spirtos, M.D., on behalf of the Women's Cancer Center of Nevada and the Apothecary Shop. I am here to speak about this well-intended regulation and aspergillus in the cannabis industry. As Albert Camus said, "good intentions may do as much harm as malevolence if they lack understanding". Only recently has

it come to light that this regulation would result in a zero tolerance policy for aspergillus testing. The basis of this is a white paper sponsored by the Cannabis Safety Institute, which is essentially a group of Oregon lab directors. It is not based on peer reviewed literature or science. The authors address aspergillus and they state heat and drying will kill aspergillus and processing makes oil consumption of cannabis products safe. They then state smoking *could* be unsafe because spores may not be destroyed, but offer only conjecture, not fact, not science, not peer reviewed literature. They site a handful of case reports filled with multiple confounding variables and no establishment of cause and effect. There are more cases of bubonic plague in modern medical literature than there are of mortality association with aspergillus. Unlike the authors of the white paper, I can and will provide you with the temperatures needed to destroy both aspergillus and its spores. All of those temperatures are below 200°C. The tip of a burning cigarette is 900°C. Extraction processes are associated with temperatures of 270°C-300°C. The authors ignored the only published paper on this matter, which was in the Journal of American Medical Association (JAMA) in 2000 which is peer reviewed. The study looked at both tobacco and marijuana and cultured both which were both 100% positive for aspergillus. The relevant issue is they then cultured the smoke after combustion and there was not one positive culture which correlates with what happens clinically. The unintended consequences to try to eradicate aspergillus are potentially much more harmful than addressing this unproven problem. What will we do when, with good intentions, we end up with a resistant strain of aspergillus. The only places on this planet that have instituted a zero tolerance policy, successfully by the way, are the Netherlands and Canada. They have gotten through this process because they irradiated with Cobalt Sixty all cannabis available commercially. A Cobalt Sixty unit has not been available in the State of Nevada since 1960. We irradiate now with electron beams. We don't have the ability to address the problem, if it is a problem. Testing for a fungus that is causing, at best, a very small clinical problem less frequent than bubonic plague is not only difficult and burdensome for the industry, but offers no safety for the patient. If this offered safety for the patient, I would understand it completely, it doesn't. There is not clinical evidence that smoking tobacco which goes untested in this state and is positive for aspergillus or testing for its presence in cannabis is going to improve public health. Thank you.

Steve Rosen, investor in THC Nevada, which is a cultivation and production facility. I was a casino executive for over thirty-five years, which is a highly regulated industry. I appreciate regulations and I understand they are there to protect the industry. We tried to be vertically integrated when we initially applied and we applied for a dispensary, cultivation and production. We were only granted cultivation and production. Not really understanding what that meant at the time, I do now, and I want to be sure everyone here understands what that meant. We followed all of the rules from the beginning. We invested \$2.5 million dollars, but it ended up being over \$7 million, as for capital investment. Dispensaries do not put that type of investment in. We have a situation where we have a large grow, but we cannot sell to the public, we can only sell to dispensaries. The way that the laws or regulations are written, most dispensaries have a cultivation license. If you own a business and grow your own product, you are going sell your own product first, it is just natural. What has been done inadvertently to people like us, cultivators that don't have a license for a dispensary, we can't sell to the public. We are at the mercy of the dispensaries. This has given dispensaries total pricing. You haven't allowed grows like ours, which is over 30,000 square feet, to be able to sell to the public. We are 100% owned by Nevadans. Look at the investors that were there from the beginning, followed the rules, and still do not have a dispensary license. We need this for our business to grow, or we will be out of business in probably two to three years.

Jim Wadhams of the law firm of Fennemore Craig and representing Clearwater LLC. There has to be some grace in the implementation of these regulations which would go into effect presumably on March 1 when the temporary regulations end. Some of the physical changes will take some time to implement and I ask that the Commission be cognizant to the timing necessary to make the application and the holding to this standard reasonably practicable as was said in the initiative for the rulemaking process. The second element that deserves some attention is in the period of time that we evaluate some of the issues that are being raised today. I am very troubled by Section 86.5, which has a summary search and seizure power available to an inspector. I realize that this type of power exists in statute in other areas, but I think the language which this regulation adopts is not sufficiently specific and should be refined to avoid unnecessary challenges on

warrantless searches and warrantless seizures. Having said that, again, with the opportunity to work with the Department on identifying changes going forward and the time allowance for implementation of any reasonable business cycle. One last example, certain containers need to be changed out. We would simply ask that this is another opportunity to utilize existing supplies that have been perfectly acceptable under the temporary regulations until those supplies are exhausted, rather than having to package them up and dispose of them. This is a timing issue and an offer to continue work with the Department going forward. Thank you.

Brett Pojunis was the former Chairman of the Libertarian Party in Nevada, served on the Libertarian National Committee and is a veteran of the U.S. Army. I am representing the great people of the great State of Nevada. I want to talk specifically about Question 2. We worked so hard on this. We gathered 111,000 signatures. We determined the language in my office. Call me and I will tell you what the intent is. What about the 602,000 voters? Question 2 explains exactly what the Department of Taxation is supposed to be doing. It is supposed to be fair and transparent. It is not supposed to be a good old boys network. The next committee will be elected. This is a big industry and we all want to make a lot of money. As you can tell by my political affiliation, I am pro cannabis. I am invested in Spain, Ireland, Switzerland, California, but more importantly, I am heavily invested in Nevada, my home, where I have been for 17 years. I love this state. We have a huge opportunity to do the right thing and set the stage for the rest of the country. Let's take our time. Let's go back to the drawing board. Let's do this the right way. Let's create a fair marketplace for people to go out there and make a buck. There are some very upset people. How many of you have invested in a business that people are going to take away from you. Let's do this the right way and help Nevada lead the way for marijuana. Thank you.

Michael Abrams is with Growsmith and is a consultant for all things cannabis. I have been involved with the cannabis industry for the last 10 years in Colorado and all states that allow for this regulation. What you have done with this regulation has been second to none. With that said, there are always places to improve. I want to talk about the main goal, which is market conversion. We are taking an illegal market and turning it into a legal marketplace, it is delicate. It isn't a market creation, it is a market conversion. It is here, but you are trying to license, tax, regulate and make it a free and fair market. In Colorado I obtained my first license and there was no limited market. In Colorado there was no preferential treatment, meaning a limited number of licenses. I consulted for Texas, we are working internationally in Jamaica, Puerto Rico, Oregon, Washington, and many states that have different regulations and develop their industry in a different way. I understand everyone is concerned here and I have been through it as an owner and I have helped other owners develop their strategy. It is paramount to me, in order to develop all of the goals synergistically for patients or customers, whether it is medical or recreational, for the businesses and for the regulatory environment, that you create some kind of free market. If the licenses are limited, the supply is going to be limited. The demand is astronomical. We have been regulating and licensing the market in Colorado for 7 years. We probably only have 50%-60% of the market that is buying legally. We still have more to convert that are buying illegally. The thing I heard about delivery is not enough. You need to create a free market. The only way to do this is by allowing everybody to apply for a dispensary license. What is going to limit the amount of licenses is the zoning, the landlords, the capital need and the knowledge to succeed. This is more than enough to regulate the number of licenses. If you do anything else, in my opinion, you are doing a disservice to the community and to the investors. The ones that know what they are doing will succeed, others will not. Thank you.

Amanda Connor of the law firm of Connor & Connor on behalf of the Nevada Cannabis Coalition (NCC). The NCC represents approximately 45 licenses. Some of the members are:

- Apothecary Shoppe - Dr. Nick Spirtos
- Thrive Cannabis Market - Mitch Britten and Phillip Peckman
- CW Nevada, LLC - Brian Padgett and Jennifer Lazovich
- Essence - Armen Yemenidjian and Brian Greenspun
- Terra Tech - Mike Nahass, Derek Peterson and Rory Reid
- NuLeaf, Inc. - Kenny Kukendall, Pouy Premisriut and Sean Luse

- The Grove - John Ritter and Demetri Kouretas
- Reef - Brett Scolari and Matt Morgan

I am going on the record to say that we are in support of the regulation as written. The NCC thanks the Department for all of its efforts. We thank law enforcement and others for developing these. The NCC does understand that the Department will allow time for laboratories and the industry to develop the testing methodologies and to have those validated and to implement other regulations. The Department will consider other or clarifying regulations in the future. Thank you.

Mark Bradley, CEO of Players Network, and we own two medical and two recreational licenses in North Las Vegas. We have 27,000 square feet. I echo a lot of the sentiment that we hear from others today. We applied for a dispensary license three years ago. We were told that our location is horrible. Someone got a dispensary license 300 feet away and they had a great location. This was the first experience when I felt that the system was being unfair. We went ahead and built our business. We spent \$7 million dollars building a beautiful facility in North Las Vegas. We hired contractors, put a lot of people to work and pumped a lot of money into the economy. We finally got up and running in June of this past year, rushed and got a recreational license, paid \$60,000-\$70,000 in license fees and got into business on a smaller scale. As we are trying to grow our business, a lot of dispensaries are going into their own cultivation. It is very inexpensive to get into a dispensary as opposed to a cultivation facility. The feedback we are getting is that they love our product, we love you, you are a nice guy, but why should we pay \$2500 a pound when we are growing it ourselves for \$700-\$800. What you find when you go into a dispensary is that they push their own brands. I am fearful that our business is not going to sustain 12-18 more months. I am fearful for everyone that is not vertically integrated. These are mini monopolies that we have created. The woman that spoke prior to me and the companies that she represents, they have three to five dispensaries each and they are going for five to seven, the maximum amount, which is going to create greater monopolies. I have a few suggestions that would make this fairer. I want to give some productive feedback, not just rant. There is no merit system yet. You have described how they will look at the issues, but there are no points associated with them. In the first round there were points associated with security in different levels. There are no points associated. There is plenty of time to make this right. I suggest there be a higher merit system for people that do not have one license, have qualified and have been paying their taxes. I believe you should also look at people with capital infusion. We have invested \$7 million dollars. I don't want to go out of business. I want a dispensary. People are selling their dispensary licenses for \$5 to \$15 million dollars. Some of these people have never even opened the door. They sell it to someone from out of town, they didn't have to do three years of work, go through the merit system and take a risk as to if they will get a license or not. I don't think those people should be able to qualify to apply for new licenses. Question 2 clearly was given an advantage and a payback to the people that paid the dues for the last three and a half years. To prevent a free for all for anyone to be able to apply for these licenses, I think you should do what was originally on the first go around. You should have to have an address associated with those licenses. If I get a license under Greenleaf Farms, I will vouch to carry other products. I am not going to discriminate. Do a fair process and look at the people that don't have a license first. We want the biggest variety possible. We would like a dispensary and we do not want to be put out of business.

Jeffrey Lawrence, with Players Network, stated he is speaking in the capacity of a former senior appointee for a state agency. I would like to echo the comments of Mr. Boswell and Mr. Rosen. With some concern that with how the statute is worded, it requires this application process for new dispensaries to be "impartial and numerically scored". However, with how the regulation is written, there is no indication as to what that numeric scoring would be. Mr. Boswell identified as to how he sees a couple of the criteria as not being impartial. Section 75.2 is saying that the Department can come up with a different scoring system when they open a new application period, which looks a bit arbitrary. In Section 80.1, the final criteria, says any other criteria that the Department determines to be irrelevant. This is not assigned any particular scoring value. The Department, with each application period, could come up with some new criteria that no one expected and theoretically assigning very large point value to that, which would give the appearance of this being kind of an arbitrary and capricious process. If an applicant feels they were unjustly denied a dispensary license as a result of a regulation that they would claim runs afoul of the statute, they might give them a claim against

the Department that could result in some type of legal liability. As the regulation is written now, there is no mention of how the scoring system is implied. In my view this is a little bit arbitrary. If I were writing these regulations, I would go back and assign some determinative scoring value to each of these criteria.

Dayvid Figler, on behalf of Silver Sage LLC, stated there is some disconnect between this Commission, the statutes, the regulations and many of the municipalities. Within the municipalities, we still hear questions from the elected and also from staff, such as what is the difference with medical marijuana and recreational marijuana. These are the municipalities that are granting the special use permits. There is also talk of moratoriums because there is fear, at least there is a degree of presentation to the elected under the new regulations that were really emphasizing retail sales and a wild west recreational system that wasn't what was promised to the elected when they were initially giving out SUP's and figuring out who would be good partners for these various ventures within those municipalities. I think that the first thing that needs to be discussed is a better effort to work group with the elected and staff. I think the fear mongering that if these regulations go into effect and that retail establishments are allowed to proliferate at a greater rate, even though that's what the voters requested, that somehow medical patients will be frozen out and will no longer have access to the strains that they need, and they will no longer be served in our community. I think this is a false narrative, but one that is very powerful when we start hearing words like moratorium. My suggestion is that this Commission talks about the importance of the medical forward program. Even if the new retail establishments are not allowed to have that POS button that allows for a tax relief for medical marijuana cardholders, we do ensure that the retail establishments are allowed to advertise medical forward programs so that strains are in no risk, and more importantly, so that the patients are not in any risk. To the extent that there is going to be merit associated to those who are granted additional licenses, there should be some consideration for those that can verifiably present to the Commission in their application and that they do have strong medical programs, this could be verified through percentage of clientele that are medical marijuana cardholders of certain types of strains that can be identified as being very medical forward. These are concerns that are being lost in the cracks. I can only hope that the Commission strongly approaches that even if you have only a retail only license, you can still take care of your medical patients in creative ways that don't violate those ordinances.

Andrew Hallenbeck, Sales and Purchasing Manager with Green Leaf Farms. In relation to companies being vertically integrated and having the opportunity to be allowed to apply for licensing, my position allows for a unique view into the purchasing and sales throughout the entire industry. The companies that do have the opportunity to have their own cultivation as well as a dispensary have a lot more control over the marketplace. It is important that the Commission and the state take a closer look at everyone that wants to be integrated and is compliant and has been capially invested be able to do so. Thank you.

Jennifer Solis with Wellness Education Cannabis Advocates of Nevada (WECAN). We did participate in the Governor's Task Force and I served on the consumer safety and education, retail and I cross pollinated to labeling. When Question 2 came up, the merit based vertical integration was on the plate and I echo all of the people that have talked about not getting dispensaries. I was a general manager for Shango and they asked me to not buy outside cannabis. So I only bought cannabis that was grown by our company. I think that for new licenses you should look at those that have fulfilled their community benefits and promises to the community.

Craig Rambul with Mother Herb. We are a cultivation facility here in Las Vegas. We do not have any other licenses. We solely cultivate and we have one of the best products on the market. We were one of the first to get our license, and by being one of the first, we supplied a lot of the dispensaries with product before they had their cultivations up. We got them going and we put up our capital to start our cultivation. A lot of the dispensaries no longer need us as they are growing their own and getting bigger and bigger. They are shutting us out and they are creating a monopoly. We need to have a free market that allows for the best product to go on the market. As a cultivator, we need an outlet for our market. We need to have a chance to get a license so we can sell our product. This is helping the black market. There should be fairness to existing license holders. My idea is to have a percentage that a dispensary has to buy outside of its own

integration. New licenses should be given to cultivators or they should partner up with existing dispensaries so cultivators aren't shutout. A free market helps everyone and vertical integration only works in a free market.

Jeremy Edgel, Managing Member of Fairness in the Cannabis Industry. Thank you for your leadership and patience. I saw a problem with the City of North Las Vegas. They have more cultivators than anybody else proportionately. What makes sense to me is to have a scoring system that is transparent and post it to everybody. Then there is no question as to if it is transparent or not. Thank you and good luck.

Jason Hensley, an active voter and an investor in publicly traded marijuana companies. I don't understand why there is such a limit to a free market when this could be such a booming industry for Nevada. As an investor, we want a free market. A couple of years ago in an argument with friends, I said, once they make marijuana legal, the cost of marijuana is going to go up. The price of marijuana did go up. What is the benefit here if you are going to impose regulations and limit the amount of competitors in an industry? It is going to drive the prices up. By continuously doing this, it creates instability. I am not an active user, but I am investing into it. The industry does have merit. If these regulations are implemented, there is going to be an underground black market and you are not getting any taxes out of that. It doesn't take much for someone to grow their own and sell it to their friends and you aren't getting any taxes out of that. I think this is what will happen later on down the line if you limit the amount of people who have licenses. You are shutting people out of the industry and creating mini monopolies. Why not let the free market determine if people can afford a license and purchase a license from you. Wouldn't that also be more revenue for you as well.

Irene Rombul. If you are truly for Nevada and the people of Nevada, I don't understand how you can limit the licenses that are going to be available. There are people waiting outside of dispensaries to get in. For tourists that are here for a limited time, they aren't going to want to wait in line at a dispensary, they are just going to call someone on Craigslist to deliver their product. They can walk from their hotel room to the lobby to pick up their stuff. If you truly want to help the people of Nevada, and to get rid of that gray line between monopolies and the black market, don't limit the licenses that are going to be available. It doesn't help the people of Nevada. If you are sick and rely on marijuana for your medicine, it doesn't help to have a line outside of a dispensary. It doesn't make sense to limit the licenses. You give the opportunity for current license holders to get a license.

Telephone Public Comment:

Jason Sturtsman, Cannabis Consultant, thanked the Department for all of their hard work. I look forward to the implementation of 453D. I am particularly excited about the new delivery regulations and an emphasis on education. Please consider cultivation and production that have the equal footing to apply for retail dispensary licenses. Thank you.

Carson City:

Josh Hicks with McDonald Carano Wilson on behalf of Eaze Solutions, Inc. Eaze Solutions, Inc. is a web based platform that works with retailers and dispensaries to delivery marijuana and marijuana products. Eaze is not a retailer. Eaze does not operate independently from retailers, but partners with retailers to utilize the Eaze platform to help deliver products in the state. Eaze does not employ drivers, it is actually done by the dispensary. Eaze is just the web based platform. Thank you to the Department. There are just a few outstanding issues that we would like to comment on, otherwise we support the regulations. I provided some proposed language to the Commission this morning. The suggested revisions are in Section 148.8 and Section 150.2, which is in the redline portion that the Director referred to, which just came out on Wednesday. Section 148.8 is the ban on delivery involving third parties. We understood the Department's intent was to make sure if there was delivery advertising, that everyone knows who the dispensary is. We proposed some language allowing for the advertising of delivery as long as it is disclosed as to who the actual dispensary will be. In Section 150.2, it requires that a digital platform, such as Eaze, to be approved

by the Department. The concern is what standard would that approval or denial be judged by. We have proposed some language on this as well. Thank you.

Barry Smith, Director of Nevada Press Association. I submitted a letter a couple of weeks ago. My concern is with Section 242 regarding confidentiality. It was not authorized in statute. Our concern, as the Nevada Press Association has been over the years, is that it narrows the exceptions to the public records law. The background is initially in 453(a) to provide confidentiality for physicians and cardholders for patients. It was a justifiable provision. It has since progressed to a regulation and provides a very broad confidentiality for information with the Department. It is much too broad and it is not necessary. To grant this broad confidentiality was never intended by the Legislature and I do not think it should be in this regulation.

Wes Henderson, Executive Director of the Nevada League of Cities and Municipalities. Thank you to Director Contine for meeting with members and answering questions about the regulations. On behalf of our Board of Directors, we would like to make the following comments with regard to the proposed regulation. We believe that the funds provided to the counties under Section 235.1 and 235.2 should be used to supplement not replace general fund revenues and their use should be limited to costs directly related to impacts of marijuana such as public safety, public health and social services. In Section 235.2, the distribution based on population should be done so that the incorporated cities receive credit for the population within their corporate limits and counties receive credit for the populations limited in unincorporated areas of the county. Thank you.

Riana Durrett, Executive Director of the Nevada Dispensary Association. The Association represents more than 85% of dispensaries statewide and over 90% in Southern Nevada. Many members are vertically integrated and own cultivation and dispensary licenses. The Association supports the adoption of the proposed permanent regulations as written today. We thank the Department for the extensive time and effort that went into these regulations dating back to the Governor's Task Force a year ago, if not before then. The Department of Taxation has been faced with several challenges along the way, including being in the unique position of reconciling the mandates of Question 2 which couldn't be changed by legislative or regulatory action with an already existing medical marijuana program. They have successfully integrated medical and recreational marijuana. I have been contacted by other regulators in other states that have asked how we have successfully done this. Throughout this process, the Department of Taxation has been willing to listen to all concerned parties. They have been responsible for successfully balancing the state's tax revenue needs and the business needs of the industry, while remaining steadfastly committed to public health and public safety. There are regulations that the industry will want to work on with the Department to improve. One is regarding aspergillus testing and we ask that the Department work with us on the implementation and that we work on that as quickly as possible. When we met with law enforcement over a year ago, we learned of the importance of allowing delivery in Nevada. They told us that delivery is the key to compete with the illegal market. The illegal market competes mostly online through Craigslist. You can't tell which websites are legal and which are not, so they are able to trick consumers. They also use the names of the legal establishments. The problem with going to an Uber or Amazon model is that law enforcement will not be able to tell the difference between which .com or IP address is legal. If we do go to an Uber or an Amazon model, we will need to hold workshops on this issue alone. There is no conspiracy to keep out cultivators. Question 2 was written before any of the current establishments had their licenses.

Will Adler with the Sierra Cannabis Coalition. We support and believe the Department has done a very good job with the regulations. Aspergillus was talked about, but we do have a mechanism to deal with specifics of lab testing. We do have the ILAC Committee, and if we need to, we can develop it within that process. In response to the comments from the Fairness in the Cannabis Industry group. This is nothing new in Nevada. In 2013 when the initial medical marijuana bill passed, law makers did a fact finding study in Arizona and called law makers in Colorado. That setup a program where the number one thing is not how many licenses total, it is how many dispensary licenses are visible to the public. Cultivation and production licenses are known as silent licenses. You can drive by one and not even know that it is there. Our law makers were told by Colorado that the number of dispensaries is an issue because they are getting clusters in

Denver where they are called the green mile where every other store is a marijuana storefront. This has created a marijuana culture in that district and no other type of businesses want to move in. We were cognizant of that and wanted to get the right number for medical marijuana patients to get the medicine they need in a geographical area. Question 2 language was initially the IP language. It is not the Department's choice to have more or give more licenses. It is in the ballot initiative. In Section 80.5, they try to address the monopoly language about retail storefronts. If you have a dispensary in an area where you are already at the 10% margin, you may not apply for these new licenses. Almost all cultivation and production facilities that do not have a dispensary did apply for them. The scoring was done and the winners were chosen. With regard to Eaze's comments and delivery to homes, it is important that we can deliver to homes or workplaces of our consumers. Weed maps allowed for non-licensed delivery agents to put themselves on this site. It became very difficult to know if 775Wellness was a legal storefront or not. It must be from a dispensary to the sell to public.

Brett Scolari of Tryke Companies. We are members of the Nevada Dispensary Association and the Nevada Cannabis Coalition. Tryke is a vertically integrated company with all three types of licenses. We were fortunate in the first round to get retail licenses. All MME's have the opportunity to apply in this next round of retail licenses and we are happy to compete with everyone. With the way Question 2 was setup and with the medical, there are a certain number of licenses. There was a lot of time and effort, there were workshops and hours and hours of meetings to come up with a procedure that is fair. There are a number of licenses available. We have two retail establishments in Washoe County and we did not fight the monopoly rule. We know that we would be barred from applying for anymore retail licenses in Northern Nevada and we are happy to live by that rule. I think that all of the mention about monopolies being created is false. All folks in the MME industry do have the opportunity to apply. We have not shutout other companies' products in our stores and we have been very successful doing so. We have not shut anyone out of our retail stores and we do not plan on doing that in the future.

Pat Lynch, Reno Nevada business owner. My company produces women's radio online, as well as other products. I try to listen from the point of view of the public and what is fair. Things might be fairer if you were a little more open in terms of number of licenses in a certain area. I would go to events and I was told to not even think about it, that the licenses have already been selected. The people are known politically and those are the people that will get them. That may or may not be true, but it is a great perception in the public that the system is not quite as fair as it should be. Anything that would open up the fairness aspect and allow more people to apply, and ordinary people to be able to participate, would be encouraging to the industry and the commerce in Nevada. Thank you.

Commissioner Kelesis commented that he has listened to the comments. The comments brought forth belong at the Legislature or in the workshops. The Department takes their work very serious and works with the public. The Department does a good job and they do listen to the people. This has to move forward and I believe the regulations are fair. I am sure there are things that are going to have to change in the future.

Commissioner Brown asked what the pathway is for folks to come back.

Director Contine stated the Department did eight workshops, after the workshops the regulations then goes to LCB, it is noticed for thirty days and then goes to the Commission for approval. After approval by the Commission, it then goes to the Legislative Commission for approval and then to the Secretary of State and it becomes an adopted regulation. We have a list of issues internally and issues that people have suggested today that we will work on in the future. We have emergency regulations in place that will expire at the end of February. We need to have these regulations in place to regulate the industry. In what I have learned over the last year, these processes will be evolving for several years. There are limitations that we have by statute. The initiative cannot change for three years. There will likely be regulatory and legislative action on this program for many years to come.

Chairman DeVold encourages anyone that would like to change the regulations, please contact the Department.

Commissioner Lipman asked that the Director respond to the public comments.

Director Contine stated, with respect to the aspergillus, we will work with the industry on the processes and find out how quickly they can do this type of test and that their processes are in place. We are not looking to shut anybody down in a week because they are not testing and they don't have the processes in place to test. Again, ILAC is very important in the process and those discussions will continue. Now I am not a scientist and I am not going to argue with Dr. Spirtos, but there is evidence that these four species of aspergillus are harmful to the public and are linked to illness and/or death, especially in people with compromised immune systems. And even though we have a medical program, we want to have the same rules across the board. If we are erring in this case, I am choosing to err on the side of public health and public safety. We are the only body that regulates this type of lab because they are not federally regulated like other types of labs. As for the fairness issue, everybody that commented today and applied for a dispensary license and didn't get one, they are asking us to not consider the fact that they haven't been working and successfully operating in a certain way in a regulatory environment for the last few years, and to instead discount anybody else who is doing that. From a regulatory standpoint, I don't know how I cannot give some type of scoring criteria to an entity that has been operating an establishment in compliance with the rules, doesn't have violations, following the rules, doesn't have civil penalties, is paying their taxes, is doing all the things that they have been asked to do in the regulated market up until now. We will consider that and we will consider the work that the people who testified today have been doing as well. We have a situation where only marijuana establishments can apply for licenses right now. So we have one set of people that are being favored. The initiative doesn't allow that to change, it limits retail stores and it requires us to come up with scoring criteria. We are in a position where we have to have rules and we have to determine which rules are going to best serve public health and safety. I have had meetings with many people that have testified today. I have indicated be competitive in your application, show us what you have. We will consider the things that are in the criteria that you put forward and we will give everything a fair look. There is no intention that this process not be fair. We are mindful of where we are and constraints that we have both by the initiative and others.

Commissioner Kelesis moved to approve the regulations (LCB File No. R092-17), as written. Commissioner Bersi seconds. All in favor. Motion carries.

VII. Informational Items:

- 1) Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- 2) Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

Commissioner Brown stated Renown Health, Renown Health Foundation and Renown Regional Medical Center are mentioned on the approved exemption list in the informational items. Commissioner Brown stated that he serves on the Renown Business Board, which is not being granted exemption, and on the Audit and Compliance Committee of the Health System.

Chairman DeVold stated that he serves as the Vice Chairman on the Renown Health Systems Board of Directors. These are informational items only. There will not be a vote on these matters.

VIII. BRIEFING:

- A. Briefing to/from the Commission and the Executive Director.

There was no discussion.

IX. Next Meeting Date: March 5, 2018

X. Public Comment.

Jeremy Agile, Managing Member of Fairness of Cannabis Interest, LLC. I am not a license holder. I have zero interest in any marijuana MME recreational licenses. I have zero financial interest in this. My grandmother died, the opiates made her so sick that it didn't help. I have been looking at the cannabis space since it became legal and really felt that there is the compassionate place in the industry, not just profiteering. I heard everything that the young lady said in reference to the fairness issue and this is not fair. Thank you.

Mark Bradley, CEO, Players Network. I understand both sides. This comes down to licensing new establishments. There is no scoring system and that is what we are in the dark about. If someone paid more taxes, that should be 90 percent of the score. Are these other things going to be the other ten percent? It doesn't feel transparent to me. Maybe if we knew the numbers, we would feel better. I think putting money into the economy and building a great industry should get high scores. I think that people that were the original license holders should get high scores. The people that came in and bought someone's license and got a free ride, they shouldn't even be able to apply for new retail. I thank you for your time. I understand and appreciate what everyone has to do. It's hard decisions. There are a lot of people here that would like their business to grow, including ours. Thank you.

XI. Items for Future Agendas.

There were no items discussed.

XII. Meeting adjourned at 12:30 p.m.