

## 1 STATE OF NEVADA

## 2 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

3  
4 A Public Comment Hearing, Workshop, and  
5 Regularly Scheduled Meeting of the Commission on Peace Officer  
6 Standards and Training was held on Thursday, October 26, 2023  
7 commencing at 8:00 a.m. at The Southpointe Hotel/Casino, 9777  
8 Las Vegas Blvd., S. Napa Room B, Las Vegas, NV 89183.

9  
10 COMMISSIONERS:

11 Tyler Trouten, Chairman

12 Dan Coverley

13 Oliver Miller

14 Kevin McKinney

15 Jamie Prosser

16 Russ Niel

17 Tiffany Young

18 Tim Shea

19 Rob Straube

20 George Togliatti

## 21 STAFF:

22 Kathy Floyd, POST F

23 Nathan Hastings, Attorney General's Office

24 Mike Sherlock, POST F

25 TRANSCRIBED BY: Marsha Steverman-Meech

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## 1 PROCEEDINGS

2 TROUTEN: Good morning and welcome to the POST  
3 Commission meeting and workshop. We'll call the meeting to  
4 order. It is October 26, 2023 for the record. The time is 8:00  
5 AM in the morning. We'll go to Kathy Floyd, if you could please  
6 provide the information on the legal postings and open meeting  
7 compliance.

8 FLOYD: The public comment workshop, notice and  
9 meeting agenda have been posted in compliance with NRS 241.020.  
10 These notices and agendas were physically posted at the POST  
11 administrative building and the Nevada State Library in Carson  
12 City and electronically posted at the POST website at  
13 post.nv.gov, State of Nevada website at notice.nv.gov, the  
14 legislative website at leg.state.nv.gov, and emailed to all  
15 SPOCS and admins on the POST listserv.

16 TROUTEN: Thank you, Kathy. Now move to roll  
17 call. I am Ty Trouten and move to our left.

18 MCKINNEY: Kevin McKinney, Carlin Police  
19 Department.

20 TOGLIATTI: George Togliatti, Nevada Department of  
21 Public Safety.

22 PROSSER: Jamie Prosser, LVMPD.

23 YOUNG: Tiffany Young, community member.

24 STRAUBE: Rob Straube, City of Las Vegas DPS.

25 SHEA: Tim Shea, Boulder City Police.

1 MILLER: Oliver Miller, Reno Police Department.

2 COVERLEY: Dan Coverley, Douglas County Sheriff's  
3 Office.

4 NIEL: Russ Niel, Gaming Control Board.

5 FLOYD: Kathy Floyd with POST.

6 SHERLOCK: And Mike Sherlock from POST.

7 HASTINGS: Nathan Hastings, Attorney General's  
8 office.

9 TROUTEN: All right, thank you. So this is a  
10 workshop public comment hearings. The purpose of the hearing is  
11 to receive comments from all interested persons regarding the  
12 adoption amendment and repeal of regulations pertaining to  
13 Chapter 289 of the Nevada Administrative Code (NAC). This  
14 public comment hearing has been previously noticed as required  
15 by NRS Chapter 233 B and -- see here, so we'll move on to Item  
16 A, proposed regulation file number R004-23. And, Mike, please  
17 provide some background on this.

18 SHERLOCK: Thank you, Mike Sherlock for the record.  
19 So the Commission will recall this regulation change was  
20 directed at the automatic disqualifier for applicants for drug  
21 convictions. As you can see in your books, the language  
22 submitted by the Commission, essentially, you know, stating now  
23 where the marijuana conviction is for a crime that no longer  
24 exists due to the marijuana law changes, they are no longer  
25 automatic disqualifiers, it's just cleaning up that per that

1 particular regulation. This is a time for any additional  
2 comments from the public. Once we move into the regular  
3 meeting, the Commission will have an opportunity to adopt this  
4 regulation that you see in your books.

5 TROUTEN: Thank you, Mike. So, we'll now open up  
6 to comments from the public on R004-23. Are there any comments  
7 from the public? Hearing none, we'll move on to Item B,  
8 proposed regulation file number R005-23. Mike, some background  
9 information, please.

10 SHERLOCK: Again Mike Sherlock from POST. The  
11 Commission should recall this was regarding changes to NAC  
12 289.300. Again, remember where we're at, the Commission already  
13 approved those changes. This is language coming back from the  
14 legislature based on their review of that. In this particular  
15 case, there was a vote to change the Academy PT entrance  
16 requirements, which of course are different than the  
17 certification requirements so this changes the Academy entrance  
18 PT requirement from a mandatory requirement within the first two  
19 weeks to a may requirement or a may option. This allows Academy  
20 programs to assess the physical readiness based on their own  
21 program and their needs. It does not make any changes to the  
22 validation study. And again, we're just in the final phase of  
23 this particular reg change and looking for any final public  
24 comment before we move into the regular meeting.



1           TROUTEN:           Thank you, Mike. Are there any public  
2 comments or questions on this item? All right, seeing none, we  
3 move on to Item C, proposed Regulation File Number R006-23.  
4 Mike, some background information on this one, please.

5           SHERLOCK:           Mike Sherlock for the record. So,  
6 again, Commission will recall you voted to amend the time  
7 requirement to pass the certification PPRT during an academy.  
8 This change will remove the current 16-week requirement to pass  
9 that particular PT test. This allows the longer academies --  
10 and by the way, all of our CAT I academies now are longer than  
11 16 weeks anyway. This allows the academies more time to get  
12 someone up to that physical level required to pass the  
13 certification level without offending the validation study. And  
14 once more, this is here for any final public comments before we  
15 move into the regular meeting.

16           TROUTEN:           Thank you. Any questions or comments  
17 from the public on this item? Hearing none, we'll move on to  
18 Item D, proposed Regulation File Number R007-23. (Inaudible),  
19 Mike.

20           SHERLOCK:           Again, Mike Sherlock for the record. As  
21 you can see, LCB did get back to us on some of our reg changes.  
22 So this final one, the Commission voted to amend 289.200  
23 Subsection 8 to reflect actual policy, in this case, having  
24 returning Category I officers or allowing them to work less than  
25 full-time to maintain their basic post certificate and an active

1 status. So it just allows agencies to better utilize those who,  
2 for example, are retiring but want to come back on a part-time  
3 basis. Under the current reg, if they're not full-time, that  
4 certificate would be in jeopardy. This allows 'em to return and  
5 not put that certificate in jeopardy even though they're working  
6 part-time. So, again, this is the time for any final public  
7 comments and it will be addressed in the regular meeting.

8 TROUTEN: Thank you. Any public comments or  
9 questions on this item? Hearing none, we'll move on to the  
10 workshop portion of this meeting. The purpose of the workshop  
11 is to solicit comments from interested persons on the following  
12 topic that may be addressed in future proposed regulations.  
13 This workshop has been previously noticed pursuant to the  
14 requirements of NRS Chapter 233B. So we're intending to solicit  
15 discussion and comments on the creation of standards for the  
16 reciprocity of a person who has been certified as a Category III  
17 peace officer or its equivalent by the certifying authority of  
18 another state, or who has successful completed a federal-law-  
19 enforcement training program that is equivalent to a Category  
20 III peace officer in this state. Some background information,  
21 Mike?

22 SHERLOCK: Sure. Mike Sherlock for the record.  
23 So, again, this workshop is an opportunity to solicit comments  
24 regarding the implementation of a Category III reciprocity  
25 pathway to certification. Currently, reciprocity only applies

1 to Category Is, and in limited cases to Category II. SB 323  
2 passed the most recent session, requires POST to create such a  
3 pathway, so it's a mandate from the legislature. I can say I  
4 did work with the senator who wrote this particular bill. She  
5 agreed that the best practice is to allow the Commission to  
6 establish those standards for reciprocity. So we do have some  
7 sample language to help with any comments from the public. I  
8 will say there are some issues as Category III is generally not  
9 regulated the same as Category Is across the country, and many  
10 states' corrections and detention are not part of POST, for  
11 example. In fact, in most cases they are not, most states. So  
12 the difficulty for staff is just trying to establish some  
13 conformity and you see that language in the sample that we  
14 provided. Also, we have included another sample. Inadvertently  
15 we had put a sample in there that had a different PT  
16 requirement, and I think we cleaned that up. In this sample,  
17 the physical's left to the discretion of the agency. I'd like  
18 to thank Director Dzurenda, who's here, who helped us with some  
19 of this language -- from Department of Corrections, who helped  
20 us with some of the language just to get the conversation going.  
21 But again, this is time to receive input from the public and any  
22 stakeholders and during the regular scheduled meeting, I can  
23 talk more about the requirements and the standards going  
24 forward.

1           TROUTEN:           All right. Thank you, Mike. So if we  
2 have comments or questions from the public, please come forward.  
3 Please try to speak loudly and give your name so that we have it  
4 for the record. But I'll now open it up for comments and  
5 questions from the public. Wow. Too easy. Okay. This will  
6 then conclude our workshop portion of the meetings. We shall  
7 proceed with the Commission meeting. Item number 1, discussion,  
8 public comment, and for possible action, approval of minutes  
9 from the July 27, 2023, regularly scheduled POST Commission  
10 meeting. Are there any comments from the public on the minutes?  
11 Any comments or corrections from the Commissioners? All right,  
12 then I would entertain a motion to approve the minutes.

13           MCKINNEY:           Kevin McKinney. I'll make a motion to  
14 approve the minutes from the last meeting.

15           TROUTEN:           Is there a second?

16           COVERLEY:           Second.

17           TROUTEN:           I have a second from Dan Coverley. All  
18 Commissioners in favor of approval, signify by saying aye.

19           MEMBERS:           Aye.

20           TROUTEN:           Any opposed? I also vote aye. Item  
21 Number 2. So this is our update portion for POST. Mike, could  
22 you please provide those updates to us?

23           SHERLOCK:           Sure. Mike Sherlock for the record. So  
24 I just want to touch on just a couple things. First you see in  
25 your books are our report of any audit deficiencies since last

1 meeting. We continue to see the same basic things: failure to  
2 document training; or failure to background the requirements  
3 found in 289.110; or simply not doing those items in 289.110. I  
4 wanted to sort of give the Commission a feel as what's going on  
5 nationally. There is a push to better ensure compliance with  
6 minimum standards and looking at sanctions for failures to meet  
7 those standards. We saw that in our governor's finance office  
8 audit report they did on POST operations, looking, asking why  
9 there isn't some sanctions where there are failures but just so  
10 everyone knows, we kind of get a sense nationally, there is a  
11 push. Many states do have sanctions. I'm not advocating that,  
12 I'm just giving you what's going on nationally, and I can tell  
13 you that we have already had some inquiries legislatively on  
14 what may be going on in the next session, looking at compliance  
15 and that kind of thing. We'll see what happens. You know, some  
16 of the other things going on right now, nationally there's a big  
17 push on implementing and updating written tests, believe it or  
18 not, for entry into basic training academies. I know we don't  
19 currently do that and again, I'm not advocating it, I'm just --  
20 nationally, there's a big push to -- for states that already  
21 have it, and many states do, California just updated theirs,  
22 they've done it for 30 years, but basically many states have a  
23 reading, writing comprehension test that they give all  
24 applicants going into an academy and there's a big push to talk  
25 about that nationally. Changing gears a little bit, I want to

1 talk about the physical and behavioral health issues with our  
2 regulation changes and that kind of thing. We do have a couple  
3 agenda items coming up here today related to the physical  
4 standards, putting those back on agencies for reciprocity, for  
5 example. That said, keeping our validated readiness test as an  
6 option is critical from our perspective. I was contacted two  
7 weeks ago by Indiana, who is looking at switching from their  
8 Cooper Physical Fitness test to our readiness test. So it  
9 sounds like they're going to do a portability study again with  
10 our test and join many other states now that are using Nevada's  
11 test. So it'd be nice to, you know, still have that as an  
12 option here as we get inquiries from out of state. I just  
13 wanted to -- as we're going through this process, I've heard  
14 comments about one, why we call it a readiness test now and have  
15 been pushing that term. It is about the difference between a  
16 physical fitness test and an ability to complete critical tasks  
17 that a job task study finds. It is critical to defensibility.  
18 So that said, we want to keep in value of physical requirement  
19 regardless how the Commission does that, and the validated test  
20 is just one option. One last thing that we keep hearing on our  
21 test as we go through some changes is that it was somehow  
22 changed in '22. That is unequivocally false. Our test has  
23 never changed. You have to understand that it's a validated  
24 test. We have not changed a single test score requirement ever.  
25 If we did that, it would no longer be validated. Just so

1 everybody knows where that came from, prior to our validation  
2 study, we had used a validated test out of Idaho. We had  
3 changed some of the scores, which then invalidates that test,  
4 and that's why we did the validation study. It's never, never  
5 just changed. I just wanted to clear that up. Finally, just  
6 wanted to touch real quick on the POST Leadership Institute. We  
7 just finished the first class. Rave reviews. There's a lot of  
8 pressure for us to put that on more often. We're going to try.  
9 It's a budget issue for us and that kind of limits us but we do  
10 have -- I think it's on our calendar now for early into next  
11 year for the next class to start so we will try to keep  
12 expanding that. AB 336 from the last session is a big issue.  
13 Obviously we are still working on that. The Commission has done  
14 their job in this case. AB 336 is the behavioral health visits.  
15 It's at LCB right now. We've been back and forth with them a  
16 little bit on the language. I'm hoping that they will get that  
17 language back to us and we can present it to the Commission by  
18 the February meeting. Again, as I touched on a little bit, we  
19 are looking towards the next legislative session. Our feeling  
20 is it'll be a busy one again for us at POST and we'll see how  
21 that goes. I think that's all I have, Chief.

22           TROUTEN:           All right, are there questions, comments  
23 from the Board? From the public? All right, moving on, we will  
24 move to Item 3, discussion, public comment, and for possible  
25 action. The Commission is to discuss and take possible action

1 to adopt, amend, or repeal their regulations as follows: we have  
2 four regulations so we'll start with item A. Again, Mike, if  
3 you want to brief us on item A?

4 SHERLOCK: For sure. Mike Sherlock for the record.  
5 So as we just spoke in the public comment hearing, this item was  
6 approved by the Commission and the concept in the language,  
7 frankly and we are now looking for final adoption the change to  
8 the standards of appointment by carving out an exception to drug  
9 conviction disqualifiers for certain marijuana offenses. Staff  
10 would recommend final adoption of those changes.

11 TROUTEN: Thank you. Questions or comments from  
12 the Board on this side? Any final comments or questions from  
13 the public? Hearing none, would entertain a motion to adopt as  
14 written.

15 MCKINNEY: Kevin McKinney. I'll move to adopt --  
16 what -- I can't remember what (inaudible). I'm sorry.

17 TROUTEN: So the specific language basically --

18 MCKINNEY: To amend NAC 289.110 --

19 TROUTEN: Correct.

20 MCKINNEY: -- as proposed.

21 TROUTEN: Is there a second?

22 YOUNG: (Inaudible.) A second.

23 NIEL: Russ Niel. Second.

24 TROUTEN: You guys will have to arm wrestle over  
25 it. Okay. So, all in favor of amending NAC 289.110 to



1 accommodate the recent law changes, please signify by saying  
2 aye.

3 MEMBERS: Aye.

4 TROUTEN: Any opposed? I also vote aye. Moving  
5 on to the second item (inaudible). Mike, some background  
6 please.

7 SHERLOCK: Mike Sherlock for the record. So,  
8 again, similarly, this is one that's already been approved by  
9 the Commission, looking for final adoption. This is to change  
10 NAC 289.300 (1) (b). That makes the academy entrance physical  
11 test requirement optional, again, based on the academy needs and  
12 ability.

13 TROUTEN: All right, thank you. So this becomes a  
14 permissible statement. Are there any questions or comments from  
15 the Board on this item? I think we've hashed it out pretty  
16 well. Any comments, concerns from the public? Hearing none,  
17 would entertain a motion to amend NAC 289.300, Subsection 1, b  
18 to make it a may be required to pass.

19 SHEA: Tim Shea. I'll make a motion.

20 TROUTEN: Is there a second?

21 PROSSER: Jamie Prosser. Second.

22 TROUTEN: Go ahead and put to vote. All members  
23 in favor of amending, please signify by saying aye.

24 MEMBERS: Aye.

1           TROUTEN:           Any opposed? I also vote aye. Moving  
2 on to Item C. This one is to amend NAC 289.200, Subsection 4a,  
3 which removes the requirement that the physical fitness  
4 examination be passed not later than 16 weeks after the first  
5 day of the academy and will instead require that the physical  
6 fitness exam be passed during the academy. Again, we've had a  
7 great deal of discussion on this. Open it up to the Board for  
8 questions or comments. Any comments from the public? All  
9 right. Would entertain a motion if we're good with this.

10           COVERLEY:           Dan Coverley for Douglas County. I move  
11 to accept this.

12           NIEL:                Russ Niel, second.

13           TROUTEN:           Thank you. All members of the Board in  
14 favor, please signify by saying aye.

15           MEMBERS:            Aye.

16           TROUTEN:           Any opposed? I also vote aye. Motion  
17 carries. Our last item on this one, this one's pretty  
18 straightforward, this is pertinent to the reserve, officer  
19 status that removes the full-time requirement and allows 'em  
20 instead to become a part-time reserve officer and maintain that  
21 Category I certificate, but it is an amendment to NAC 289.200  
22 Subsection 8. Any comments or discussion from the Board?  
23 Comments or discussion from the public? Hearing none, would  
24 entertain a motion.

25           SHEA:                Tim Shea, I'll make a motion to adopt.

1 TROUTEN: Is there a second?

2 MILLER: Ollie Miller, second.

3 TROUTEN: Thank you. All members in favor, please  
4 say aye.

5 MEMBERS: Aye.

6 TROUTEN: Any opposed? I also vote aye. I  
7 apologize, Kathy, I've overlooked. Do we have any written  
8 comments on these that came in?

9 FLOYD: No, we don't.

10 TROUTEN: Okay. Thank goodness. All right.  
11 Let's see here. It brings us to Item Number 4, so discussion  
12 for the Commission to continue the rulemaking process regarding  
13 the creation of standards pursuant to SB 323 for the reciprocity  
14 of a person who has been certified as a Category III peace  
15 officer, or its equivalent by the certifying authority of  
16 another state, or who has successfully completed a federal law-  
17 enforcement training program that is equivalent to a Category  
18 III peace officer in this state. Mike, could you give us some  
19 background on this one?

20 SHERLOCK: Sure. Again, Mike Sherlock for the  
21 record. So again, this is a mandate from the legislature to  
22 create a reciprocity pathway for Category III. As I mentioned  
23 earlier, there are some challenges for us. You know, just  
24 looking at different states and again, we work with  
25 stakeholders, directors, Dzurenda in particular, on how we

1 address how other states view that Category III sort of  
2 discipline. Just so as an example, a lot of states allow  
3 correction officers to be 18 years old. Well, in the state of  
4 Nevada, we have an NRS that prohibits that so we have to be able  
5 to -- so we were creating some language in the sample language  
6 that, you know, allows us to compare what that state does for  
7 that particular discipline and you see that in the language that  
8 we provided as a sample, but we believe that language is  
9 sufficient to meet our needs. It does and what we're going to  
10 talk about reciprocity here in another agenda item, but it does  
11 -- the sample language that we're putting forward now removes  
12 that for reciprocity and Category III, the PPRT requirement, and  
13 puts that physical requirement back on the agency to allow the  
14 agency decide what their needs are in that area but keeps a  
15 physical requirement. And again, later we'll have a similar  
16 item related to Category I. In any case, staff would recommend  
17 that the Commission continue the rulemaking process for the  
18 reciprocity using that sample language provided for the Category  
19 III discipline.

20 TROUTEN: All right, thank you. Mike. Are there  
21 comments or questions from the Board? I have a question, Ty  
22 Trouten for the record again. I guess my understanding of this  
23 is it'd be similar as the challenges for, like, a Category I  
24 certificate. Say if a person attended a FLETC Academy, they  
25 provide what their requirements were, what their training has

1 been, and then as long as that mirrors, we can move forward with  
2 it.

3           SHERLOCK:           Yeah, Mike Sherlock for the record.  
4 Yeah, we're looking at different ways how you deal with that.  
5 It may be a form, and I talked to Director Dzurenda a little bit  
6 about this, that maybe that's in the application process that,  
7 you know, there's a form that we can review that meets our  
8 minimum standards in terms of hours of training and that kind of  
9 thing rather than what we do with Category Is, we rely on their  
10 basic POST certificate, but you just don't have that with  
11 Category IIIs in other states, so it'd just be a review process  
12 more by policy than regulation.

13           TROUTEN:           Thank you. Any other questions or  
14 comments by the Board? Comments, questions from the public?

15           SHEA:               I have one under F in the draft, we can  
16 discuss that? I can talk about number F?

17           TROUTEN:           Are you just asking whether --

18           SHEA:               Under that proposed draft in 289.200  
19 (f).

20           HASTINGS:          You can discuss any matter on the  
21 agenda.

22           SHEA:               Okay. I would like to propose a change  
23 in the language, and we've talked about this in the past,  
24 something along the lines not the officer passes the state  
25 physical fitness examination, but if the employing agency deems

1 appropriate, the officer passes an appropriate physical fitness  
2 examination, which may include, but not solely required be the  
3 state physical fitness examination for the appropriate category.  
4 In other words, what this does is allows the agency to determine  
5 what's appropriate given their specific circumstances and if  
6 they choose to use the state physical fitness examination, they  
7 can, but they're not required to do so cause we're talking about  
8 lateral hires, people that are currently doing the job.

9           SHERLOCK:           Yeah, Mike Sherlock for the record. If  
10 you look at it, says officer passes the state physical fit.  
11 That's a -- you know, that's a mistake on our part is if you're  
12 going to have the agencies -- if we're going to allow agencies  
13 to determine what that test is, it's not a state test. So I  
14 would simply say we remove the word state from that and I think  
15 that would accomplish what you're talking about, Chief, right?

16           SHEA:           No, not yet because this says you still  
17 must pass a physical fitness exam. My contention is the agency  
18 should determine, the employee agency determine that it's  
19 appropriate for them to take a physical fitness test and if it  
20 is appropriate to do so, they either can develop their own if  
21 they wish to, or my preference would be that they utilize the  
22 state test, which is validated, but they don't necessarily have  
23 to given the circumstances. So it gives the agency leeway in  
24 two ways: first, they decide if they need to give a physical  
25 fitness examination; two, if they do do the physical fitness

1 examination, they can develop their own or adopt one of their  
2 own that may be more appropriate for let's say a prison type  
3 setting or a jail type setting, or they can use the state test,  
4 which we have a validated test, which should they get a  
5 challenge, help support them in using that test. I just want to  
6 give them choice and leeway.

7 TROUTEN: I'm not sure. So Ty Trouten for the  
8 record. I don't believe we have the latitude to remove the  
9 requirement, that we simply can delegate or refine, I guess,  
10 what that standard may be and allow it to be determined by the  
11 agencies.

12 SHEA: I don't see in NAC. I think the NAC is  
13 an administrative code and we can adopt and change the section.

14 SHERLOCK: Yeah, Mike Sherlock for the record. I  
15 mean, the only thing I would add to that or say to that is, you  
16 know, we establish a minimum standard. If there's no standard,  
17 there is no minimum standard, so I don't know if we just put it  
18 on -- we just say the agency has a job-related physical  
19 requirement, if it's picking up pencils eight times and putting  
20 'em on a piece of paper, if that's the test they want, they  
21 still have the latitude to do that I think instead of saying  
22 they don't have to give a -- there is no physical requirement,  
23 if that makes sense just from our perspective.

24 TOGLIATTI: George Togliatti. I support chief Shea's  
25 idea, I think maybe I'm just confused on, you know, what you

1 just mentioned as far as the wording of it. If the -- I think  
2 the end game here is to get the agency to make that  
3 determination as to what requirements they would want for their  
4 needs in those specific functions that this lateral would be  
5 assigned to. I don't know if there'd be any restriction with an  
6 NRS unless I'm mistaken.

7 TROUTEN: Well, I guess clarification, Tim, you're  
8 just looking to remove the state portion of the state required  
9 test?

10 SHEA: Is that I'm trying to accomplish two  
11 things. The first thing is give agencies the ability to  
12 determine, in the case of laterals, whether or not it's  
13 necessary you have a physical fitness test that demonstrates the  
14 person can do the job in this state that they're doing in a  
15 state, exact same job, and why we're giving somebody a physical  
16 fitness test to prove they can do the job they're currently  
17 doing when we know a mass -- a number, a significant number of  
18 our people current during the job and doing the job well could  
19 not pass the same test right now. So we're requiring a person  
20 who's doing the job in another state to take a physical fitness  
21 test to show he's fit to do duty and at the same time, we're  
22 giving them a medical test that certifies them fit for duty,  
23 very similar that we give somebody if they're injured on duty  
24 and they're returning to duty, that their fitness for duty is  
25 determined by medical examinations, not by retaking the state



1 physical fitness test. So I'm basically trying to extend that  
2 same series of qualifiers to a currently employed person or  
3 recently employee's version in the same job and give the agency  
4 the ability to determine if they believe it's necessary, in  
5 their other circumstances to have a physical fitness test, then  
6 they can either use the state certified verified validated test,  
7 or they can do one that they believe fits their circumstances  
8 better than the state test. That's all. It just gives them two  
9 choices to give or not give, and if they give one, use the state  
10 one or another test if they deem it more appropriate. And we do  
11 this in so many other things. You know, there's nothing that  
12 tells me do I have to do an oral board, do I not, if I do an  
13 oral board, what are the questions I ask? What's passing,  
14 what's failing? I determine that. Same for the written, same  
15 for the medical, the same for the CVSA and the polygraph. It's  
16 all in our hands. The only thing that's not in our hands is  
17 doing pushups and sit ups. Everything else is ours. So I want  
18 to extend that same choice and latitude for agencies to make the  
19 determination, especially when it's very difficult to hire  
20 people and our labor pool is not large enough with the state to  
21 support hiring new personnel and we have to bring in some  
22 laterals and we try to tap markets out of state cause when  
23 you're doing it solely in state and you're feeding off each  
24 other, it hurts all of us. And Mr. Togliatti knows that for  
25 sure as he leads personnel into other agencies and to help stem

1 that, you open up our ability to bring in people from out of  
2 state.

3 TOGLIATTI: If I could add to that, I support the  
4 comments from Chief Shea but, you know, we felt the pinch and I  
5 hate to think that our whole recruitment effort is taking from  
6 other agencies, robbing Peter to pay Mary. It's, you know,  
7 eventually the end game, they're going to run out of bodies  
8 somewhere along the line. But I think right now, when we  
9 address generational, we address hair standards, tattoo  
10 standards, it's just a thing, it's just a matter of what we need  
11 to just adjust at the times but more importantly, if we have  
12 reciprocity with other POST agencies throughout the country and  
13 we have a law enforcement officer that's POST qualified, I want  
14 to facilitate transferring that person to the state of Nevada if  
15 the agency decides that's an employee they want and they want to  
16 bring 'em from whatever state there is. I don't want to put any  
17 kind of barrier there where now, in their present agency, they  
18 would have to run, jump or do whatever, nor would any of my  
19 existing employees have to run, jump or do whatever. It just  
20 doesn't make a lot of sense, and I think it's also a burden as  
21 far as our ability to get these lateral transfers. I think just  
22 -- I met some folks up in Portland, chief of police up in  
23 Portland, and a lot of folks are bailing out of there. I don't  
24 see the state of Nevada getting a lot of those employees. New  
25 York City right now, so that's a long trek, but there are other

1 places in California where qualified people are leaving the  
2 state and if we can offer them a chance to come on and  
3 facilitate that transfer from one state to another, I think  
4 that's most important and, that's pretty much the summary of  
5 where I'm standing on, is that looking for little assistance and  
6 being able to get my numbers up, of course but I think it's just  
7 -- just, over the years, excuse me, I could see, I remember on  
8 my days in the FBI, there was a physical fitness standard and  
9 then there was a lawsuit or whatever, and then they changed the  
10 standard and then there was one for everybody. Then there was  
11 one for women and one for men. And then somebody said, oh,  
12 well, we'll have one in the field., well, somebody sues and says  
13 no, you can't have one in the field because there's really no  
14 requirement for me, you never told me when I was hired, whatever  
15 the reasons might be. It gets changed over and over and over  
16 again and at the end of the day, I think it's up to the agency  
17 to understand who their employees are, attract the best  
18 employees they possibly can, train them as best they possibly  
19 can to serve the public and certainly not eliminate the doctor's  
20 physical examination piece of this thing. So that still would  
21 be a requirement, but to ask somebody to do something that they  
22 would never do on the job and to look at others that can't do  
23 that same physical test, really doesn't make any sense and it's  
24 costing us -- at the end of the day, it's costing us transfers  
25 from other states.

1           YOUNG:           Tiffany Young for the record. Is there  
2 room to have language that says the officer meets the physical  
3 fitness requirement for the appropriate category of peace  
4 officer as determined by the agency?

5           TROUTEN:        I would think -- so I think you can  
6 change the language and I don't -- personally, I'm not against  
7 having the agencies determine what they wish to have their  
8 physical standards be. I just do want to be careful because  
9 what we're discussing here is bringing in Category III officers  
10 from out of state and there may or may not be any requirements  
11 in that state for that certificate to even begin. So we have  
12 one topic that considers say Category I or Category I and II  
13 officers that fairly routinely across the country have to pass a  
14 PT standard at least to begin to become a police officer. That  
15 is not necessarily true for Category III officers in all states.  
16 So how do we put in the language that recognizes that yes, that  
17 the standard may be whatever the agency that is going to employ  
18 them, you know, determines it to be, but that there is still  
19 some requirement that if they come from a state doesn't require  
20 it, now what do they do? You know, how do we word it so that  
21 the entity must ensure then that they pass that entity's  
22 standard as I guess opposed to just absolving that requirement?

23           SHERLOCK:       Yes. Mike Sherlock for the record, and  
24 I just want to be clear. So we have a validation study for each  
25 category and so, you know, that's already been done and I think

1 for staff, we need to know if, you know, then, should F be  
2 optional, is that what the Commission wants, that reciprocity, a  
3 physical test, is optional and based on the agency. If that's  
4 the language we want, then that's the language we'll send over  
5 to LCB.

6 MCKINNEY: Yes. Correct. Kevin McKinney for the  
7 record. I believe that if -- to answer Chief Trouten's  
8 question, for example, if you evaluate another state's academy  
9 curriculum or certification standard and there was no physical  
10 fitness standard, I would think we would be able to deny that  
11 reciprocity, am I correct?

12 SHERLOCK: Right now we don't address that cause  
13 everybody has to do our PT test so.

14 MCKINNEY: Right. What I'm saying is the  
15 reciprocity evaluation --

16 SHERLOCK: Could include that.

17 MCKINNEY: -- could include --

18 SHERLOCK: I don't know that we have staff for  
19 that, but it could --

20 MCKINNEY: Well, it says equivalent.

21 SHERLOCK: Yeah.

22 MCKINNEY: I mean, or, you know --

23 SHERLOCK: No doubt about -- yeah.

24 MCKINNEY: -- I mean, if -- so that would eliminate  
25 that, I guess, contention that they did not previously pass a

1 physical fitness standard. And so we could again, that would --  
2 so we wouldn't need to repeat. My suggestion would be just  
3 eliminate the physical fitness standard out of it completely and  
4 then it wouldn't be quite so convoluted and ambiguous.

5 TOGLIATTI: George Togliatti. I would totally agree  
6 with that, to just eliminate it and I just checked some of my  
7 notes and when we talked about, you know, the state standard, I  
8 know, Mike, you and I have discussed this before, but I just  
9 asked my team to give me a little bit of research and just for  
10 example, you got the Marine Corps, Orange County Sheriff,  
11 Baltimore Police Department, Philadelphia Police Department,  
12 Connecticut State Police, all have different physical standards,  
13 also different by age of the applicant, and also different by  
14 gender. So there's really no right way to do it. If you would,  
15 to try to -- I think we're trying to paint a standard here that  
16 you wanting everybody to kind of agree with and I think if we  
17 give the agency that flexibility to be able to decide who to put  
18 in there or not, if somebody is morbidly obese and can't get  
19 into a police car or whatever, I mean, I'm getting a little  
20 ridiculous here, but I think it's the agencies are going to take  
21 definite care and consideration who the heck they hire. They're  
22 not going to just hire anybody on so many levels. I mean, we  
23 got mental tests, if somebody -- do polygraph to see if somebody  
24 is potentially bigoted. I mean, there's a whole bunch of  
25 different standards we can put out there. So I think the

1 physical fitness one now is pretty convoluted around the country  
2 and it's almost getting to the point where, as I mentioned  
3 before, generationally we may want to just look at this on a  
4 case by case basis and let the agencies decide. What the  
5 sheriff's office in a rural area may require for physical  
6 fitness may be totally different for what I need for a parole  
7 and probation officer in an urban environment. I don't know but  
8 I would like to think that we have that flexibility.

9           SHEA:                   Tim Shea here. The one thing I get --  
10 you know, that makes this hard for me is this state, this is a  
11 certification standard, it is not a hiring standard. It is for  
12 state certification. So we are telling people we don't have any  
13 standards for certifying things such as decision making. We  
14 don't have certified standards for a police officer in shooting.  
15 In other words, you have to score a certain at the range or you  
16 can't be certified. But for some reason we feel we have to have  
17 a standard of a physical fitness test to certify somebody and  
18 that's where I get hung up on this. Again, I can go back to my  
19 previous experience when it was San Diego Sheriff's Office.  
20 They made us physically fit the academy. They didn't test us  
21 beforehand. It was like going to -- when I went in service, no  
22 one made me do pushups before I went in, they taught me how to  
23 do that when I was there because I didn't know how to do 'em  
24 right. So I know in the state of Washington when we were facing  
25 this and we were having such a difficult time hiring people and

1 we started feeding off each other on laterals, it made for a lot  
2 of hurt between the line-level people because your partner now  
3 went to the agency next door and you may not have got vacation  
4 next week cause he just left, and we had to figure out a way to  
5 stop doing this cause we had a lot of agencies within the  
6 metropolitan area, I think we had almost 40 agencies, we started  
7 feeding off each other. Guys would go right across the street.  
8 In our case, Sheriff's office was here, City Police Department  
9 Headquarters building's across the street. They'd go across the  
10 street, change uniforms, and go get a patrol car and go work for  
11 the other agency and it caused some hurt at our line-level  
12 people cause it impacted our field strength. So we were trying  
13 to figure out ways to stop this kind of thing, which is exactly  
14 what Mr. Togliatti's been suffering. I have several of his  
15 people that used to work in the Clark County area that now work  
16 as officers for us and they see their trooper buddies out on the  
17 freeway and it happens a lot. So I think that we put things  
18 into place that helps stop that, and I think POST, part of our  
19 deal is to put rules and regulations into place that facilitate  
20 our agencies to get accomplished what they need to get  
21 accomplished and we don't become an impediment to that. We have  
22 to listen to what our folks say and be flexible enough to make  
23 changes as the situations flow back and forth over the years.  
24 What worked great in 2010 when this was adopted doesn't work  
25 now.



1           TOGLIATTI:           George Togliatti again. I don't want to  
2 beat this to death, but Chief Shea brings up a good point. When  
3 we had this great disparity in pay, we were losing people left  
4 and right and it just it boggled my mind that hey, we got the  
5 same retirement program, we got this and that all within the  
6 state, so we just keep robbing Peter to pay Mary, everybody  
7 moving all around. Now I'm actually getting some people who  
8 want to come back to the highway patrol and parole/probation now  
9 that we pay more, but at the end of the day, I look and I said,  
10 well, how about the guy over there and a gal in Phoenix and the  
11 guy over there in LA And we're basically shooting ourselves on  
12 the foot here, just stealing from each other, particularly here  
13 in the valley. It's not the best way to recruit and I'm more --  
14 really a lot -- pretty lot more concerned about our future and  
15 where we're going to get future public safety folks and law  
16 enforcement officers who have the fire in the belly that want to  
17 do this job. But at the end of the day, I can't sit here and  
18 watch Arizona tear me apart. We have to have the ability to say  
19 hey, look, we got a great state here, man, you want to come  
20 here? Yeah, sure do. Well, here's what you have to do. Ooh, I  
21 don't think I'd want to do that. And there's some great people  
22 out there that we could be attracting and I need it to stop the  
23 bleeding.

24           SHERLOCK:           So Mike Sherlock for the record and  
25 we're just looking at some notes. So, you know, our initial

1 thought from staff is you want to get rid of Section F just to  
2 get rid of it but as we think about that, maybe would it be  
3 better to say the applicant may be required? I don't want to  
4 put agencies that do require a physical test into a bad position  
5 either from a regulatory standpoint, so would it be better to  
6 say instead of they must pass anything, say that the hiring  
7 agency may require a physical fitness test as part of the  
8 process? You know, language along those lines. If you remove  
9 it completely, you might have agencies that still want to give a  
10 physical fitness test. It might put them in a bad -- you see  
11 what I'm saying? I -- again, where does --

12           COVERLEY:           Dan Coverley for Douglas County  
13 Sheriff's Office. So Cat III is for jails and corrections. So  
14 it doesn't even apply to troopers or guys out pushing black and  
15 whites. So that should be clear, and I think there has to be --  
16 and I agree with Director Sherlock, there has to be some  
17 language in there that allows an agency to give a physical  
18 fitness test if they wish. Because I'm going to. There has to  
19 be some standard. I have to be confident that you can  
20 physically do the job. And what that test is, I think can be  
21 entirely up to the department and what they determine fits their  
22 needs. there there's got to be -- I think it's important to  
23 allow us to be able to have that standard and what that is, I  
24 think can be up to us, whether we use the states or develop our  
25 own or -- you know what I mean? And it may be different for Cat

1 III to Cat I based on what we're doing and what we want them to  
2 be able to do.

3           SHERLOCK:           Mike Sherlock for the record and  
4 understand, the reason we're beating this up is we have another  
5 agenda item that staff is asking the Commission if they want to  
6 move forward for Cat I reciprocity for similar change, and so  
7 that's why I'm kind of beating it up right now to make sure we  
8 have what the Commission wants for us to move forward and get  
9 this done and over to LCB.

10           SHEA:               Well, Tim Shea. I agree with Sheriff  
11 Coverley exactly. My intent was to give the departments  
12 flexibility, but yet to give those agencies support they need  
13 when they choose to do this test, when they have the inevitable  
14 person who doesn't pass and then is going to file a suit that  
15 this isn't fair, this isn't right, and I'm being discriminated  
16 against. So I think we have to give flexibility, but yet  
17 support by giving the options, but yet supplying the ability for  
18 that decision. Again, from being on the receiving end of this  
19 in in another life in another state, these things do happen and  
20 we've had multiple suits up north for these very reasons.

21           MCKINNEY:           Kevin McKinney for the record. To  
22 answer Mr. Sherlock's question, I believe that what our  
23 regulations apply to is certification, not for application. I  
24 believe there's no standards for application procedures at all.  
25 You know, I could choose as a department head to not do a

1 physical test, Mr. Togliatti could apply to do whatever physical  
2 test he wants. It only applies to certification. I don't think  
3 it applies to the application process or the hiring process at  
4 all. So I don't think there's any issue whether it's in there  
5 or not as far as what a department could do individually.

6 SHEA: Tim Shea. The only problem with not  
7 having this is -- this was I ran into with the courts. I hired  
8 somebody, he went to take the physical fitness test, the guy was  
9 a senior officer in Virginia, he was a trainer, worked at the  
10 academy and he had suffered a medical incident and they had to  
11 do an operation on him that weakened his abdominal muscles and  
12 he could do everything except he couldn't do all the pushups --  
13 or sit-ups. He got injured trying to do the sit-ups. Now I had  
14 a workman's comp issue and I had to come before the Board, and  
15 ask for an extension and I promised I would never, ever do this  
16 again. So I really had a competent, well-trained officer who  
17 was moving out west, wanted to work in the court, and we had to  
18 let him go because he couldn't do -- he was short on the sit-  
19 ups. He could do everything else. Because of a temporary  
20 medical issue that eventually would resolve itself, but not  
21 resolve itself in the timeframe he had to pass, nor the  
22 extension we could grant, which was up to, I believe a year and  
23 a half. So if we don't -- if we say well, you got to pass a  
24 physical fitness test, it's basically saying you've got a job  
25 for a year to a year and a half. That's all we can really say.

1 And I think we have to go back that -- yes, it is  
2 certifications, but the certification process, we have to give  
3 the agency the ability to determine this through our standard,  
4 if that makes a convoluted sense.

5           SHERLOCK:           Yeah, Mike Sherlock the record. Chief  
6 McKinney's correct, it is about certification but again, I don't  
7 want to put agencies in a bad position if they do give a test,  
8 and I think sometimes if you -- because of those reasons you  
9 just said that if you include an option, it helps those  
10 agencies. But again, or we remove it. We just need to know  
11 what we're sending over from staff's perspective.

12           SHEA:               Well, again, Tim Shea for the record  
13 again. I would prefer as a agency head that I have the ability  
14 to make the decision on whether it was appropriate or not and  
15 also have a choice of what test would be appropriate or not and  
16 if I choose to use the state validated test, that's great, but  
17 if I choose not to, that's okay too and as supported by the POST  
18 Commission and my decision is supported within the guidelines  
19 that POST established is what I'm after.

20           TROUTEN:           So quite a lengthy discussion. Do we  
21 have comments from the public on this?

22           FAILS:               My name's Tracey Fails, I work for  
23 Mesquite PD. I'm a lieutenant there. Like, we just recently  
24 had hiring, we didn't get anybody through PT cause we're using  
25 the state test from the front and most of it was the jump, which

1 personally I don't feel, like, is appropriate. I mean, there's  
2 people missing that jump by one inch, right? We get a couple  
3 extra days off of our contract to pass the PT test every year.  
4 I can't make the jump. I can do everything else (inaudible).  
5 I've been a police officer for 27 years, but I still can't. I  
6 can't jump 14 inches on -- you know, I'm not -- I'm (inaudible),  
7 didn't play basketball. But those little tiny things just like  
8 that. I had a buddy in the academy, again way back in the day  
9 that they used to have a stretch. Utah had -- I started in  
10 Utah. Utah had a stretch and you had to get so many inches on a  
11 box. My buddy was really tall and he's been -- luckily he got  
12 through, but I was actually had him up against the wall and  
13 pushed him and I heard him that morning before the testing so  
14 that he felt like he could get through that stretch. And it was  
15 just, like, you know, just right on the line. Some of these  
16 things are very inappropriate for our job positions. I've never  
17 had to jump 14 inches in all my years trying to do whatever. I  
18 may even be up on wall or something, but I think that you guys  
19 need to have that ability to decide what's right for you. Like,  
20 some agencies do a typing test and then other agencies don't for  
21 their hiring exam, right? So one agency does and one agency  
22 doesn't, what difference does it make? Doesn't make any  
23 difference whatsoever. You're just hiring. And so they do get  
24 that. If you get your hiring pool and you choose your people,  
25 you know, Metro doesn't -- you know, doesn't accept anybody

1 else's FTO or they used to not take laterals period (inaudible),  
2 but it's their standard, it's their agency, they're going to  
3 decide what's good for them. I think that's what you guys need  
4 to do for yourselves.

5 TROUTEN: Thank you. Other comments from the  
6 public?

7 DZURENDA: So James Dzurenda, D-Z-U-R-E-N-D-A,  
8 Director from Nevada Department of Correction. So we don't  
9 require any physical fitness through your entire career except  
10 when you were joined on. And when you have individuals that are  
11 coming from other agencies across the country, they're most  
12 likely being retired and they want to come here to work again  
13 cause they want to start their life over and they want the  
14 benefits of the taxes, not being taxed, they get a second chance  
15 in life over here, and they may have been the best or the top  
16 investigators in those agencies for whether it's internal  
17 affairs, whether it's their security divisions, their inspector  
18 generals, but we have 'em and we don't even require the staff to  
19 run, we don't require the staff to do any type of physical  
20 fitness except go to a physical and the doctor will make that  
21 determination whether their health is required a physical  
22 fitness or a treadmill. It does block our ability to be able to  
23 get individuals that we know have a history already rather than  
24 taking people off the street. People that we already know have,  
25 you know, these investigative skills that we can even get

1 background information on from their agencies or we even  
2 recruited them and know what their background is, but it's going  
3 to be difficult when you have a 50, 55 year old guy coming in or  
4 a woman coming in from another state that we know are their best  
5 investigators and we can't hire them and we have to take someone  
6 off the street that has to start the investigation process or  
7 physical process. When those little blocks, and I'm not even  
8 saying hypothetical, we've already had over 35 that have  
9 submitted that we're under waiting for this process to come up  
10 from other states and it was as far as New York, quite a few  
11 from New York City, we had Wisconsin, we had Idaho, and we've  
12 also had Washington State already have submitted. Well,  
13 guarantee you when they start seeing these 50 -- and they're all  
14 50 and older. When they start seeing that we're going to  
15 require the physical fitness when they already have done  
16 physical fitness in their state, I think it's going to hinder us  
17 from getting individuals. We're 800 correction officers short  
18 right now in our agency. I need to hire 800. We're literally  
19 getting 20 in a class. We're in a situation where it's  
20 critical. We need people. I'm not saying don't have any  
21 standards, but I got to get some of those best people that are  
22 around the country to fill some of these holes or we're going to  
23 be in a dire critical situation where we can't prevent incidents  
24 from happening, disturbances, riots, escapes, and public safety  
25 is going to be jeopardized. And I'm just saying I think it's



1 best to leaving it up to having the agency determine it may be  
2 required or may do a physical fitness based upon the criteria of  
3 what they're looking for. And thank you.

4 TROUTEN: Thank you. Further comments? Hearing  
5 none then from the Board, is there a motion to continue  
6 rulemaking or to take a stab at the language on this?

7 SHEA: Tim Shea. I'll make a motion that we  
8 move forward on this and develop language the majority of the  
9 Board would want to have regarding either the appropriateness of  
10 a test or no test or if there is a test, the ability to select a  
11 test other than the state test if I'm saying this correctly, but  
12 to give them choices.

13 TROUTEN: Is there a second on that?

14 PROSSER: Jamie Prosser for clarification. You  
15 gave us two options. The first was to continue the rulemaking  
16 process and the second was to take the stab at the language. So  
17 I just want a clarification. Are we continuing the rulemaking,  
18 or are we taking a stab, or is it one and the same?

19 TROUTEN: So I guess--

20 PROSSER: I would like to just make sure we get  
21 things done.

22 TROUTEN: So, Tim Shea, and please clarify if I'm  
23 incorrect, was to continue rulemaking process with the allowance  
24 of having the agencies to select if and what they wish for a PT  
25 test at the Category III level.

1 SHEA: Right. To develop language for us to  
2 consider at a future date on whether to adopt.

3 TROUTEN: Yeah. The alternative I guess I was  
4 offering rather than continuing the language making so to speak,  
5 is if somebody has phenomenal language they want to throw out  
6 there, we could move this forward at this time.

7 HASTINGS: So Nathan Hastings for the record from  
8 the AG's office. You don't need to -- language goes to LCB from  
9 rulemaking entities all the time without a motion in the meeting  
10 of what that language is to be. So we can move forward with the  
11 rulemaking process, staff can transmit language to LCB. It's  
12 not like when you're at the adoption stage.

13 PROSSER: All right. Jamie Prosser seconds Shea's  
14 motion. Thank you for the clarification.

15 TROUTEN: Questions, concerns? All --

16 COVERLEY: So if we vote on this, on the proposed  
17 language that he's saying, is that going to get us moving so  
18 that they can start hired? Is that -- that makes sense?

19 TROUTEN: Yeah. Cause as I understand it,  
20 basically --

21 COVERLEY: Because that should be our goal, right?

22 TROUTEN: Yep. Again, the language would be  
23 something that is permissive but not a requisite on the PT side.  
24 Is that --

1           HASTINGS:           The language is always going to be  
2 subject to LCB's review anyway. At this stage. Correct me if  
3 I'm wrong, Director, but we're at the stage where you're -- the  
4 initial submission of language to LCB, right?

5           SHERLOCK:           That's correct. But just to clarify too  
6 a little bit, again, we are worried about how fast we can get  
7 this done without doing emergency regs. So for staff to have an  
8 understanding of what the desire of the Commission is will  
9 really help us speed it up instead of going back and forth with  
10 LCB on language. If we know what the preference is, and we can  
11 get that in the language we're hearing may, an agency may impose  
12 a physical requirement at their discretion, that's the language  
13 we'll get over and it'll be that much quicker for us to get it  
14 to you for final adoption of that final language. So that's the  
15 only reason we bring it up. But you're correct. Yeah.

16           HASTINGS:           And the agenda item is set as continue  
17 the rulemaking process. It's not final. So that is -- that,  
18 and what the process is designed within the statute for  
19 rulemaking, that's the stage that you're at.

20           SHEA:                So we do have to come back one more time  
21 with this?

22           HASTINGS:           Well, you have to have a workshop --

23           SHEA:                Yeah.

24           HASTINGS:           -- so yeah. But you're at that stage,  
25 right?

1           SHERLOCK:           Yeah. This one is from the workshop.  
2 So for us, it'll go to LCB and come back for public comment.

3           HASTINGS:           Right, right. Sorry. But yeah, it has  
4 to go to LCB and come back. There has to be --

5           SHEA:                So we --

6           HASTINGS:           -- it has to be adoption proceedings.

7           SHEA:                And we have final language approval.

8           HASTINGS:           Yep.

9           SHEA:                That's what I was trying to say.

10          SHERLOCK:           Yeah.

11          TROUTEN:           Any other questions or concerns? So all  
12 in favor, signify by saying aye.

13          MEMBERS:           Aye.

14          TROUTEN:           Any opposed? I also vote aye. We will  
15 now move on to Item Number 5. This is a request from North Las  
16 Vegas Police Department for an executive certificate for their  
17 employee, Deputy Chief Michael Harris. Mike, some background  
18 information on qualifications?

19          SHERLOCK:           Sure. Mike Sherlock for the record, I  
20 think this one will be a little easier. And it's Assistant  
21 Chief, right, not Deputy chief. The staff has reviewed the  
22 application for an executive certificate for Assistant Chief  
23 Michael Harris. We find that he meets the training, education,  
24 and experience required of the certificate, and staff would  
25 recommend he be awarded the executive certificate.

1           TROUTEN:           All right, thank you. Is Assistant  
2 Chief Michael Harris present? Very good. Would you care to  
3 make any comments or? It's not a requirement, but we would  
4 welcome them if you wish.

5           HARRIS:           So I just take a -- like to take a real  
6 quick moment just to thank staff and the Commission for your  
7 consideration in this whole thing, and I appreciate the  
8 opportunity to be here and I look forward to your decision.

9           TROUTEN:           Thank you. Questions, comments from the  
10 Board or we're ready for a motion?

11          MCKINNEY:          I make a motion to approve Deputy Chief  
12 Harris's executive certificate.

13          TOGLIATTI:          Togliatti, second.

14          TROUTEN:          I have a first and a second. All in  
15 favor, signify by saying aye.

16          MEMBERS:          Aye.

17          TROUTEN:          Any opposed? And I also vote aye.  
18 Congratulations. So now we move on to Item Number 6,  
19 discussion, public comment, and for possible action, discussion,  
20 possible rulemaking on changing the physical fitness  
21 requirements. We're back to NAC 289.200 Section 2, Subsection F  
22 for reciprocity applicants. Mike, I'll let you beat the horse  
23 some more.

24          SHERLOCK:          Mike Sherlock for the record again.  
25 We've already beat this up. What we're looking for here is to

1 begin the rulemaking process. We have not had a workshop on  
2 this, but to begin the rulemaking, we have an idea on Cat III,  
3 what the intent of the Commission is. We're looking to enter a  
4 rulemaking to perhaps match the Category I reciprocity to what  
5 we just talked about with the Category III, and this would be  
6 the opportunity to start that process. We'd be looking for a  
7 motion from the Commission to begin the rulemaking on that  
8 issue.

9 SHEA: Tim Shea.

10 SHERLOCK: And again, we're looking to -- we have  
11 had pressure in terms of recruitment and those types, same  
12 things we've heard today so we're looking to kind of expedite  
13 the process and that's why we have it out here right now to get  
14 the feel of the Commission and get that going.

15 PROSSER: Jamie Prosser. Is there a possibility  
16 that you guys could send us this validation study and the  
17 historical background of the physical fitness standard so we can  
18 see when they were changed and updated? Cause I know from when  
19 I took it in 2001, it's different now. So I would like to know  
20 what the changes were over the years and then I think that would  
21 help us as we move forward in the workshop.

22 SHERLOCK: Mike Sherlock for the record. Yeah, we  
23 can do that. Just so everybody knows the validation study was  
24 in 2007, was brought to the Commission in 2008, and has not  
25 changed since that time. There's been different, you know, when

1 you have to do it and when you don't have to do it, but the  
2 validation and the standards have not changed since 2008, if  
3 that helps. But we -- the validation study, I believe is still  
4 on our website. I'll check that.

5 TROUTEN: So again, this is basically to start the  
6 same process. We are just moving forward on Category IIIs.  
7 Questions, comments from the Board? In addition to I think our  
8 appetite's fairly clear. Questions or comments from the public?  
9 Then if not, can we get a motion to begin the rulemaking process  
10 to change this language as well?

11 YOUNG: Tiffany Young. I make a motion.

12 TROUTEN: Thank you. Is there a second?

13 SHEA: Tim Shea. I'll make a second.

14 TROUTEN: We have a motion and second. All those  
15 in favor, signify by saying aye.

16 MEMBERS: Aye.

17 TROUTEN: Any opposed? And I also vote aye. All  
18 right. So we'll move on to Item 7. This is discussion, public  
19 comment, and for possible action, hearing pursuant to NAC  
20 289.290, Section 1, Subsection G on the revocation of Joshua M.  
21 Miller, formerly employed with the Department of Public Safety,  
22 Category I and III basic certificates, based upon a conviction  
23 of and/or an entry of a plea of guilty, or guilty but mentally  
24 ill, or nolo contendere to a felony. Convictions which have led  
25 to this action are Count 1, attempted lewdness with a child

1 under the age of 14, a Category B felony; and Count 2, attempted  
2 misconduct of a public officer, Category E felony. Possible  
3 action will be revocation of the Category I and III basic  
4 certificates. Go to our attorney general representative, Mr.  
5 Hastings.

6 HASTINGS: Thank you. What I'd like to do first is  
7 just to make a record on the viability and admissibility, so to  
8 speak, of the records that you're going to rely on to make your  
9 decisions here, Commissioners. I'm going to ask Chief Floyd  
10 some questions about the documents so that we are establishing a  
11 record for what they are and their validity and viability for  
12 purposes of, let's say Agenda items 7, 8, and 9 will take care  
13 of all of that at once, so we don't have to do that with each  
14 hearing. So, Chief Floyd, can you verify that the records or  
15 documents that are contained in the meeting materials for the  
16 offenses addressed in Agenda Items 7, 8, and 9 include court  
17 documents, for example, minutes, indictment information,  
18 conviction documentation, did you obtain those items or those  
19 records directly from the courts?

20 FLOYD: Yes, I did.

21 HASTINGS: And have you maintained those documents  
22 in the ordinary course of your record keeping since you obtained  
23 them from the courts?

24 FLOYD: Yes.



1           HASTINGS:           And are the versions of those documents  
2 that are contained in the meeting materials for the Commission  
3 members true and accurate copies of those materials?

4           FLOYD:           Yes, they are.

5           HASTINGS:           Thank you. So, Commissioners, based on  
6 that information, I advise you that the materials in your either  
7 binder or digital copies of the meeting materials constitute  
8 valid public records of charges and convictions that uphold the  
9 regulatory standards for revocation in these matters, and that  
10 those matters may be admitted for your consideration as to these  
11 matters. So having so advised, we're going to move forward and  
12 discuss the actual substantive charges and standards for  
13 revocation here. So first, I note that these hearings are  
14 brought and conducted pursuant to NRS Chapter 289.510, under  
15 which the Commission has adopted regulations and established  
16 standards for certification and decertification of officers,  
17 including NAC 289.290, which establishes the causes for the  
18 Commission to revoke or suspend a certificate of a peace  
19 officer. And as referenced in the matter heading that Chair  
20 Trouten read, here we're looking at NAC 289.290 (1) (g), which  
21 provides that conviction or entry of a guilty plea for a felony  
22 constitutes cause for the Commission to revoke the certificate  
23 of a peace officer. So first let me refer you in your materials  
24 to exhibit A in this matter. This is the notice that's required  
25 by regulation to be provided a certain amount of time before the

1 hearing. It's documenting to the Commissioners that the notice  
2 was provided. It indicates to the officer their opportunity to  
3 appear and contest the potential revocation -- or I'm sorry,  
4 decertification here, and provides an opportunity to give notice  
5 to the Commission that they intend to appear and make an  
6 argument. Staff, just to verify, we did not receive any  
7 notification or word from Mr. Miller of any attempt to dispute  
8 this or to appear?

9 FLOYD: No, we did not.

10 HASTINGS: Okay. Thank you. I'm going to refer  
11 you, Commissioners, to first Exhibit E in the materials, after  
12 negotiation in the underlying criminal matter, an amended  
13 information charging document was created here which describes  
14 the charge of attempt lewdness with a child under the age of 14  
15 as a Category B felony. The materials have been, let's say,  
16 admitted for your consideration and a part of the meeting  
17 records here. I'm going to decline from reading verbally into  
18 the record the specific conduct here. It's disturbing and it  
19 relates to sexual conduct with a child. Exhibit F is the guilty  
20 plea agreement wherein Mr. Miller pled guilty to those charges,  
21 and then if you look at Exhibit H, that is the actual judgment  
22 of conviction where Mr. Miller was convicted of the offense. I  
23 will then direct you to, in the materials, Exhibit J. So this  
24 is the second offense that's referenced where Mr. Miller was  
25 charged with as a parole and probation officer attempting to

1 tell a supervisee that she would not be arrested if she had  
2 sexual contact with him, and that's the second charge of attempt  
3 misconduct from a public officer. And I direct you to Exhibit  
4 L. That's the judgment of conviction where Mr. Miller was  
5 convicted for that offense after he pled guilty to the charge.  
6 So first, does anyone -- do any members of the Commission have  
7 any questions for me as to the legal basis under the regulation  
8 for decertification upon these convictions? Hearing none, I  
9 advise the Commission that based on the judgments of conviction  
10 that are contained in the materials, under the governing  
11 regulation, Mr. Miller is subject to decertification or  
12 revocation of his certificate, and legally you have proper basis  
13 to move forward and make a motion for that revocation.

14 TROUTEN: Thank you. Do we have any public  
15 comments on this matter? Any further questions or comments from  
16 the Board? Would entertain a motion for the revocation of Josh  
17 M. Miller's Category I and III basic POST certificates.

18 MCKINNEY: Kevin McKinney. I'll make a motion to  
19 revoke Joshua Miller's Category I and Category III POST  
20 certificates.

21 TROUTEN: Thank you. Is there a second?

22 COVERLEY: Dan Coverley. Second.

23 TROUTEN: I have a first and a second. All those  
24 in favor, please signify by saying aye.

25 MEMBERS: Aye.

1           TROUTEN:           Any opposed? And I also vote aye.  
2 We'll now move on to Item 8, discussion, public comment, and for  
3 possible action, hearing pursuant to NAC 289.290 (1) Subsection  
4 g on the revocation of Michael O'Farrell, formerly employed with  
5 the Nevada Cannabis Compliance Board Category I basic  
6 certificate based on a conviction of or entry of a plea of  
7 guilty, guilty but mentally ill, or nolo contendere to a felony.  
8 The convictions which have led to this action are Count 1,  
9 driving under the influence of alcohol and/or a controlled  
10 substance or prohibited substance above the legal limit  
11 resulting in substantial bodily harm, a Category B felony; and  
12 Count 2, duty to stop at the scene of a crash involving death or  
13 personal bodily injury, a Category B felony. Possible action  
14 may be the revocation of the Category I basic certificate. And  
15 we'll go back to Deputy Attorney General Nate Hastings for the  
16 details, sir.

17           HASTINGS:           Thank you. So within your materials,  
18 Commissioners, for this agenda item, first refer you to Exhibit  
19 A, the proper regulatory notice and documentation of the notice  
20 that was provided to Mr. O'Farrell of the intent to revoke his  
21 certificate and I will just again ask staff to verify whether,  
22 as notice was provided, did Mr. O'Farrell provide any response  
23 or indication of an intent to appear or contest this revocation?

24           FLOYD:           No, he did not.

1           HASTINGS:           Thank you. Proper notice having been  
2 provided, refer the Commissioners to Exhibit E in their  
3 materials, which is the indictment that describes having caused  
4 an accident while driving under the influence of alcohol or  
5 controlled substance for the first count, and the second count,  
6 failure to stop at the scene of the crash after having caused  
7 that crash and injury, and then this matter was taken to trial.  
8 Exhibit G is the verdict form showing that Mr. O'Farrell was  
9 found guilty of both those counts, and then Exhibit H is the  
10 judgment of conviction, establishing that he was, in fact,  
11 convicted and sentenced in that matter. Consistent with these  
12 valid court records, I advise the Commissioners that Mr.  
13 O'Farrell was convicted of the offenses described in this agenda  
14 item, that that constitutes a valid basis for revocation of his  
15 certificate.

16           TROUTEN:           Thank you, sir. Any questions or  
17 clarifications needed on that from the Board? Any comments from  
18 the public on this matter? Hearing none, would entertain a  
19 motion for revocation of certificate.

20           MCKINNEY:           Kevin McKinney, I make the motion to  
21 revoke Michael O'Farrell's Category I POST certificate.

22           TROUTEN:           Is there a second?

23           PROSSER:           Jamie Prosser, second.

1           TROUTEN:           I have a motion and a second. All those  
2 in favor of revocation of this certificate, signify by saying  
3 aye.

4           MEMBERS:           Aye.

5           TROUTEN:           Any opposed? I also vote aye. Motion  
6 carries. Item Number 9, discussion, public comment, and for  
7 possible action, this is a hearing pursuant to NAC 289.290  
8 Section 1, Subsection g on the revocation of James E. Vega,  
9 formerly employed with the Laughlin Township Constable --

10          HASTINGS:          It's Subsection e, not g on this one.

11          TROUTEN:          Oh, okay. Thank you. So correction,  
12 NAC 289.290 Section 1, Subsection e, revocation of James E.  
13 Vega, formerly employed with the Laughlin Township Constable's  
14 office, Category I and II basic certificates based on a  
15 conviction of, or entry of a plea of guilty, guilty but mentally  
16 ill, or nolo contendere to a gross misdemeanor. The convictions  
17 which have led to this action are Count 1, false residency  
18 statement by the candidate, gross misdemeanor. Possible action  
19 may be the revocation of the Category I and II basic  
20 certificates. Deputy Attorney General, Mr. Hastings?

21          HASTINGS:          Thank you. Again referring the  
22 Commissioners to the meeting materials that have been provided  
23 at Exhibit A, the regulatory required notice of intent was  
24 timely provided to Mr. Vega, provides notice of what the  
25 criminal charge constituting regulatory basis for revocation

1 was, and gave him information about his opportunity to appear  
2 and/or contest potential revocation. I'll ask staff to verify  
3 whether Mr. Vega provided any response or indication of an  
4 intent to contest this revocation.

5 FLOYD: No, he did not.

6 HASTINGS: Thank you. At Exhibit E, Commissioners,  
7 you'll find the charging document that provides a description of  
8 the charge at the charging stage that the defendant's physical  
9 address was a particular address but in truth, in fact, his  
10 physical address was a different address. Those materials are  
11 redacted here in -- I'm sorry, those specific details are  
12 redacted here because the supporting materials for the meeting  
13 are a matter of public record and this is someone's address. but  
14 the substance of the matter goes to having provided a false  
15 address on candidate registration type documents, which goes to  
16 someone's eligibility to run for a particular office.  
17 Initially, there was a charge of forgery and that -- it's a bit  
18 confusing because in the guilty plea agreement, which is Exhibit  
19 F, he pled to both counts, both the false residency statement  
20 count and forgery count, but if you -- refer you to Exhibit H,  
21 the actual judgment of conviction, ultimately was only convicted  
22 of the false residency statement by (inaudible). But in any  
23 case, it is a gross misdemeanor count and he was convicted of  
24 that gross misdemeanor, which under Subsection E of the  
25 regulation, again, the distinction between F which is the

1 felony, that the other two matters were dealt with under an E  
2 here, a gross misdemeanor, but a gross misdemeanor conviction is  
3 a basis for revocation, a valid basis for revocation, under the  
4 regulation, and Mr. Vega having been convicted of that gross  
5 misdemeanor, I advise the Commissioners that legally under the  
6 governing regulation, his certificates are subject to revocation  
7 and take any questions but again, advise the Commissioners that  
8 Mr. Vega's certificates can be revoked.

9 TROUTEN: Thank you. Questions from the Board?  
10 Questions or comments from the public? Hearing none, would  
11 entertain a motion.

12 SHEA: Tim Shea. I'll make a motion to revoke.

13 TROUTEN: We have a motion to revoke. Is there a  
14 second?

15 NIEL: Russ Niel. I'll second.

16 TROUTEN: And we have a second. Thank you. All  
17 members in favor of revocation Category I and II two basic  
18 certificates, please signify by saying aye.

19 MEMBERS: Aye.

20 TROUTEN: Are there any opposed? I also vote aye.  
21 Motion carries. Item 10, Public Comment. Commission may not  
22 take action on any matter considered under this item until the  
23 matter is specifically included on an agenda as an action item  
24 at a subsequent meeting. Do we have any public comments?  
25 Kathy, anything from online?



1 FLOYD: Nothing.

2 TROUTEN: Okay. Hearing none, we'll move on to  
3 Item 11, discussion, public comment, and for action, we need to  
4 schedule the upcoming Commission meeting. Mike, where I know  
5 there's some discussion about where we're going to be at and  
6 when.

7 SHERLOCK: So the next Sheriff's and Chief's  
8 meeting is in Boulder on February 21st. We would have to get  
9 with Pam to see what best fits the schedule. Again, with  
10 everybody being here, it works out the best for us, for you  
11 actually, but on the 22nd, they're doing training in town at the  
12 Federal courthouse, so we would anticipate either the 21st or  
13 22nd to do our February meeting.

14 SHEA: And if there's a conflict of any kind of  
15 meeting place, I could make city facilities available for  
16 meetings so you don't have to worry about room conflicts or  
17 anything.

18 SHERLOCK: So with that in mind, we would suggest  
19 February 21st when everybody's already out in Boulder anyway and  
20 we can get with Chief Shea if we need a location out there.

21 PROSSER: Jamie Prosser. Out of curiosity, how  
22 long does it take to get the language back reference the motion  
23 we made earlier? I just don't want to hinder the process and  
24 have to wait until February for our fellow officers to start  
25 being hired.

1           SHERLOCK:           So just from a practical standpoint,  
2 there's a good chance we'll have it by February, okay, but  
3 understand what our current regulations state for reciprocity.  
4 Our current regulations say you have one year to get certified.  
5 Does that help?

6           PROSSER:           So if --

7           SHERLOCK:           We anticipate that this change will be  
8 completed prior to the one year. I'm trying to --

9           PROSSER:           I hear what you're throwing out.

10          UNIDENTIFIED:       Tracking.

11          SHERLOCK:           So one of the discussions that came to  
12 us was whether or not we need an emergency regulation on in this  
13 area. From staff's perspective, there's no basis for it.  
14 Emergency regulation lasts for 120 days, we still have to do the  
15 same work, and then we have to do it again when it comes back to  
16 you. But from a practical standpoint, you have a year to get  
17 certified anyway, we know what you want, we will get that  
18 language over to LCB, and we anticipate that historically we  
19 will have the complete regulation change prior to one year  
20 expiring.

21          PROSSER:           Perfect. Thank you.

22          SHEA:               So about putting an -- do we discuss  
23 possible agenda items during this meeting for next meeting or is  
24 that after that?

25          TROUTEN:           Mike?

1           SHERLOCK:           Sorry, go ahead.

2           TROUTEN:           I was going to say that can occur  
3 potentially here, but also at any time in between, up until the  
4 period of public notice.

5           SHEA:           When I was looking at the up for this  
6 meeting and I was looking at 289.200 Subsection 8, cause we  
7 changed the full-time, the halftime, I just inadvertently read  
8 Subsection 9. Subsection 9 is kind of in conflict now with what  
9 we just did, and Subsection 9 says upon the request of employing  
10 agency, the executive director may return the basic certificate  
11 of a Category I or Category II peace officer to active status.  
12 I think we need to look at putting III there, but then it goes  
13 on to say meets the minimum standards for appointment pursuant  
14 the 289.210, which of course. Then it goes on to say  
15 successfully completes the requirements set forth in paragraphs  
16 D, E, and F. That includes passing the state physical fitness  
17 test. So I think then it goes on. It's rather convoluted  
18 language in Subsection C, but I think we need to bring this  
19 forward and bring this language into line with what we just did.

20           SHERLOCK:           Okay, Mike Sherlock for the record. So  
21 you have to read it in the totality, that is that you're --  
22 that's talking about someone who has 60 months or more. Under  
23 60 months, they don't have to go back to it so.

24           SHEA:           What it talks about is the person that  
25 were here and within five years went somewhere else and then

1 within that five years it looks like comes back to here. This -  
2 - it's very difficult, it's under Subsection C, but what it  
3 allows basically is a lateral entry process for that person, but  
4 this lateral entry process is different than the one we just  
5 did. So I did -- we just ought to discuss it because it says  
6 within five years of his termination of -- this is difficult, of  
7 his employment as a Category I or Category II peace officer  
8 becomes a full-time employee of the Commission or a full-time  
9 law enforcement officer or federal agency approved by the  
10 Commission and subsequently, when five consecutive years of his  
11 or termination of employment with the Commission or federal law  
12 enforcement agency as applicable, becomes employed as an officer  
13 in the same category, a peace officer as he or she held  
14 immediately prior to his or her employment with the Commission  
15 or federal law enforcement agency. I'm trying to figure out  
16 where the person went. But if it's a process that allows you to  
17 do the lateral hiring process, which this does in those  
18 circumstances, then I think we should discuss bringing it into  
19 line with what we just did.

20 SHERLOCK: Yeah, Mike Sherlock for the record. So  
21 how about if we bring you back --

22 SHEA: Yeah.

23 SHERLOCK: -- clarifying -- to clarify it for you.  
24 That's dealing very specifically with someone who works in

1 Nevada, leaves Nevada, and comes back to Nevada but it's less so  
2 We'll, we'll try to explain it. We'll bring a clarification.

3 SHEA: Because it appeared to me that this was  
4 making the lateral entry process available to that person cause  
5 that's what it really does.

6 SHERLOCK: Yes.

7 SHEA: But in this case, it would not be the  
8 same as a lateral entry process because they would have to do  
9 the state physical fitness test whereas the other lateral, if we  
10 adopted the language, would not. I just wanted to say I thought  
11 we should line everything up so -- and this all only is Category  
12 I and II, where I think it would behoove us to include Category  
13 III.

14 SHERLOCK: Yeah, makes sense.

15 SHEA: I do it for once.

16 SHERLOCK: I'm just trying to run it through.

17 There's a reason.

18 SHEA: It's very difficult.

19 SHERLOCK: Yeah. That was created specifically for  
20 federal law enforcement who worked in Nevada, left, and came  
21 back, but we'll take a look at that. We'll get it on the  
22 agenda.

23 TROUTEN: Do we have any other comments about our  
24 next meeting time and date? Everybody's good with the 21st? Do  
25 we need a --

1           SHERLOCK:           Yeah, well, I can put out an email once  
2 we confirm that with Chief Shea and Pam.

3           TROUTEN:           -- get our location and times?

4           SHERLOCK:           Yeah.

5           TROUTEN:           Okay. All right. Thank you. So I  
6 don't believe we have any further business unless I've missed  
7 anything. All right. Hearing nothing, is there a motion to  
8 adjourn?

9           YOUNG:           So moved.

10          TROUTEN:           Are you sure?

11          YOUNG:           Yep.

12          TROUTEN:           And a second?

13          PROSSER:           I'll second.

14          TROUTEN:           All in favor of adjournment, please  
15 signify by saying aye.

16          MEMBERS:           Aye.

17          TROUTEN:           I also vote aye. We are adjourned.  
18 Thank you.