

**MINUTES OF THE  
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Seventh Session  
February 11, 2013**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:35 p.m. on Monday, February 11, 2013, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator David R. Parks, Chair  
Senator Pat Spearman, Vice Chair  
Senator Mark A. Manendo  
Senator Pete Goicoechea  
Senator Scott Hammond

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Heidi Chlarson, Counsel  
Suzanne Efford, Committee Secretary

**OTHERS PRESENT:**

Sherry L. Rupert, Executive Director, Nevada Indian Commission  
Scott H. Carey, Tribal Planner, Pyramid Lake Paiute Tribe  
Monty Williams, Executive Director, Statewide Native American Coalition  
Daryl Crawford, Executive Director, Inter-Tribal Council of Nevada, Inc.  
Lynn Manning, Chair, Indian Education Advisory Committee, Nevada Indian Commission  
Lloyd L. Wyatt, Vice Chairman, Washoe Tribe of Nevada and California  
Arlan D. Melendez, Chairman, Reno-Sparks Indian Colony  
Alvin Moyle, Commissioner, Nevada Indian Commission

Shaliah Johns

Danielle Bennett

Keith G. Munro, Assistant Attorney General, Office of the Attorney General

Brett Kandt, Special Deputy Attorney General, Office of the Attorney General

Rana Goodman, *The Vegas Voice*

Vanessa Spinazola, American Civil Liberties Union

Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association

Michael D. Hillerby, MasterCard Worldwide

Juanita Clark, Charleston Neighborhood Preservation

Traci Dory, Victim Services Officer, Department of Corrections

Tom Ely, Division of Parole and Probation, Department of Public Safety

Rick Gimlin, Administrative Services Officer, Division of Parole and Probation,  
Department of Public Safety

**Chair Parks:**

We will open the hearing on Senate Bill (S.B.) 23.

**SENATE BILL 23**: Establishes "Nevada Tribes Legislative Day" as a day of observance. (BDR 19-288)

**Sherry L. Rupert (Executive Director, Nevada Indian Commission):**

I serve as Governor Brian Sandoval's liaison to Nevada's 27 tribal nations. These 27 tribal nations are home to the Washoe, Paiute and Shoshone people. Across this Country, there are 566 federally recognized tribes. All are uniquely different and all have sovereign status. That is the tribes have the inherent right to govern themselves.

The reason I bring this up is that some may question the need for this legislation. Why have a Tribes Legislative Day? The tribal nations are not a special interest group nor are they to be considered race-based. The tribal nations are sovereign governments. The ways individual tribes exercise their sovereignty vary widely. In general, tribal authority is used to form tribal governments, determine tribal membership, regulate individual property, levy and collect taxes, maintain law and order, exclude nonmembers from tribal territory, and regulate domestic relations, commerce and trade.

Ninety-seven percent of Nevada's tribal nations are rural. The total population is approximately 55,900 or 2.07 percent of Nevada's population. The tribal land base in Nevada is over 1.16 million acres.

American Indians have dual citizenship. They hold U.S. citizenship as well as tribal citizenship. All American Indians residing in Nevada, whether on or off the reservation, are citizens of Nevada.

Given the significant land base, natural resources and assets held by tribal communities, the private and public sectors have taken a significant interest in establishing partnerships and working relationships with tribal governments to ensure the vitality of the multiple industries that are core to the economic and social well-being of Nevada.

As sovereign nations, tribal communities are relevant and major contributors to local economies, particularly in the rural areas. They share a unique government-to-government relationship with Nevada and the federal government.

This legislation, if enacted, would establish a Nevada Tribes Legislative Day on the second Tuesday of February during each regular session of the Legislature. The day would not only allow the State's tribal nations to share our vibrant culture but would provide a forum in which State Legislators and tribal leaders could come together and be better informed.

Tribal members are Nevada citizens, and they have exercised their right to vote. The laws enacted in this State affect tribal members, and the issues and needs of tribal communities should be taken into account when making decisions.

Today is Nevada Tribes Legislative Day. It is the second time the Nevada Indian Commission has coordinated this day. This day was coordinated because of all of us here today and because your leadership saw fit to approve this day. What happens when we are not here? This legislation would institutionalize a professional relationship and create consistency. When there is a change in Nevada's legislative leadership or in the Nevada Indian Commission staff, a practice will be in place.

The Nevada Indian Commission supports S.B. 23.

**Scott H. Carey (Tribal Planner, Pyramid Lake Paiute Tribe):**

The Pyramid Lake Paiute Tribe supports S.B. 23 as outlined in a letter from Tribal Chairman Elwood Lowery ([Exhibit C](#)).

**Monty Williams (Executive Director, Statewide Native American Coalition):**

The Statewide Native American Coalition is a substance abuse prevention program serving all 27 reservations and colonies statewide along with urban populations in Clark and Washoe Counties. We have worked diligently to create community collaborations with State and tribal entities. This program has worked well. The coalition is State-funded, and we work hand-in-hand with the Department of Health and Human Services.

We support S.B. 23 because we want to see the continuation of the creation of liaisons all the way up to the legislative level. We would like to see that continued on an annual basis.

**Daryl Crawford (Executive Director, Inter-Tribal Council of Nevada, Inc.):**

The Inter-Tribal Council of Nevada, Inc., is a nonprofit corporation formed by the 27 Nevada tribes. We work closely with Nevada programs. We have memorandums of understanding with the Department of Conservation and Natural Resources, Division of Environmental Protection and the Department of Health and Human Services. Working with our State partners has been useful in providing services to the rural communities throughout Nevada.

We support the passage of S.B. 23 because it promotes good working relationships with tribal governments for the numerous reasons previously discussed. It gives substance to the fact that tribes are part of this State. We need to work together more effectively. Tribes would gain more recognition if Nevada Tribes Legislative Day was added to the *Nevada Revised Statutes* (NRS). This would promote more legislation affecting Nevada tribes.

**Lynn Manning (Chair, Indian Education Advisory Committee, Nevada Indian Commission):**

The Indian Education Advisory Committee serves the 27 Nevada tribes, their education departments, the Nevada school districts, the nonprofit organizations and their education initiatives, and anyone else who would like to discuss Indian education in Nevada from the cradleboard to elderhood.

I support S.B. 23. As a native person who is a product of Nevada schools and as an educator, I have discovered that there is a need for a Nevada Tribes Legislative Day. Our native students, present here today, need to know they have a place and a voice in this Legislative Building. They are citizens of their tribes, but they are also citizens of Nevada. They can know they have a future here and that they are represented by you. They will not soon forget this experience. Many of our elders are also here for the first time. To know you are here for us is meaningful.

From an education standpoint, there is a need for nonnative people to know who native people are and who the Nevada tribes are. This education begins with institutionalizing this day, making it part of Legislative Sessions and allowing us to come here to have our voices heard, not as a special interest group but as a sovereign tribal nation and survivors of the people who have been here since time immemorial.

**Lloyd L. Wyatt (Vice Chairman, Washoe Tribe of Nevada and California):**

We come with the utmost respect to speak in support of S.B. 23. We are a tribe that borders Nevada and California. We have been here for 10,000 years, but some say we have been here from the beginning. To say this measure is a long time in coming is a little odd.

We are constituents of the State. We are one of the largest employers in the Carson Valley. We hire native and nonnative people. We wish to work together in a constructive way with our State partners. We have met several times with Governor Sandoval, and he has extended his hand. We also support the Nevada Indian Commission and its efforts to get S.B. 23 passed.

**Arlan D. Melendez (Chairman, Reno-Sparks Indian Colony):**

Section 2, paragraph 2 of S.B. 23 states “the Nevada Indian Commission shall: ... Schedule activities and discussions between state and tribal leaders on issues of common interest.” In the past, discussions of tribal issues were scarce. However, we recognize that the Legislature is busy.

I was part of the National Congress of American Indians (NCAI) Project on Tribal-State Relations. We went to the National Conference of State Legislatures (NCSL). We had never proactively addressed issues such as streamlined sales taxes. The idea was to obtain input from the tribes and create a government relationship with the NCAI. If the tribes were to meet with a special committee from the NCSL, it would be a group of people meeting collectively to address some of the issues.

The idea of this day is to talk about the issues as a group rather than having individuals coming forward with their issues for a particular bill proposal. You would not know the individuals are from the tribes because they would be acting as individual citizens. This day would help to make solid relationships, which would be a good thing.

The Reno-Sparks Indian Colony supports S.B. 23.

**Senator Goicoechea:**

Ms. Rupert, do you know which reservations and colonies are here today?

**Ms. Rupert:**

They are from all over the State: the Reno-Sparks Indian Colony, the Washoe Tribe of Nevada and California, the Walker River Paiute Tribe, the Yerington Paiute Tribe, the Fallon Paiute Shoshone Tribe, the Duck Valley Shoshone-Paiute Tribe, the Fort McDermitt Paiute and Shoshone Tribe, and the Pyramid Lake Paiute Tribe.

**Alvin Moyle (Commissioner, Nevada Indian Commission):**

The health of Native American people is important. In the State of the State address, the Governor stated that one of his priorities is health. I look forward to assist the tribes today as I have in the past. I will assist the Governor with addressing issues that confront Native-American people, along with programs coming from the federal government, the State and the tribes. I would like to help the Nevada Indian Commission with its goals, but I would also like to remain in the minds of the people I have served by looking at their health issues collaboratively.

I support S.B. 23.

**Ms. Rupert:**

Based on the amount of support, this is important legislation. We hope you will support this bill.

**Shaliah Johns:**

I am from the Pyramid Lake Paiute Tribe and attend Pyramid Lake High School. I am speaking on behalf of all of the children from Pyramid Lake. We support S.B. 23 because it would empower us. We are happy to have the opportunity to be recognized.

**Danielle Bennett:**

I am from Carson City and live in the Carson Indian Colony. I attend Pyramid Lake High School and have attended other schools in Carson City. This bill would be beneficial to all native youth by giving us something to look forward to in the future to help our tribes and our people.

**Chair Parks:**

We will close the hearing on S.B. 23.

SENATOR GOICOECHEA MOVED TO DO PASS S.B. 23.

SENATOR MANENDO SECONDED THE MOTION.

**Senator Hammond:**

My daughter is native Athabascan Inuit. This is an important day for me. At some point, I will have to explain her culture and traditions to her. This bill is a good step in the right direction for Nevada.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Parks:**

We will open the hearing on S.B. 22.

**SENATE BILL 22**: Makes various changes relating to the Office of the Attorney General. (BDR 18-213)

**Keith G. Munro (Assistant Attorney General, Office of the Attorney General):**

I have submitted a letter in support of S.B. 22 ([Exhibit D](#)) from the Attorney General (AG) detailing the pertinent sections, and a letter received from the U. S. Department of State ([Exhibit E](#)) authorizing the establishment of a program to prevent certain criminal offenders and persons charged with a crime from obtaining or using a U.S. passport.

**Senator Spearman:**

In section 14 of the bill, you are seeking to ensure that all State agencies are depositing money into the State Treasury Fund for Insurance Premiums. What are the fiscal ramifications for the smaller State agencies?

**Mr. Munro:**

The rates are set by the Legislature for general liability, auto insurance for State vehicles and the tort claims fund. The rate for the tort claims fund is determined on a per employee basis. An agency would determine the total cost, divide that cost among all the agencies and break it down further on a per employee basis.

It is important that agencies make sure all their people are covered because it protects our general liability. For those agencies that may not have paid, there will be a fiscal impact, but it is something they need to pay if they are going to carry the State agency label.



**Senator Hammond:**

Why do some State agencies not pay? What is the rationale?

**Mr. Munro:**

We did not inquire into the rationale, but we did discover that a few had not been paying. Most of that was due to inadvertence or not understanding the need for a general liability policy and paying into the tort claim fund.

**Chair Parks:**

On average, do you extradite more people to other states or seek the return of offenders to Nevada?

**Mr. Munro:**

I am not sure. We do about 500 extraditions a year.

**Chair Parks:**

Is that total extraditions?

**Mr. Munro:**

Yes, that is total. It ebbs and flows. It will be between 400 and 600.

**Brett Kandt (Special Deputy Attorney General, Office of the Attorney General):**

I consulted with one of the attorneys from our extradition unit. Annually, there will be 500 to 700 extraditions out of Nevada to another jurisdiction and about the same number of extraditions bringing fugitives back to Nevada.

**Rana Goodman (*The Vegas Voice*):**

I have submitted a copy of my testimony ([Exhibit F](#)), and you will find a copy of the 2012 National Center for Assisted Living rules and regulations at <<http://www.ahcancal.org/ncal/resources/Documents/Final%2012%20Reg%20Review.pdf>>.

I would like to address section 9 of the bill. The National Center for Assisted Living document lists all the rules and regulations needed while seniors reside in an assisted living facility. Screening people who take care of seniors has been omitted from this bill. This is a very important factor.

I have a column in *The Vegas Voice* and deal strictly with the care of seniors and legislative issues. In response to my column this past month, I had quite a bit of feedback from people who have family members in assisted living facilities.

I asked for feedback knowing this bill was coming up. A man called and said that his father was being taken care of in a facility by a woman who seemed like a lovely person and who was very attentive and loving toward his father. A couple of weeks later, the woman asked his father for a loan of \$30,000. Luckily, the father reported it to the man's sister who takes care of the father's bank account. The money was never given, and it was reported to management of the facility.

The problem is that the facility replaced the caregiver, but that caregiver is free to go on to other facilities and take care of other seniors. According to this bill, unless a person is convicted of a crime, that person is never reported to the AG's Office.

To fairly take care of seniors, the facilities should screen caregivers. This is the gap in the bill. There is no caregiver screening process. We would like to see a mandatory background check for caregivers. Our seniors need more protection. This bill is the perfect place to put it.

**Mr. Munro:**

I appreciated hearing Ms. Goodman's testimony, but this is a policy decision that the Legislature may choose to make. Senate Bill 22 is a procedural bill with respect to this provision. It simply states that we are authorized to institute civil actions when someone has been convicted of a crime.

Ms. Goodman is talking about something that is probably more appropriate for the Aging and Disability Services Division of the Department of Health and Human Services to put into regulations for the licensing of caregivers. It is a licensing issue as opposed to a civil litigation after a criminal conviction.

**Chair Parks:**

Ms. Goodman, we will follow up with the Senate Committee on Health and Human Services to determine what we can do. We will also verify if there is any related legislation pending.

We will close the hearing on S.B. 22 and open the hearing on S.B. 24.

**SENATE BILL 24**: Authorizes the establishment of a program for law enforcement personnel and prosecuting attorneys on the Vienna Convention on Consular Relations. (BDR 18-399)

**Mr. Kandt:**

I have submitted written testimony supporting S.B. 24 ([Exhibit G](#)), a copy of Article 36 of the Vienna Convention on Consular Relations ([Exhibit H](#)), and a copy of a Supreme Court of Nevada decision: *Gutierrez v. State*, Docket No. 53506 (Order of Reversal and Remand, September 19, 2012) ([Exhibit I](#)).

Article 36 of the Vienna Convention on Consular Relations addresses the requirement of a local law enforcement agency to notify the Consulate of the home country of a foreign national at the time of the arrest, detention, death or serious injury of that citizen. If a detainee requests notification, his or her consulate must be notified. If the detainee is a national of a mandatory reporting country, then the consulate must be notified regardless of the detainee's request. Consular officials must be allowed to communicate with and have reasonable access to detainees.

**Senator Spearman:**

This seems prudent. Would this process in [Exhibit H](#) on page 1 take place at the time the offender is Mirandized or sometime later?

**Mr. Kandt:**

We follow the protocols and policies set forth in the materials provided by the U.S. Department of State and give the appropriate notice at the appropriate time. The notification could be upon either detention, arrest, death or serious injury. If a foreign national is in any of those circumstances, the consular notification requirement could be triggered depending on the policies and procedures in place at the time.

The U.S. Department of State has set procedures. We must ensure the local authorities follow them properly.

**Senator Goicoechea:**

Why is this only enabling? It says you "may" instead of you "will."

**Mr. Kandt:**

As Mr. Munro noted, our Office, in providing this assistance, could incur some potential liability. It is appropriate that our Office has clear legislative authority to provide this assistance, which we would provide only upon the request of local agencies. Some local agencies, especially in Clark County, may already be well-versed in these procedures and policies. We wish to render assistance to local authorities and those who need that enabling authority.

**Senator Goicoechea:**

I am still not clear. You would create the program so it would be available, but I do not see what "may" has to do with that. Is it correct that you "shall" create a program?

**Mr. Munro:**

If you want to make it a "must," that is fine with us. It is more of a drafting issue. We are stepping forward because there is a need.

**Senator Goicoechea:**

I agree. Listening to the case you brought forward, there is a need. Let us create the program.

**Senator Hammond:**

It sounds like the program is already there. Every county and State agency already has the ability to provide this assistance using the requirements of the Vienna Convention. This legislation clarifies that this is a service provided by the AG's Office. If there is a need for help to fulfill the requirements, then your Office may be contacted.

**Mr. Munro:**

You are correct. The United States made the decision to be a part of this international treaty, and the duties for carrying it out fall in part upon Nevada. All the State's law enforcement jurisdictions have an obligation to comply. We are going to help those jurisdictions that may need assistance. Our extradition unit deals with the U.S. Department of State and the various states on issues involving fugitives. We want to provide assistance to the smaller jurisdictions if they need it. We have trained on this. For our own cases, we provide these notifications. Because we are in a litigious world, we want to ensure our employees are within the scope of their authority when dealing with issues involving foreign nationals and foreign governments. We have created this bill because it is a good idea.

**Senator Hammond:**

You keep using the words "provide a program." Perhaps it should say "provide assistance." Are you really establishing a program or bridging a gap that might exist, especially with rural areas that probably do not deal with this often?

**Mr. Munro:**

Whether it is a service or a program, we are going to go ahead and establish policies and procedures within our Office. Whether the term used is a program, a service or assistance does not matter to us.

**Senator Spearman:**

You indicated that some may know about the service and some may not. My concern is with the implementation. What type of educational process, program or service would be in place for people who may not have as much experience with this? Would that education be specific or general in nature, and how would it be accomplished?

**Mr. Munro:**

We have an extradition unit because fugitives run away from every county in the State when they are out of jail on probation, parole or bail. Our extradition unit trains local law enforcement to deal with those cases. The service would be a part of the extradition process. If local law enforcement is detaining someone who meets the Vienna Convention status, we would be able to assist him or her. Many times law enforcement officers will realize they have had some training and will call on the AG's Office for assistance.

**Chair Parks:**

Are all countries signatories to the Vienna Convention, or are there some that do not have mandatory requirements? How does this work?

**Mr. Kandt:**

On page 7, [Exhibit H](#), of the background materials I provided on the Vienna Convention, there is a list of the countries that require mandatory notification. Those are the countries whose consular officials must be notified regardless of whether the detainee requests it. Additional countries are parties to the convention but do not require mandatory notification. I do not know how many countries are parties to the convention, but I can get you a list. As you can see from this list, there are quite a few mandatory notification countries. I will get that number for you.

**Chair Parks:**

Thank you, but I do not think that will be necessary.

**Senator Goicoechea:**

I am still confused about how this program will work. I represent many rural areas. The problem might be a deputy in Battle Mountain who will not have this list and will not know if the person he has arrested and Mirandized is from a signatory country to the Vienna Convention. This will have to be an education program that will reach out to the average deputy in rural Nevada.

**Mr. Kandt:**

You are right, Senator. That is why our Office focuses on education outreach in certain areas in order to assist local authorities when they need it. We will develop such a program if given the authority to do so.

**Vanessa Spinazola (American Civil Liberties Union):**

We support S.B. 24. We call the Vienna Convention the “international Miranda” because it confers specific individual rights on foreign nationals who are detained, arrested or imprisoned. These individuals must be notified that they can call their consulates.

It is actually a matter of customary international law, which means that whether or not a country signs the treaty, it is something that must be done. We do not need any enabling provisions put into federal or State law to make this applicable.

All foreign nationals are entitled to consular notification regardless of their visa or immigration status. It is not necessary to inquire about visa or immigration status in order to provide this international Miranda.

Mere translation of the Miranda warning does not replace the requirements of Article 36 of the Vienna Convention. Foreign nationals may not understand our legal system because they are coming from a different system. For example, we say, "You have the right to remain silent," but someone from another country may know that remaining silent is actually held against you in a court of law. It is important to have consular access because translating what we do in this Country is not enough.

The AG's Office mentioned one of the cases we have in Nevada. There are only two foreign nationals on death row in Las Vegas. Both of them were not notified of their consular rights. This becomes a problem and leads to litigation. Because of the Vienna Convention, these individuals have the right to another layer of appeal called "review and reconsideration." This case is at the Nevada Supreme Court now.

As a matter of international law, the Vienna Convention also applies to U.S. citizens when we travel abroad. We want to make sure we are treating people visiting the U.S. the way we would like to be treated when we are abroad.

We urge the Committee to support this bill and possibly enhance the strength of the bill by changing "may" to "shall." However, we do not want that to get in the way of passing this legislation as it is.

I have also submitted my testimony in writing ([Exhibit J](#)).

**Senator Hammond:**

At what point are we responsible to notify a person of his or her consular rights?

**Ms. Spinazola:**

Article 36 of the Vienna Convention is vague on that point. It says "timely" notification. When a person is being detained for any period of time, he should be notified of his or her rights. A person can be notified of his or her rights and he or she can choose whether to notify the consulate. In any case, the consulate has to be notified when someone is being detained. Notification within 24 hours is considered reasonable.

**Senator Spearman:**

Is there a way to incorporate this information into officer training so they understand the gravity of this obligatory accountability?

**Ms. Spinazola:**

The AG's Office is well aware and the U.S. Department of State has a manual that mentions the notification requirement repeatedly. I hope this would be part of the program.

**Senator Spearman:**

At the local level, in order to emphasize this, could it be called the "twin towers with Miranda"?

**Ms. Spinazola:**

That is why I like to call it the international Miranda because it is easy to remember.

**Mr. Kandt:**

If we have this authority, we will be able to work through Peace Officers' Standards and Training Commission and the Nevada Sheriffs' and Chiefs' Association. We would engage in educational outreach to ensure that law enforcement officers have the information and training they need to follow the requirements of the Vienna Convention.



**Chair Parks:**

Ms. Spinazola, did you have an amendment to propose?

**Ms. Spinazola:**

No, I do not have an amendment. I agree with the concerns raised about changing "may" to "shall," but I would rather have something pass than nothing at all.

**Robert Roshak (Executive Director, Nevada Sheriffs' and Chiefs' Association):**

We support the bill and would work with the AG's Office in getting this information out to law enforcement agencies.

**Chair Parks:**

We will close the hearing on S.B. 24 and open the hearing on S.B. 25.

**SENATE BILL 25:** Makes various changes relating to technological crimes.  
(BDR 18-220)

**Mr. Kandt:**

Senate Bill 25 deals with our State's ongoing efforts to combat technological crimes.

The Technological Crime Advisory Board was created by the Nevada Legislature. The Board is chaired by the Attorney General and is comprised of federal and State representatives. The Board focuses on a coordinated response that can adapt to the ever-evolving methods of criminals in using technology. An executive director is appointed to the Board pursuant to NRS 205A.070.

Section 2 of the bill makes a slight change to the appointment of the executive director from a two-thirds approval requirement by members of the Board to a simple majority. Federal law enforcement members serve on the board. The AG's Office does not believe that we should be asking federal officials to be involved in the hiring of a State official such as the executive director of the Board.

When someone has the authority to make hiring decisions involving personnel and acts upon that authority, there is a potential for liability. We want to remove any fear of liability to the federal government in the appointment of an executive director for our Board. Therefore, the federal law enforcement members of the board have abstained from voting on the appointment of an executive director, who is a State employee. However, because of the way our Open Meeting Law operates, it is problematic obtaining a quorum to hold a meeting and hire an executive director and still have a sufficient number of voting members to meet the two-thirds requirement after the federal members recuse themselves.

By changing the two-thirds requirement to a simple majority, we can still have the federal members serve on the Board but allow them to recuse themselves from participating in the appointment of the executive director position.

In NRS 205A.030, the Nevada Legislature has broadly defined technological crime as:

... the commission of, attempt to commit or conspiracy to commit any crime that involves, directly or indirectly, any component, device, equipment, system or network that alone or in conjunction with any other component, device, equipment, system or network, is designed or has the capability to: 1. Be programmed; or 2. Generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound in a technological format, including, without limitation, a format that involves analog, digital, electronic, electromagnetic, magnetic or optical technology.

This definition denotes the need for training and expertise.

The AG's Office has several forensic investigators who work cooperatively with federal law enforcement investigators on technological crime cases. Their work has been effective in investigating and successfully prosecuting various instances of tech crime. However, the AG's Office is also seeing an increased use of technology to facilitate a wider range of crimes investigated and prosecuted by local law enforcement agencies and by the AG's own consumer protection and fraud units.

To respond more effectively to the growing problem of technological crime, the AG's Office should be involved with specialized technological prosecutions to both assist local prosecutors and to handle those cases which may be beyond their expertise.

Section 1 of the bill grants the AG's Office the statutory authority to develop a group of litigators within the AG's Office. This would ensure that we have the expertise to deal with the complicated prosecutions related to technological crime. We are not asking for any additional staff. We are seeking the flexibility necessary to better adapt and respond to technological crime.

I have also submitted written testimony supporting S.B. 25 ([Exhibit K](#)).

**Senator Spearman:**

Will this bill remove local law enforcement from the investigation and local district attorneys from prosecution?

**Mr. Kandt:**

No. The AG's Office will continue to exercise its jurisdiction in areas of fraud and consumer protection in which we are seeing an increasing technological component. In addition, local authorities will continue to exercise their longstanding jurisdiction to investigate and prosecute most crimes in Nevada. However, this will give us the authority to assist them when requested.

**Michael D. Hillerby (MasterCard Worldwide):**

We support this bill. We have met with the AG and her staff. Our security experts regularly work with local and State law enforcement, FBI, INTERPOL and law enforcement in other countries as we combat credit card fraud. This is a multibillion dollar industry just in the United States.

We look forward to continuing to work with the AG's Office and support any tools the staff might have to combat this kind of fraud, including identity fraud, which is international in scope.

**Juanita Clark (Charleston Neighborhood Preservation):**

We had two questions on this bill ([Exhibit L](#)) which have been answered, and we do not have any comments either pro or con on this bill.

**Chair Parks:**

We will close the hearing on S.B. 25 and open the hearing on S.B. 26.

**SENATE BILL 26**: Creates a statewide automated victim information and notification system within the Office of the Attorney General. (BDR 18-214)

**Mr. Kandt:**

I have provided written testimony on S.B. 26 ([Exhibit M](#)), a brochure on the Victim Information and Notification Everyday system (VINE) ([Exhibit N](#)), and a map showing the 47 states with automated victim notification systems ([Exhibit O](#)).

**Senator Goicoechea:**

Is there a fiscal note with this bill?

**Mr. Kandt:**

We have obtained federal grant funding to cover the costs of the implementation. This bill gives the oversight of the system a home and does not have a fiscal impact.

**Senator Manendo:**

Would someone call the VINE system and get information from the list of victim services in the VINE brochure, [Exhibit N](#)?

**Mr. Kandt:**

No, that list was put into our State-specific brochure, [Exhibit N](#), as additional resources victims can use. When victims call VINE, they will find custody status information on the offenders about whom the victims want to be notified.

**Senator Manendo:**

Does the AG's Office recommend the list of services on the VINE brochure, [Exhibit N](#)? Can you tell me what assistance Mothers Against Drunk Drivers (MADD) provides to victims? You are recommending these services because they are in your brochure.

**Mr. Kandt:**

This State-specific VINE brochure was developed by a committee of victim advocates in Nevada. The committee members wanted to create a brochure that would be a resource for victims. Perhaps it could be handed out at the crime scene or at the courthouse and would inform victims about the automated notification system. In an effort to make it an expansive resource, the committee also listed other victims' services.

I could not tell you in detail what each of these services provides for victim assistance. The committee of victim advocates felt these were appropriate for inclusion in the brochure. I can get more information for you on each of these.

**Senator Manendo:**

I would like to know who was on that committee. Would you please provide me with that information? I am not aware of MADD supporting or doing anything specifically for victims. I know there is a wonderful victim group called Stop DUI, Inc., that is not listed on this brochure.

**Mr. Kandt:**

We will get a list of the individuals involved in developing this brochure. This is something we can take under consideration in the future.

**Senator Manendo:**

When MADD solicits money on behalf of the State, every penny of that money leaves the State and goes to the corporate office in Texas. That money does nothing to help Nevada victims of DUI-related accidents.

**Chair Parks:**

Is VINE a nationwide program, or is it intended only for Nevada?

**Mr. Kandt:**

We have a statewide system that covers offenders' custody statuses in any of our State facilities. You could register to track an offender in another state if you wanted to. If a victim knows someone is in custody in another state, there is nothing to stop that victim from registering under VINE to be notified on the offender in that state. Ultimately, the goal would be to tie VINE in nationwide.

**Chair Parks:**

The Department of Corrections (DOC) put a fiscal note on S.B. 26. Have you had any discussions with the DOC relative to that?

**Mr. Kandt:**

We have had discussions with the DOC.

**Traci Dory (Victim Services Officer, Department of Corrections):**

The DOC supports S.B. 26. The DOC has been live with VINE since February 16, 2012. We look at VINE as an additional resource for victims that gives them an instantaneous notification of an offender's status.

**Tom Ely (Division of Parole and Probation, Department of Public Safety):**

Our agency supports S.B. 26. We have been part of the VINE governance committee for almost 2 years. We are in the process of implementing VINE throughout our agency. It will go live in 2 months.

**Rick Gimlin (Administrative Services Officer, Division of Parole and Probation, Department of Public Safety):**

At the initial request, we submitted a fiscal note stating the impact could not be determined. However, we recently became aware of information that was attached to the DOC fiscal note. It appears that the annual cost of this system to the Division of Parole and Probation, Department of Public Safety (DPS), would be under \$32,000. The Department was not aware of that information at the time the fiscal note was prepared.

**Senator Spearman:**

When the victim is notified, are law enforcement officials also notified?

**Mr. Ely:**

Law enforcement is not notified through VINE. This is specifically a victim notification procedure. It provides information on the status of the offender. If victims contact us, they would find out who the assigned parole or probation officer is and whether the offender is on parole or probation. We would also advise victims if we are requesting a warrant or trying to locate and arrest an offender.

**Senator Hammond:**

Is the AG's Office the best place to house the VINE system?

**Mr. Ely:**

Coordinating this through the AG's Office would be the best location for it in Nevada. We have county and city jails, DOC, DPS, the AG's Office and the State Board of Parole Commissioners which will be participating, so this program has to be coordinated through one agency. The AG's Office is the best place for that.

**Senator Goicoechea:**

Would the \$32,000 fiscal note be used to track the change in custody status?

**Mr. Gimlin:**

The \$32,000 cost would be to support the overall needs of the program. I am not certain if the specific shares of the cost are delineated. Based upon the numbers, the Division of Parole and Probation has the largest offender population. It would make sense that we should be paying our fair share of the program.

**Senator Goicoechea:**

Do you support this program?

**Mr. Gimlin:**

Yes, we do support the program.

**Mr. Kandt:**

The AG's Office does not have to be the home of this statewide system. We wanted to step forward and make the offer to be the home for the system. If there is an agency that you feel would be more appropriate, we are certainly open to that.

Section 5 of the bill makes it clear that each of the stakeholders would participate in maintaining the system.

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**Chair Parks:**

The hearing on S.B. 26 is closed, and the meeting of the Committee on Government Affairs is adjourned at 3:11 p.m.

RESPECTFULLY SUBMITTED:

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Suzanne Efford,  
Committee Secretary

APPROVED BY:

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Senator David R. Parks, Chair

DATE: \_\_\_\_\_



<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	11		Attendance Roster
S.B. 23	C	1	Scott H. Carey	Letter from Pyramid Lake Paiute Tribe Chairman Elwood Lowery
S.B. 22	D	3	Keith G. Munro	AG's Office letter
S.B. 22	E	2	Keith G. Munro	U.S. Department of State letter
S.B. 22	F	2	Rana Goodman	Email letter
S.B. 24	G	2	Brett Kandt	AG's Office letter
S.B. 24	H	7	Brett Kandt	Vienna Convention on Consular Relations information
S.B. 24	I	7	Brett Kandt	Nevada Supreme Court case Gutierrez v. State of Nevada
S.B. 24	J	3	Vanessa Spinazola	Written testimony via email
S.B. 25	K	2	Brett Kandt	AG's Office letter
S.B. 25	L	1	Juanita Clark by June Ingram	Questions on S.B. 25
S.B. 26	M	2	Brett Kandt	AG's Office letter
S.B. 26	N	2	Brett Kandt	VINE brochure
S.B. 26	O	1	Brett Kandt	VINE statewide map