

**MINUTES OF THE MEETING OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS
AND
SENATE COMMITTEE ON FINANCE
SUBCOMMITTEES ON GENERAL GOVERNMENT**

**Eightieth Session
April 17, 2019**

The joint meeting of the Assembly Committee on Ways and Means and Senate Committee on Finance Subcommittees on General Government was called to order by Chair Heidi Swank at 8:08 a.m. on Wednesday, April 17, 2019, in Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblywoman Heidi Swank, Chair
Assemblywoman Daniele Monroe-Moreno, Vice Chair
Assemblywoman Sandra Jauregui
Assemblyman Al Kramer
Assemblyman Jim Wheeler

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Yvanna D. Cancela
Senator Pete Goicoechea
Senator David R. Parks

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Sarah Coffman, Principal Deputy Fiscal Analyst
Jaimarie Ortega, Program Analyst
Lisa McAlister, Committee Assistant
Carmen M. Neveau, Committee Secretary

After roll was called, Chair Swank reminded those present of Subcommittee rules and explained the purpose of a work session meeting. Subcommittee members were encouraged to ask questions and resolve matters in a work session.



Jaimarie Ortega, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, presented the Marijuana Regulation and Control Account (MRCA) and the Department of Taxation.

Ms. Ortega noted that there were three summaries of issues included in the MRCA budget. The first matter was the Governor's recommendation of a new policy approach for the regulation and oversight of the cannabis or marijuana industry in Nevada. The new policy entailed the establishment of a standalone Cannabis Compliance Board (CCB) agency. Budget amendments A193114207 and A192712361 had been submitted and bill draft request (BDR) 60-1217 was requested to effectuate the change. In addition to the establishment of a separate agency, budget amendment A193114207 added eight additional full-time positions beyond the positions originally recommended by the Governor, five part-time paid board members, and eight Cannabis Advisory Committee members. Those changes resulted in reserve reductions of \$2.4 million over the 2019-2021 biennium.

The Department of Taxation, Ms. Ortega said, indicated that the recommendation was part of the Governor's initiative to provide an efficient and effective regulatory program for the marijuana industry. The recommendation specified a more dedicated departmental focus on creating best practices for the regulation of marijuana establishments, with staff dedicated to the development of solutions to emergent regulatory problems such as consumption lounges, safer banking and cash handling, and the reduction of illegal and unlicensed facilities.

Ms. Ortega explained that the recommendation maintained tax collection functions at the Department of Taxation and dedicated the regulatory functions, licensure, and registration of the marijuana industry to the proposed CCB agency. The budget amendment included four additional part-time board members with recommended salaries of \$40,000 per year and one part-time position to serve as chair of the proposed CCB agency with a recommended salary of \$46,000, totaling \$427,604 over the 2019-2021 biennium, inclusive of benefits. Each member would be appointed by the Governor to serve four-year terms. The Governor also recommended eight Cannabis Advisory Committee members with a recommended daily compensation of \$80 when attending board meetings. According to the Department of Taxation, maintaining a combined agency and adding oversight for a proposed CCB agency and the Cannabis Advisory Committee would further divert the Department of Taxation's focus away from its mission of ensuring state revenues were collected and accounted for in an effective manner.

According to Ms. Ortega, the Governor also recommended eight additional positions to provide management and information technology (IT) support for the proposed CCB agency. The following table displayed the additional position recommendations, including each position's start date, salary, and proposed duties:

CCB New Position Recommendations			
Position Title	Start Date	2019-2021 Biennium Salary and Benefits	Duties
Unclassified Executive Director	07/01/19	\$328,039	Manage the CCB, hire the ASO and IT Manager positions, lead the transition to the new CCB
Unclassified Executive Assistant	07/01/19	\$168,773	Provide administrative support for the Executive Director and the new CCB
Administrative Services Officer	08/01/19	\$244,489	Manage the Fiscal and Administrative functions of the new CCB
Public Information Officer	10/01/19	\$157,616	Act as the public information point of contact, prepare media releases and update the new CCB webpage
Business Process Analyst	10/01/19	\$164,031	Provide business process analysis to the CCB's systems and manage application regression testing
IT Manager	08/01/19	\$266,129	Act as the lead IT position
IT Professional	10/01/19	\$177,579	Provide IT support for application design and system development analysis
IT Technician	10/01/19	\$125,321	Oversee system maintenance and provide IT help desk support

Pursuant to Article 19, Section 2 of the Nevada Constitution, Ms. Ortega stated, the regulation and licensure of marijuana establishments were not subject to legislative amendment or repeal until November 2019. Accordingly, the Department indicated that the proposed CCB agency would be established after November 2019. However, as shown on the table above, the budget amendment included eight new full-time positions starting before November 2019. The Department of Taxation indicated that the start dates were necessary for the transition and to ensure regulations and staffing were in place before transferring the MRCA to the proposed CCB agency.

The Governor's recommended budget, Ms. Ortega said, included \$2.8 million over the 2019-2021 biennium for a new cost-allocation plan that would transfer funds from the MRCA to the Department of Taxation for administrative, fiscal, IT, and compliance enforcement services provided by staff to the MRCA. Since the proposed CCB agency would have its own management, fiscal, IT, and compliance enforcement positions, budget amendments A193114207 and A192712361 recommended a reduction of the cost allocation from \$2.8 million to \$89,608 over the 2019-2021 biennium. Savings from the cost allocation were offset by the addition of eight additional positions, five part-time board members, and eight Cannabis Advisory Committee members, which totaled \$2.4 million over the biennium.

The decision to be made at closing included the following:

- A. Approve the establishment of a new Cannabis Compliance Board agency, including two new unclassified positions and six new classified full-time positions, five part-time board members, and eight Cannabis Advisory Committee members, which would reduce reserves by \$2.4 million over the 2019-2021 biennium.
- B. Maintain the Marijuana Regulation and Control Account under the Department of Taxation without establishing the Cannabis Compliance Board or Cannabis Advisory Committee.
- C. Maintain the Marijuana Regulation and Control Account under the Department of Taxation and establish the Cannabis Compliance Board and Cannabis Advisory Committee under the Department of Taxation.

Chair Swank asked the Subcommittee members for any questions.

Assemblyman Kramer expressed his concern about how the board would function relative to the transparency of existing marijuana licenses. He wondered whether the board would provide an additional layer of insulation from the public or whether the board would disclose license information more readily.

Melanie Young, Executive Director, Department of Taxation, explained that the proposed Cannabis Compliance Board (CCB) would have different rules than the Department of Taxation. The Department of Taxation's structure for confidentiality was strict because of taxpayer rights. By creating a proposed CCB agency, there would be more clarity and transparency in the process.

Assemblyman Kramer said that rules for opening a new casino were clear and easily understood, and in the case of a new casino, the market determined a location for a casino, not the Nevada Gaming Control Board. The Gaming Control Board may investigate owners, but the new casino owners knew the criteria used by the Gaming Control Board. Because the rules for marijuana establishments were unknown and criteria for determining establishment owners was not clear, he wondered whether the process, requirements, and criteria would be more open after November 2019.

J. Brin Gibson, General Counsel, Office of the Governor, said that the answer was complicated. He was familiar with the structure for the Gaming Control Board because he was a former Chief of the Gaming Division in the Office of the Attorney General. The same structure would be used for the marijuana industry. The licensing and disciplinary processes would happen in the public domain. Rules would be known, and applicants would be vetted publicly. Foibles, problems, and declinations for potential licensees would be available to the public. There was a proposed amendment to Senate Bill (S.B.) 32 that would make

awardee, applicant, and location information open to the public. He explained that the amendment was an attempt by the Office of the Governor and the Department of Taxation to allow consolidated lawsuits associated with the quality of the vetting process. Mr. Gibson noted that he had provided two different answers to the same question asked by Assemblyman Kramer.

Chair Swank compared the Department of Taxation to the Department of Business and Industry, another department with many divisions, and she wondered why the proposed CCB agency should be a separate agency from the Department of Taxation. She recognized that the Department of Taxation and the proposed CCB agency would perform similar tasks. She also wondered about salaries for board members, similar to salaries at the Gaming Control Board, but almost double the salary amounts for the Nevada Tax Commission. She knew that there were six proposed CCB meetings each year, and she calculated that board members would be receiving over \$6,500 for each meeting.

In response to the question about the need for a separate agency, Laura Freed, Executive Branch Budget Officer, Office of Finance, Office of the Governor, explained that ten states and the District of Columbia had authorized the use of recreational marijuana. In looking at other states, there was no clear consensus about whether cannabis regulation should be performed by an independent agency or be part of an existing agency. Of those ten states, Maine, Vermont, and Michigan recently enacted recreational marijuana laws, and of the remaining states, the results were split down the middle. Several states had a department of revenue that collected all revenues, and several states had a division within a larger agency. She cited Colorado as an example of a state that performed taxation regulatory functions and collection functions, including marijuana taxes, out of its Department of Revenue. The proposed CCB agency was modeled after operations of the Nevada Gaming Control Board and the Massachusetts Cannabis Control Commission.

Regarding the comparison to the Tax Commission salaries, Ms. Freed said, that in a small state the size of Nevada, there would be limited degrees of separation between persons with a financial or professional interest in the cannabis industry and the regulators. The Gaming Control Board positions were full-time salaried positions that were prohibited from having a conflict with licensees. The Department of Taxation wanted to ensure there was a separation between those that worked for the proposed CCB agency and the licensees. Increasing salaries for the Tax Commission to match the proposed CCB salaries and then requiring several financial disclosures was a way to discourage professional associations between CCB members and potential CCB clients.

Mr. Gibson added that the regulation of cannabis would be controlled by the proposed CCB agency. The one function that would remain with the Department of Taxation was the collection of taxes. The policy bill, at over 200 pages, would need an amendment to allow financials to be used by the proposed CCB agency for disciplinary action or further licensing requirements.

Chair Swank understood that other states had managed the marijuana industry in one of two ways. She wondered how Nevada made the choice to separate the proposed CCB agency from the Department of Taxation. Mr. Gibson said that his assignment was to provide the Governor with a formal structure for the regulation of cannabis. The industry was fast-growing, fast-changing, and in need of a dedicated staff. The business of regulating cannabis needed to be open to the public and transparent. When those factors of a regulatory body were the justification, a board was needed. Given revenue projections and a states' rights construct found in Title 21, United States Code (USC), Controlled Substances Act (CSA), there was an attempt to protect licensees from federal intervention. In Mr. Gibson's opinion, the CSA necessitated the establishment of a separate regulatory agency that stood by itself and was responsible for the decisions. The separate agency would need to meet on a regular basis and not be burdened by the responsibilities of the current tax commission.

Chair Swank noted that there was intention to pay board members enough so there would be no conflict, but she wondered who could afford to live on \$40,000 per year. She recognized that there was a need to avoid persons involved in the marijuana industry and who would not have conflicts with licensees, but she also knew that only persons who were already wealthy could afford to live on a salary of \$40,000 per year. She wondered whether those who could afford to take the positions would be representative of average Nevadans.

Ms. Freed explained that it was anticipated that board members would have other jobs. The thought was to make the part-time job remunerative enough that it would discourage any professional associations with potential licensees or active licensees.

Chair Swank said that she was not clear why there was a need for two boards and two divisions, but she thought she could take her concerns offline.

Assemblywoman Monroe-Moreno agreed that the cannabis industry needed its own dedicated board and agency. She did not, however, necessarily agree that there needed to be a separation from the Department of Taxation. Her personal belief was that the regulation of the marijuana industry should be a division under the Department of Taxation because oversight was already established. With that said, she wondered about the backgrounds that potential candidates for board positions should have.

Ms. Freed said that one member would be required to have specific professional expertise in accounting, audit, or corporate finance. One member would be required to have professional expertise in law enforcement; one member would be required to have a background in public health or medicine; one member would be required to have a background in regulatory law with specific expertise in regulatory compliance; and one member would have expertise in the cannabis industry.

Assemblywoman Monroe-Moreno believed that regardless of who was on the board, the cannabis industry was a new industry for Nevada and not a lot of training had been conducted yet. She believed that the member with law enforcement expertise should be knowledgeable regarding marijuana, and she did not hear any requirement for a fire marshal. Someone who conducted fire inspections would bring a needed perspective to the board. She also believed that a medical specialty was needed. The medical marijuana industry representatives felt unheard and that their needs were not being addressed, and she wanted to ensure there was participation from those individuals. She asked how the Department of Taxation planned to transition the Marijuana Regulation and Control function to the proposed CCB agency.

Melanie Young, Executive Director, Department of Taxation, said that the transition would take place over a six-month period. The plan was that the Executive Director and an Executive Assistant would start on July 1, 2019, and Ms. Young's position and the new positions would work on the transition from the current structure to the proposed agency. She noted that the Department of Taxation collected almost \$7 billion a year. When marijuana taxes were assigned to the Department of Taxation, all other work almost stopped. All resources were focused on establishing the marijuana enforcement division. No improvements had been made to the tax systems to improve other tax collections since that date. Because the marijuana industry generated \$80 million per year in taxable collections, she stated that the Department of Taxation believed that it was best to separate the marijuana industry from the Department of Taxation and allow the Department to focus on collecting the billions of other taxes more effectively.

Assemblywoman Monroe-Moreno asked how the transition would happen. She asked, specifically, whether the new agency would be located in the same building as the Department of Taxation and why a cannabis division could not be placed under the umbrella of the Department of Taxation. Ms. Young said that currently in Las Vegas, the marijuana enforcement division occupied an office on the fourth floor of the Grant Sawyer State Office Building. The Department of Taxation had an office on the first floor in the same building. In Carson City, the two entities were colocated, but each had its own section and functioned like a division under the Department of Taxation. Under the new structure with separate entities, more resources would be focused on industry needs.

Assemblywoman Monroe-Moreno asked what positions were assigned to the marijuana enforcement division. Ms. Young said that there were 44 positions associated with budget account (BA) 4207, and those positions enforced regulations on the marijuana industry. The Department of Taxation under BA 2361 had 381 positions that worked to collect taxes.

Chair Swank noted that the Department of Business and Industry, although very large, had several boards. She knew that the Department of Taxation's workload had increased tremendously because of marijuana taxes and enforcement, but she believed that increases in workload size occurred during any growth period. She asked Ms. Young to think about

her justification for creating a new agency, especially because marijuana collection activities would remain with the Department of Taxation. It seemed that all marijuana functions should be under one agency, and she wondered why the Department of Taxation would not grow to incorporate all marijuana functions. Resources could be provided, if warranted.

Senator Cancela was concerned about conflicts of interest for a board, and she wondered what the conflict would look like to licensees. She knew that licensees might not be from the industry, but they could be business people with investor backing. She noted that a lawyer could be a licensee who invested in a production company, and that conflict could be complicated. She liked the proposed structure and wondered where licensees came from in communities. She did not want to eliminate those people who would provide valuable input to a board because of a possible conflict of interest.

Senator Cancela further noted that one of the tasks that Nevada had not yet performed, but other states had, was a public health and public awareness campaign. She was interested in whether the proposed CCB agency would take on that work or whether there was another place to start allocating resources for this effort. Ms. Freed said that the marijuana enforcement division had an education and information officer position, and a budget amendment recommended an additional public information officer position. The effort described by Senator Cancela was the type of programmatic work that a public information officer would perform. She felt that a focus on programmatic aspects was an outgrowth of a separate agency dedicated to regulation and public awareness on the use of marijuana and when marijuana use was appropriate. Consumption lounges and how to handle unlicensed marijuana businesses were also matters that could be handled by a separate agency.

Senator Cancela noted that for gaming, there was an Advisory Committee on Problem Gambling under the Department of Health and Human Services. She was interested in considering a dedicated position that would focus on public health and public awareness.

Mr. Gibson stated that the advisory panel was unpaid, except for per diem, and was where persons with a vested interest in the industry could provide input. That panel was made up of people from disadvantaged communities and communities hit hard by the war on drugs, as well as individuals with educational backgrounds familiar with how marijuana might affect health. Subcommittees or working groups could focus on equitable programs and how to bring certain groups to the marijuana industry. He added that "marijuana enforcement" suggested duplication, but there was more to the marijuana industry than enforcement. Enforcement was important because where there was a privileged license, there was a need to collect taxes close to the 100th percentile. That effort required audit and enforcement in a strong regulatory structure with adequate discipline. Additionally, there was a need to find ways to involve state universities and to reach out to different groups with educational opportunities. Massachusetts had done this work well, and he hoped to institute those efforts in Nevada which, he concluded, was the purpose of an advisory committee.

Senator Cancela hoped that Nevada would soon lead the country in marijuana enforcement and marijuana regulation. The same strategies, policies, and procedures used for gaming could be used for marijuana. An unbudgeted need that she recognized was the need to bring regulators from across the country together in Nevada to determine what the industry would look like in future years.

Mr. Gibson said that without the policy bill, it was difficult to discuss substantive pieces of the new regulatory structure. He had written regulations and laws for different regulatory gaming structures for jurisdictions around the world. With the Department of Taxation at the table for discussions, with a board that oversaw cannabis, and with an existing enforcement division, there was still limited ability to delve into the science, to incorporate disadvantaged communities, and to study topics like education, distribution through transportation and sales, and other new matters that needed to be researched beyond what was done at the Department of Taxation. There was a need for board members with energy, excitement, and new ideas to help the industry grow.

Assemblywoman Monroe-Moreno stated that the CCB would be established in November 2019 and asked why the executive director and the executive assistant would be starting work on July 2019.

Ms. Freed said there was a need to hire staff in preparation for the November 2019 date to assist with the transfer of duties from the Department of Taxation to the proposed CCB agency. Especially important, she added, was the transfer of information technology (IT) knowledge. The Department of Taxation IT effort had been intense, including development of software to account for excise tax collections and software to reconcile receipts to the state's accounting system. New IT staff would need to learn the existing software and develop IT infrastructure and fiscal management.

Assemblywoman Monroe-Moreno asked whether there was an expectation that the additional positions would be filled with existing employees in the Department of Taxation or whether the additional positions would be filled with new employees. She wondered whether new employees would be required to have expertise in the marijuana industry. Ms. Freed expected that the additional positions would be filled with individuals not already employed by the Department of Taxation. The Governor's recommendation specified additional positions, not positions that were transferred from the Department of Taxation, she clarified.

Assemblywoman Monroe-Moreno asked whether new employees would be required to have industry expertise or knowledge. Ms. Freed hoped that newly hired employees, especially the Executive Director, would have experience in Nevada's existing regulatory regime or with another state's marijuana program.

Mr. Gibson added that other regulatory agencies used different structures, but the leaders either learned the industry quickly or already had familiarity and knowledge about the

industry. It was important, he clarified, that there was no vested financial interest in the industry. The newly hired employees would set the policy and tone for the proposed CCB agency.

Senator Goicoechea asked where the advisory panel was on an organizational chart. Mr. Gibson explained that the advisory panel was modeled after the Massachusetts advisory panel. For the Massachusetts panel, individuals with industry knowledge and vested financial interests or conflicts of interests could be appointed. The presence of conflicts of interest was why the board was considered to be advisory. Policy language would specify that the advisory panel could consider matters from legislative leadership, the Governor, or from the Cannabis Control Board (CCB), but similar to the gaming policy committee, recommendations were advisory recommendations because of the potential for conflicts of interest.

Senator Goicoechea asked whether it would be better to have the panel report to someone at a lower level. Mr. Gibson said that conceptually speaking, the executive director of the CCB would be chair of the advisory panel. There would be crossover, because he wanted the Department of Public Safety and the Department of Health and Human Services to have representation. Although the makeup of the advisory panel was already in place, the policy bill would provide the framework.

Senator Goicoechea said that when an advisory panel was too close to a compliance board there would be problems. He agreed with the proposed structure and asked about the enforcement efforts. Mr. Gibson said that positions had been moved out of the Department of Taxation to the marijuana enforcement division already. The proposed new agency would operate differently. He hoped to help the proposed executive director create a structure similar to the gaming structure. There would be divisions including enforcement, licensing, investigations, and audit. Each division would have a chief separated for reporting purposes, but with weekly coordination and communication meetings.

Senator Goicoechea asked whether Ms. Young, as the Executive Director of the Department of Taxation, would be separated from the CCB. Mr. Gibson stated that Ms. Young would be separated.

Jaimarie Ortega, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, next discussed the revised additional positions recommended for the marijuana program. She noted that The Executive Budget recommended ten additional positions for the marijuana program. However, a budget amendment lowered the Governor's original recommendation to nine positions. The amendment added one additional compliance audit investigator position and eliminated one revenue officer position and one tax examiner position from the original recommendation. The table on the following page illustrates the position allocation.

Decision Unit D-226			
Position Title	Existing Positions	Governor Recommended Positions	Budget Amendment Positions
Auditor 2	5	3	3
Compliance Audit Investigator ¹	4	2	3
Marijuana Program Inspector 2	9	2	2
Accounting Assistant 4	0	1	1
Revenue Officer	1	1	0
Tax Examiner ²	3	1	0
Total Position Count	22	10	9
¹ Inclusive of one Chief Compliance Audit Investigator position			
² Inclusive of one Tax Program Supervisor position			

Ms. Ortega stated that an audit released by the Legislative Counsel Bureau identified weaknesses in the Department of Taxation's information system control. The additional compliance audit investigator position, along with an existing auditor position, would focus on resolving the information system control weakness by ensuring accuracy, completing data entry, and identifying discrepancies in the Marijuana Enforcement Tracking Reporting and Compliance (METRC) system.

The Department, Ms. Ortega reported, had indicated that the compliance audit investigator position would investigate ownership, potential diversion, and large inventory discrepancies, as well as perform investigations on the illegal sales of marijuana products or black market and nonlicensed marijuana establishments. Despite this justification, Fiscal Analysis Division staff noted that the compliance audit investigator positions were not sworn positions and were not Peace Officer Standards and Training (P.O.S.T.)-certified positions.

Ms. Ortega explained that based on information from the Division of Human Resource Management, the class specification for a compliance audit investigator position required a bachelor's degree from an accredited college or university in business or public administration, business management, accounting, or a related field, or equivalent education and experience. Because the class specification for the compliance audit investigator position appeared to be related to audit or inspection functions of business practices and were not P.O.S.T.-certified, it was unclear what authority the position would provide to ensure illegal sales and operations by nonlicensed marijuana establishments were handled appropriately.

Decisions to be made at closing, Ms. Ortega noted, were:

- A. Approve the ten new positions recommended in The Executive Budget.
- B. Approve the nine new positions recommended in a budget amendment.
- C. Approve the new positions, but modify the compliance audit investigator positions to sworn compliance enforcement positions based on their proposed duties.

Chair Swank asked Ms. Young to discuss how the budget amendment addressed the findings from the Legislative Counsel Bureau (LCB) audit. Ms. Young said that the original positions in the Governor's recommended budget were intended to focus on the Department of Taxation's workload needs and a new proposed cash handling center in Las Vegas. Because the cash handling was now proposed to stay with the Department of Taxation instead of the Cannabis Compliance Board (CCB) agency, the revenue officer and tax examiner positions were removed. She noted that those positions belonged under the Department of Taxation's budget account (BA) 2361 and would increase enforcement efforts and work on the METRC system, the subject of the LCB audit.

Assemblywoman Monroe-Moreno looked at the duties of a position that included investigations of illegal sales of marijuana products, black market, nonlicenses, and suspected illegal activities and believed that those activities were law enforcement activities. She asked Ms. Young to explain why the recommended positions were nonsworn positions and not P.O.S.T.-certified law enforcement officers. Ms. Young said that sworn officers were more costly partly because of needed equipment, and the proposed CCB agency would partner with local law enforcement for those efforts.

Mr. Gibson added that he hoped local law enforcement would be helpful because of money local law enforcement received from the cannabis excise tax. In addition, the proposed CCB agency would rely on the Department of Public Safety for sworn law officer enforcement. He compared the proposed CCB agency to the Gaming Control Board and noted that the Gaming Control Board had 92 P.O.S.T.-certified officers. The concern with including P.O.S.T.-certified officers was the cost, but with available funding, he would pursue this further because he would like to see P.O.S.T.-certified officers under the proposed CCB agency.

Assemblywoman Monroe-Moreno explained that she was assigned to the Governor's advisory panel for the CCB, and she was assigned to a subcommittee for cannabis enforcement. In those assignments, she worked with Fiscal Analysis Division staff to create a plan for a P.O.S.T. enforcement division. The plan for five P.O.S.T.-certified officers, three in southern Nevada and two in northern Nevada, was expensive. In talking with local law enforcement officers, she found that there was money from the cannabis industry that went to cities and counties, but not necessarily for law enforcement activities. During these conversations, she found that local law enforcement wanted a cannabis enforcement bureau in the proposed CCB agency to work with local governments. As an example, she said that

when a local police officer was on the scene of a murder, and a CCB auditor or investigator found something improper in a grow house or dispensary, the local police officer might not be available to assist. Trained P.O.S.T. officers on staff would alleviate the disconnect that occurred. Colorado had a cannabis task force that could be a model or Colorado staff could provide onsite training for Nevada in efforts to become a national leader in this area. She felt it was unfair to send an auditor or investigator into an establishment to perform job tasks that should be performed by a P.O.S.T.-certified trained officer.

Chair Swank noted that her district included the Las Vegas strip, and she lived near the strip. The Las Vegas Metropolitan Police Department was stretched thin dealing with problems on the strip and in her neighborhood, and she had to wait a long time for Metro police to deal with loud parties or another problem in the neighborhood. She was hesitant to stretch Metro resources further when another solution was available.

Mr. Gibson agreed that a regulated, illicit market created an illusion of legality. This scenario made it difficult for officers sworn to uphold the law to distinguish between something illegal under federal law but legal under state law. He had concern with asking local law enforcement to assist in driving out an illicit market, and he agreed with Assemblywoman Monroe-Moreno that trained P.O.S.T. staff working directly for the proposed CCB agency would be beneficial.

Chair Swank asked Mr. Gibson to contact the Fiscal Analysis Division staff to work with the state of Colorado and to incorporate training components.

Senator Goicoechea agreed that P.O.S.T.-certified officers working directly for the proposed CCB agency were necessary. Depending on rural law enforcement officers would not work well. He noted that most rural sheriff's offices did not have the necessary expertise and instead called on the Nevada Division of Investigation for drug busts.

Laura Freed, Executive Branch Budget Officer, Office of Finance, Office of the Governor, said that the amendment was intended to do three things. The first goal was to develop an agency that created gold-standard regulation for cannabis similar to the Gaming Control Board for the gaming industry. The second goal was to relieve pressure on the Department of Taxation and let the Department focus on tax collections. The third goal was to respond to weaknesses identified in the LCB audit. Many of the audit findings were regulatory in nature, related to data that was entered into METRC and data that should have been entered into the system. She noted that staff from the Office of Finance, Office of the Governor, might have recommended P.O.S.T.-certified positions had they known the extent of the unlicensed facility problem, but they would need to know how to quantify the problem first.

Assemblyman Kramer said that for a few years, code enforcement in Carson City was his responsibility. During that time, code enforcement staff worked closely with law enforcement, the contractor's board, the Department of Public Safety, and the local sheriff's

office. Carson City's code enforcement staff might investigate why several cars were in a yard, but if the suspicion was that someone was operating a car dealership without proper licenses, then the matter was referred to law enforcement. He believed that for the cannabis industry, there were staff members performing regulatory functions and anything that looked improper was referred to others. Carson City's code enforcement officers pursued black-market marijuana now, and he did not see that changing. Coordination, rather than law enforcement positions, was needed.

Senator Goicoechea noted that rural counties had neither accepted nor endorsed marijuana in their jurisdictions, and he did not see counties such as Eureka, Lander, or Humboldt responding to cannabis enforcement matters, although he did expect those counties to respond to a black-market matter.

Hearing no further questions from Subcommittee members, Chair Swank asked Ms. Ortega to continue with her presentation.

Ms. Ortega next discussed the elimination of one filled revenue officer position. The Department of Taxation had indicated that duties of the existing revenue officer position were tax-oriented and not aligned with regulatory duties of the proposed CCB agency. However, positions responsible for tax collection were recommended for transfer from the Marijuana Regulation and Control Account (MRCA) budget to the Department of Taxation budget. The Department of Taxation anticipated that other existing positions would absorb the tax collection job duties from the revenue officer position.

The decision to be made at closing included the following three options:

- A. Approve elimination of the existing revenue officer position.
- B. Approve transfer of the existing revenue officer position to the Department of Taxation, which would result in additional State General Fund appropriations totaling \$134,237 over the 2019-2021 biennium.
- C. Do not approve eliminating the existing revenue officer position.

Chair Swank asked whether the filled position would result in a layoff. Ms. Young said that the employee in the revenue officer position would be moved to a vacant position in the Department of Taxation.

Ms. Ortega next discussed the Department of Taxation budget account (BA) 2361. The Office of Finance, Office of the Governor, had submitted budget amendment A192712361 as part of the Governor's recommendation to establish a proposed Cannabis Compliance Board (CCB) agency and maintain tax collection functions at the Department of Taxation.

There were three issues presented by Ms. Ortega. The first issue was a recommendation to transfer four existing positions, including one management analyst position, one tax program supervisor, and two tax examiner positions, and building security expenditures from the MRCA to the Department of Taxation budget. Also included in this issue was a recommendation to change the funding source for these four positions from fee revenues to State General Fund appropriations totaling \$1.3 million over the 2019-2021 biennium. The Department of Taxation had indicated that the duties of these positions included collecting and processing large volumes of cash from marijuana tax returns and reconciling marijuana tax revenues that were closely related to tax collection functions.

The decision to be made at closing included two options:

- A. Approve the transfer of one management analyst position, one tax program supervisor position, and two tax examiner positions from the Marijuana Regulation and Control Account to the Department of Taxation and change the funding source for these positions from fee revenues to State General Fund appropriations totaling \$1.3 million over the 2019-2021 biennium.
- B. Do not approve the transfer of one management analyst position, one tax program supervisor position, and two tax examiner positions from the Marijuana Regulation and Control Account to the Department of Taxation.

Hearing no questions from Subcommittee members, Chair Swank asked Ms. Ortega to continue with her presentation.

Ms. Ortega explained the second issue under BA 2361 was a reduction in the cost allocation from the MRCA to the Department of Taxation, corresponding to the recommendation in budget amendment A192712361. The amount of the reduction was roughly \$2.7 million, from \$2.8 million to \$89,608 over the 2019-2021 biennium. Fiscal Analysis Division staff noted that the recommendation would create a State General Fund hole of \$2.7 million over the 2019-2021 biennium. However, budget amendment A192712361 increased revenue by \$5 million over the biennium to reflect the December 2018 consensus forecast for the excise tax, licenses, and fees from the marijuana establishment licensees. Additionally, pursuant to existing statutes, any revenues in excess of the cost to administer the marijuana program must be credited to the distributive school account (DSA). The increase in projected revenues, decrease in total expenditures resulting from the reduction of the new cost allocation, and the recommended transfer of five position from the MRCA to the Department of Taxation increased the transfer of funds to the DSA, which resulted in a reduction in State General Fund appropriations needed in the DSA. Accordingly, the increase in State General Fund appropriations in the Department of Taxation budget was negated by a decrease in State General Fund appropriations in the DSA.

The decision to be made at closing included two options:

- A. Approve the new standalone Cannabis Compliance Board agency and revise the cost allocation to the Department of Taxation from \$2.8 million to \$89,608 over the 2019-2021 biennium.
- B. Do not approve the new standalone Cannabis Compliance Board agency and approve the new Department of Taxation cost allocation totaling \$2.8 million over the 2019-2021 biennium and revised estimates for the 15 percent excise tax, licenses, and fees from marijuana establishment licensees.

Chair Swank asked for questions from Subcommittee members.

Assemblyman Kramer said that this was part of why he was resistant to having a separate agency that was not under the Department of Taxation. The need for another cost-allocation center performing the same administrative functions was not necessary, and he saw no reason to change the cost allocation.

Senator Goicoechea was concerned that additional enforcement beyond what the Department of Taxation could provide would be required, given the nature of the industry.

Chair Swank asked for any additional questions from Subcommittee members, and hearing none, she asked Ms. Ortega for the remainder of her presentation.

Ms. Ortega discussed the third and final issue, increased salaries for seven tax commissioners and the chair of the commission, resulting in additional State General Fund appropriations totaling \$329,110 over the 2019-2021 biennium. The recommendation included an annual salary of \$46,000 for the chair, and an annual salary of \$40,000 for the seven tax commissioners. Existing statutes allowed for an annual compensation of \$27,500 for the chair and annual compensations of \$20,000 for the seven tax commissioners. The Department indicated that the salaries for the tax commissioners had not been changed since fiscal year (FY) 2006, and the proposed salary changes would align with the proposed salaries for the proposed CCB members.

The decision to be made at closing included two options:

- A. Approve the increase in salaries of the chair of the Nevada Tax Commission and seven tax commissioners, increasing State General Fund appropriations by \$329,110 over the 2019-2021 biennium, which would require a bill draft request.
- B. Do not approve an increase to the salaries of the chair of the Nevada Tax Commission and seven tax commissioners.

Chair Swank was concerned about raising the salaries for the Nevada Tax Commission. She wanted to see how other commissions were funded, and she wanted to ensure there was

salary consistency based on the number of meetings and the amount of work required by members of a commission. She asked Ms. Young to provide more information on commission salaries.

Senator Goicoechea said a new agency would have aligned salaries as well, which would be difficult.

Hearing no other questions from Subcommittee members, Chair Swank opened the work session for public comment. Hearing no public comment, the Chair adjourned the meeting at 9:21 a.m.

RESPECTFULLY SUBMITTED:

Carmen M. Neveau
Committee Secretary

APPROVED BY:

Assemblywoman Heidi Swank, Chair

DATE: _____

Senator Yvanna D. Cancela, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.