

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Ninth Session
May 24, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 9:08 a.m. on Wednesday, May 24, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno

COMMITTEE MEMBERS ABSENT:

Assemblyman Chris Brooks (excused)
Assemblyman John Ellison (excused)
Assemblywoman Melissa Woodbury (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Jim Penrose, Committee Counsel
Isabel Youngs, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General
Cody L. Phinney, M.P.H., Administrator, Division of Public and Behavioral Services,
Department of Health and Human Services
Arlene Rivera, Ombudsman, Domestic Violence, Sexual Abuse and Human
Trafficking Division, Office of the Attorney General
Patrick Cates, Director, Department of Administration; and Chair, Board of the Public
Employees' Benefits Program
Marlene Lockard, representing Retired Public Employees of Nevada
Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American
Federation of State, County and Municipal Employees, AFL-CIO
Kent M. Ervin, Ph.D., Legislative Liaison, Nevada Faculty Alliance
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association
of Nevada

Chairman Flores:

[Roll was called. Rules and protocol were explained.] We have two bills to hear today.
We will start with Senate Bill 25 (1st Reprint).

**Senate Bill 25 (1st Reprint): Revises provisions governing the organization and
functions of the Office of the Attorney General relating to domestic violence and
the fictitious address program. (BDR 18-385)**

Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General:

I am here to present Senate Bill 25 (1st Reprint) for your consideration. With me this morning is Arlene Rivera, who is our ombudsman for the Domestic Violence, Sexual Abuse and Human Trafficking Division in the Office of the Attorney General. The core purpose of this bill is to consolidate four existing statutory boards that perform important and sometimes overlapping functions in responding to the problem of domestic violence in Nevada. We propose to consolidate these four boards into a single entity that will operate more efficiently and better effectuate the ultimate goals of reducing domestic violence, saving lives, and ensuring safe and healthy homes for families in Nevada.

With minor exceptions, the bill does not alter what the Office of the Attorney General does relating to domestic violence. It simply allows our office to more efficiently and effectively do what we have done. You know well that domestic violence continues to tear at the fabric of our society. Nevada consistently ranks at or near the top of states in the number of women

killed by men. We are among the worst states for instances of domestic violence offenses. These statistics demonstrate that our state still has a long way to go in reducing domestic violence. Most importantly, we know that children who grow up in homes with domestic violence tend to replicate violence in their adult relationships. That perpetuates a cycle.

Domestic violence requires a coordinated response. Our office performs many essential statutory functions in the fight against domestic violence. We administer the federal Violence Against Women Act (VAWA) of 1994 grant programs that provide critical funding at the state and local level. Our office awarded \$2,721,763 in VAWA funding for the current state fiscal year. We made those awards to 56 different entities—2 state governmental entities, 2 universities, 18 local governmental entities, and 34 nongovernmental entities. We also provide several domestic violence prosecutors with special expertise to prosecute domestic violence cases in rural counties on behalf of the district attorneys. We have also implemented and managed a program called Victim Information and Notification Everyday (VINE). This is a statewide automated system that allows victims to receive timely and accurate information on the custody status of offenders who have committed crimes against them as well as notice of any changes in the offenders' custody status, so they can take any steps that they deem necessary to protect themselves and their families.

We also have Arlene Rivera, who is an incredible resource for our office. She serves as a liaison for all state and local partners on issues related to domestic and intimate partner violence, sexual assault, and human trafficking. She serves as a state-level coordinator with oversight of all the programs and initiatives that I will be touching upon today.

In getting to the core purpose of S.B. 25 (R1), our office also administers four statutory boards that perform important and, in many instances, overlapping functions. The Nevada Victim Information Notification Everyday Governance Committee oversees the VINE program I mentioned. The Committee on Domestic Violence, the Nevada Council for the Prevention of Domestic Violence, and the Domestic Violence Fatality Review Statewide Team are the others. Senate Bill 25 (1st Reprint) would consolidate these four different statutory boards into a single entity simply titled the Committee on Domestic Violence, with the goal of more efficiency and effectiveness in the operation. Sections 1, 5, 6, 7, and 29 of the bill effectuate this consolidation.

I would like to briefly provide the Committee with the history of each of these boards. The first board, the Committee on Domestic Violence, was created in 1997. It was created during the 69th Session under the leadership of former Attorney General Frankie Sue Del Papa. It followed the landmark passage of VAWA in 1994. The Committee on Domestic Violence is responsible for certifying and regulating batterers' treatment programs in Nevada. These programs are mandated for anyone who is convicted of a domestic violence offense. They are essential to holding offenders accountable. The committee also has additional responsibilities for evaluating the training provided to law enforcement officers regarding domestic violence and for providing legal services assistance to domestic violence victims to the extent funding would be available for that purpose.

The second board, the Council for the Prevention of Domestic Violence, was created during the 73rd Session under the leadership of Governor Brian Sandoval when he was Attorney General. The council is responsible for increasing awareness of the existence and unacceptability of domestic violence, for making recommendations for any necessary legislation relating to domestic violence, for providing financial support to programs for the prevention of domestic violence, and for reviewing the administration of the criminal justice system in rural Nevada with regard to domestic violence offenses.

The third board, the Domestic Violence Fatality Review Statewide Team, was created during the 76th Session under the leadership of U.S. Senator Catherine Cortez Masto when she was Attorney General. Domestic violence fatality review is a process that examines systemic interventions into known incidents of domestic violence that occurred in the family of the deceased prior to the homicide. Fatality review teams review domestic violence-related deaths with the underlying objective of preventing them in the future by identifying areas for improving the system response. The Domestic Violence Fatality Review Statewide Team works with established teams in Washoe and Clark Counties. Our team has conducted six fatality reviews since its inception.

The fourth board, Nevada Victim Information Notification Everyday Governance Committee, was also initiated under U.S. Senator Catherine Cortez Masto's leadership when she served as Attorney General in order to assure efficient management oversight for the VINE system. The committee was created during the 77th Session.

These four boards all perform many critical functions in our state's efforts to combat domestic violence. However, because they are separate and composed of different members, and because their responsibilities in many instances overlap, it poses a significant challenge to coordinate these efforts and ensure that they complement rather than duplicate one another or even become counterproductive. By combining these functions into a single committee, this entity can better focus on a comprehensive response to domestic violence in our state.

We do propose that one current function—the certification and regulation of batterers' treatment programs—be performed by behavioral health professionals to ensure these programs are as effective as possible. Section 22.5 of the bill transfers the certification of batterers' treatment programs to the Division of Public and Behavioral Health in the Department of Health and Human Services.

As I indicated, these programs, which are mandated for convicted offenders, are essential to getting them to change their behavior and hold them accountable for their actions. We believe that the certification of these programs should be performed by behavioral health professionals to ensure they are as effective as possible. Both the Attorney General and the Department of Health and Human Services agree that the Division of Public and Behavioral Health is best equipped to perform this function, and they can do so using existing resources with minimal fiscal impact.

Finally, sections 14 through 18 of the bill transfer the administration of the Confidential Address Program from the Office of the Attorney General to the Division of Child and Family Services in the Department of Health and Human Services. This program, which authorizes the issuance of a fictitious address to victims of domestic violence, human trafficking, and stalking to further their safety, was transferred to our office during the 78th Session. Both our office and the Department of Health and Human Services agree that the Division of Child and Family Services is in the best position to administer this program ([Exhibit C](#)).

I believe the cost of administering this program has been built into the Division's budget for the next biennium, but I want to allow representatives from both the Division of Public and Behavioral Health and the Division of Child and Family Services who are here today to confirm that and answer questions you may have of them. The remaining sections of the bill do not contain substantive proposals. They just make conforming amendments to comport with the amendments I have already detailed.

Assemblyman Kramer:

This bill just consolidates these. I understand all these boards are volunteer-based. You said you gave out \$2.7 million in grants. This is not a big effort to save money because you are not saving salaries. Really, other than giving one program to another agency, it is not about saving money. It is an efficiency tool. Is that correct?

Brett Kandt:

Let me clarify. The VAWA grant funding that our office administers and awards through grants at the state and local level is not really utilized for these boards. These boards' operations are primarily funded through receipt of a very small portion of court assessments pursuant to *Nevada Revised Statutes* (NRS) 176.059. This is not driven by fiscal considerations. This is more driven by our goal to ensure these boards operate and that their functions are carried out in the most effective, efficient manner possible.

Assemblywoman Bilbray-Axelrod:

You mentioned that the Confidential Address Program that will be transferred from your office to the Division of Child and Family Services was only transferred to your office last biennium. Do you know why it was moved to your office? I always get worried when we are bouncing programs around. Can you explain why someone thought the Office of the Attorney General was the correct place for this program? I tend to agree with you that the Division of Child and Family Services is the better place for that program, but I would like to know a bit of the backstory.

Brett Kandt:

The Confidential Address Program resided at the Office of the Secretary of State for many years. The prior administrations of both the Office of the Attorney General and the Office of the Secretary of State thought that maybe it would be a better fit at the Office of the Attorney General since we do have a victims' services function. We tried that over the last two years. We can perform it, but this is a question of who can perform it most

effectively. In our conversations with the Division of Child and Family Services and some of the functions they already perform, we determined they could more effectively administer this program.

Assemblyman Daly:

Section 5, subsection 1 includes a whole list of people who will be on this committee from the existing boards. Under paragraph (i) you have, "Any other person appointed by the Attorney General." Why do we want potentially unlimited appointees, with members who may have no nexus to the issue? I would hope that would not be the case, but it could be. It seems to leave things open to driving an agenda rather than sticking to the issue. Why would we want to do that?

Brett Kandt:

We are proposing that the new committee have a minimum of ten members from specific disciplines. We want the Attorney General to have the flexibility to add additional members that could bring additional expertise and may want to contribute to the efforts of the committee. There are two reasons for that. One, because we are effectuating a consolidation of these four boards which currently have members, and to the extent that those current members want to continue to serve, we do not want to deny anyone who currently serves that opportunity. Two, this concept of having a minimum floor and allowing additional membership as the Attorney General sees fit already exists for the Council on the Prevention of Domestic Violence, and it has been a very successful model. It provides maximum flexibility regarding the appointment of members who want to serve who can bring expertise and can contribute to the committee's efforts. That is the reason we proposed that.

Assemblyman Daly:

Thank you for the explanation. I think some of the board's membership needs to be looked at through the filter of which administration it came through. It seems like you could bring in those extra people as experts to give advice rather than establish them as members.

Section 5, subsection 2, paragraph (e) and paragraph (f) reference the rural counties. Not that I think they are treated differently, but there are not as many services in the rural counties. Is that why you are putting the emphasis into this, including the information from the rural counties, because they may not have as many services available? Obviously, I do not think justice will be delivered any differently in the rural counties, but is that why there is emphasis on the rural counties?

Brett Kandt:

I want to emphasize that with the exception of the batterers' treatment certification function, which would transfer to the Division of Public and Behavioral Health, all the existing functions of these four separate boards would be collapsed into this single entity. Currently, there are some specific statutory mandates to focus on the needs of our rural communities because they face different challenges and resource issues than our metropolitan areas do.

I believe that when the policymakers who preceded you in the Legislature placed that in statute, they were considering that this statewide effort to coordinate and focus on how we can create system improvement recognized that the challenges in our rural communities were unique and not the same as our challenges in our large, metropolitan areas.

Assemblyman Daly:

Section 5, subsection 3 establishes the chair of the committee. Who has been the chair of these various committees in the past? On this particular one, you want to make the Attorney General or a designee the chair. Why is that not up to the committee?

Brett Kandt:

Each committee is unique. The Council for the Prevention of Domestic Violence has always been chaired by the Attorney General. The Committee on Domestic Violence, which performs the batterers' treatment certification function, has been chaired by a different individual. Fatality review teams have traditionally been chaired by the Attorney General, although there is the authority to have a different individual chair a fatality review team. I chaired the last fatality review team when we convened and conducted a fatality review last fall in Churchill County. The Nevada Victim Information Notification Everyday Governance Committee was chaired by a different individual. Because the Attorney General is a constitutional officer and has responsibility to take leadership on the issue of domestic violence in our state, we envisioned that the Attorney General would chair this single entity.

Assemblyman Daly:

Section 7 eliminates the multidisciplinary teams. I was trying to follow your explanation. I do not know all of the ins and outs. I know multidisciplinary teams were established [Senate Bill 66 of the 76th Session]. They were set up to try to make responses better. Are you trying to consolidate those separate teams? The way I remember, the multidisciplinary teams were established after the fact to ensure there was consensus on whether it was domestic violence, what the circumstances were, how to correct it, et cetera. Those disciplines on the team were the experts needed to give the assessment. Is that correct?

Brett Kandt:

The authority to convene a statewide fatality review team was sought and received from the Legislature in the 2011 Legislative Session. We recognized that the rural communities do lack resources and have unique challenges. Clark County and Washoe County already had the authority to convene fatality review teams in their respective jurisdictions. The gap was in the other 15 counties in our state. Our proposal that was accepted at that time was to grant the Office of the Attorney General the authority to convene teams to fill that gap. As I indicated, since then, our office has conducted six fatality reviews throughout the rural counties of our state. I have personally sat on three of those fatality review teams. As I also indicated, I chaired the last fatality review team that we conducted last fall. Many of the same subject matter experts or the individuals we need to bring their expertise to bear

for a productive fatality review are individuals who sit on these other committees. To avoid overlapping efforts, we felt that it made sense to collapse that function and grant this single entity the authority to sit as a fatality review team when there is an appropriate case that merits review.

Assemblyman Daly:

So that part is already in the statute, or is it proposed in this bill?

Brett Kandt:

We already have the authority. Everything we are proposing in this bill is currently authority that one of these four boards has. The only piece of it we are proposing to transfer outside of our office is the batterers' treatment certification function and put that with the Division of Public and Behavioral Health. Everything else we want to combine into a single entity to avoid a duplication of efforts and better utilize the knowledge we gain to focus on a statewide response for system improvement.

Assemblywoman Neal:

I have a question about the language struck out in section 5, subsection 2, paragraph (d). This strikes out the legal services even though you said you will still be providing it.

Brett Kandt:

That is actually a very good point, and I appreciate your raising that. That is a function that the committee never really performed. It talked about providing legal services for victims to the extent that funding was available. There was a qualifier there. It was never a function that the committee performed because this committee was created shortly after the landmark passage of VAWA. It was recognized that one of the essential services for victims was legal services and assistance on the civil side. Concurrently with that, there arose a series of efforts to provide legal services to victims of domestic violence throughout our legal services agencies. We have those agencies in southern Nevada, northern Nevada, and volunteer attorneys for rural Nevadans. They have performed that function. This language does not make a lot of sense because that is a function that is already being addressed throughout legal service agency efforts.

Assemblywoman Neal:

I have a question about the behavioral specialists. I do not know what their role was before, but they appear to have an increased role in terms of certifying and monitoring batterers' treatment programs. Do we have enough qualified people to take on that role now that it will be a more integrated approach to their expertise?

Brett Kandt:

Rather than trying to answer that question myself, I think it would be appropriate to allow the representatives of the Division of Public and Behavioral Health to indicate what their resources are and how they can better serve this function of certifying these batterers' treatment programs.

Assemblywoman Neal:

I know we have the Division of Public and Behavioral Health, but we also have agencies that are performing behavioral health within southern Nevada. I do not know if these clients are even in their wheelhouse.

**Cody L. Phinney, M.P.H., Administrator, Division of Public and Behavioral Services,
Department of Health and Human Services:**

The Division of Public and Behavioral Health will take on the piece of certifying these community treatment programs. The mechanism we will use to do that is a combination of our expertise from forensic mental health programs and our regulatory branch. It is my intention to have our Health Care Quality and Compliance Bureau staff, who are really experts on clarification processes, and our forensic mental health staff, who are experts on what is necessary for these programs, work together to ensure that the regulations developed are meeting the needs of the state. The regulatory branch will monitor and certify the programs.

Assemblywoman Neal:

Will the specialists who do this be paid through Medicaid? Will the domestic violence clients apply for Medicaid and then get those services? I am assuming these people do not have money because they have a fictitious address and they are no longer in their current state of stability.

Brett Kandt:

Just to clarify, these batterers' treatment programs are mandated for the offender who is convicted of the domestic violence offense, recognizing that they need to change their behavior and the way they approach their interpersonal behaviors and not resorting to violence to resolve conflict. That is the purpose these programs serve. If you are convicted of a domestic violence offense, part of your sentence is that you have to attend a batterers' treatment program. There is a certification process to ensure those programs operate appropriately and are as effective as possible. That certification function is the function we are proposing to turn over to the Division of Public and Behavioral Health because they have that behavioral health expertise.

When you look at the 50 states, all of which have batterers' treatment certification programs, where that certification function lies varies from state to state. In the research I have seen, there are maybe four states, including ours, that have it residing in the Office of the Attorney General. There are many states that have it residing with state agencies that deal with behavioral health issues. Some states have it residing with the prison system. There are a variety of approaches, but we believe the best thing for Nevada would be to have the certification piece reside with the Division of Public and Behavioral Health. They have the expertise to best determine whether a program should be certified and monitor it to determine its effectiveness.

Assemblywoman Neal:

I was thinking about the provider, and I did not phrase that appropriately. There is a behavioral health provider who will then help administer this program. The appropriate question should have been, how will they get paid?

Brett Kandt:

Typically, the offenders have to pay for the cost of the program they attend.

Assemblywoman Neal:

Where are they getting the money if they are in jail?

Brett Kandt:

I do not know that I can answer that.

Chairman Flores:

I want to dissect briefly what Assemblywoman Neal touched upon in section 5, subsection 2, paragraph (d). It strikes out the legal services language, including helping with divorce. I want to ensure I understand your statement. The genesis of this language goes back to VAWA. The idea was to ensure that the victims could escape that situation, and divorce would be one way to detach a victim from that. The original idea was that we would help the victims of domestic violence through that divorce process. I have a question about the language here that says, "To the extent that money is available." Was the idea there that we would be applying for federal funding?

Brett Kandt:

I do not believe there was anything in the original Violence Against Women Act of 1994 that mandated this language. I think part of what VAWA recognized was that one of the essential services that a victim of domestic violence required was civil legal assistance—with divorce, child custody, et cetera. When this committee was created in the wake of the passage of VAWA, that language was included to the extent that this committee might be able to assist in performing that service. However, as we know, that service is now performed by our legal service agencies. They have built the capacity and do provide a significant amount of civil legal assistance to victims of domestic violence in divorce matters, child custody matters, et cetera. Former Speaker Buckley has a tremendous program with her legal aid services agency in southern Nevada. Counterpart agencies in northern Nevada and Volunteer Attorneys for Rural Nevadans already perform that function. This became superfluous. This is not a function that this committee ever performed. It was unnecessary because the legal service agencies rose up to provide that function.

Chairman Flores:

Has money ever been available for this?

Brett Kandt:

To my knowledge, the committee never performed this piece because the local legal service providers have always provided it.

Chairman Flores:

Was it because they did not want to compete for the same federal funding, or you just thought enough was being done through legal aid and the two to three others groups? I am just trying to figure out because we are keeping the language there. We are still saying we will provide financial support to programs. We are not getting rid of "to the extent money is available," so we still agree that we want to provide money somewhere. I am trying to figure out what that means because we are saying we have never had money there. We are leaving that language there saying that when we have money, we will spend it. In my mind, at some point the function of this committee will be that they try to capture money and shuffle it into some type of program. Moving forward, what will we do different so that there is money available and we can provide financial support to some of these programs?

Brett Kandt:

It is broad language that we would like to keep in there. To the extent that the committee identifies a funding source and wants to assist a particular program, we want to enable them to do that. But we do not need the specific language that has existed for 20 years that just focused on the divorce and family law piece. As I already indicated, the legal services are already being provided. We would like the broader authority in case we identify a funding source and a program that we want to match that funding source with. We would like to retain the committee's authority to be able to facilitate that because it is one of the purposes of this statewide committee—identify resources and resource gaps, and channel those resources to address those gaps.

Chairman Flores:

I appreciate that. I am concerned that we will be here again in 20 years. If the record is clear that the intent is to pursue some of those dollars and provide financial support to some of these services and programs, then that is great. I am worried that nothing will happen with that.

Assemblyman McCurdy:

Section 5, subsection 2, paragraph (a) states, "Increase awareness of the existence and unacceptability of domestic violence in this State." What do we envision that mechanism being to increase awareness? Are we setting the framework, or are we going to leave it to the committee to develop some type of marketing campaign?

Brett Kandt:

When we drafted this language with the Legislative Counsel Bureau, we were taking everything these four committees already do from their various statutes and combining it into a single committee. The Council for the Prevention of Domestic Violence already has this statutory language in existing statute, which is NRS 228.490. One of their purposes is to increase the awareness and unacceptability of domestic violence in the state. That is part of the consolidation. We are including that language for this single entity. Ms. Rivera can probably talk about what we have done in the past to address that awareness piece.

**Arlene Rivera, Ombudsman, Domestic Violence, Sexual Abuse and Human Trafficking
Division, Office of the Attorney General:**

We are very ambitious about what we want to do with awareness. If we are able to combine these boards, we could get them to communicate better in the policy, education, awareness, and outreach pieces. We can work not only with the rural areas, but I want to expand where we are working. I want to spread more awareness in our diverse communities. I want to ensure that we expand our efforts and outreach across every aspect of Nevada in terms of education and awareness. We have existing programs, but I want to focus on children. For example, I do some work with an organization called Hermandad Mexicana Transnacional. I attend their workshops and speak to them in Spanish about domestic violence awareness. I talk to them about VINE and about the Council on the Prevention of Domestic Violence and what all these other committees and boards do because it is important that they are not perceived just as meetings where nothing happens. There is really meaningful stuff that is happening, and I want to ensure that the communities are aware of it.

I am involved with other organizations, not just Hermandad Mexicana Transnacional. We have other projects in the expansion. For example, we are also working on human trafficking because they are all interconnected. I am working with the Salvation Army to start putting out information to create more awareness about human trafficking and the Southern Nevada Human Trafficking Task Force. We want to ensure we are focusing on increasing education and awareness for our communities—rural and urban. That is what will prevent it. We are in the top five worst states for these crimes, and I am very thankful that you are listening to us today. This bill will help me work better to coordinate the committees and ensure there is more communication to better serve our rural areas and cities.

Brett Kandt:

Let me give you two recent examples of initiatives that the Council for the Prevention of Domestic Violence engaged in to increase awareness in our state. The first was that they worked with the Girl Scouts of the United States of America to create a domestic violence merit badge. Girl Scouts could earn this badge by learning more about the dynamics of intimate partner violence. Once again, we were looking at a younger generation and changing their view so that hopefully they are more aware and can decrease instances of domestic violence or exposing themselves to relationships where domestic violence could occur. I believe there were also conversations working with the Boy Scouts of America to create a comparable merit badge with regard to domestic violence. That is one example.

Another example is that the Council for the Prevention of Domestic Violence also worked with the Nevada State Board of Cosmetology to increase the awareness of domestic violence among licensees. They recognized that many victims of domestic violence may come into their nail technician or hair stylist and confide in that person about the fact that they are in a violent relationship. The technician or stylist might recognize signs and put the victim in a position to access resources and get help. Those are a few examples of where the council focused on that piece.

Assemblyman McCurdy:

I do understand this is an important topic, especially in our state and the urban areas. I want to ensure there is a set plan moving forward as to how we would increase that awareness. Ideas are great, and I hope you have the support you need to implement all of the ideas you have to make those become a reality. I want to know there is a commitment moving forward to spread that message.

Chairman Flores:

Is there anyone wishing to testify in favor of the bill? [There was no one.] Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral to the bill? [There was no one.] I will close the hearing on S.B. 25 (R1). I will open the hearing for Senate Bill 502 (1st Reprint).

Senate Bill 502 (1st Reprint): Makes various changes relating to the Public Employees' Benefits Program and the Public Employees' Deferred Compensation Program. (BDR 18-979)

Patrick Cates, Director, Department of Administration; and Chair, Board of the Public Employees' Benefits Program:

I am here today to ask for support for Senate Bill 502 (1st Reprint), which seeks changes to the Public Employees' Benefits Program (PEBP) and the Nevada Deferred Compensation Program. The intent of S.B. 502 (R1) is to improve the coordination of both programs with the Department of Administration's Division of Human Resource Management as a "total compensation package" for state employees and retirees. This bill is one piece of a broader effort to bring enhanced support and oversight to boards and commissions, which often must execute their duties with limited resources and little guidance on state processes.

I wish to thank the Senate Committee on Government Affairs for their work on this bill. With their guidance, I worked with representatives from the Retired Public Employees of Nevada (RPEN); the American Federation of State, County and Municipal Employees (AFSCME); and the Nevada Faculty Alliance to craft the consensus language that you see before you today. This bill passed the Senate unanimously and also has the support of both the Board of the Public Employees' Benefits Program and the Committee on Deferred Compensation for State Employees.

I will briefly cover the major provisions of this bill. The Nevada Deferred Compensation Program would become part of the Department of Administration with the executive officer being appointed by the Director of the Department of Administration with concurrence by the Committee on Deferred Compensation for State Employees, instead of serving solely at the discretion of the Committee. The bill also changes the composition of the Committee by allowing one member to represent local government in recognition of the growing participation of local government in the program. Importantly, the Committee will retain fiduciary responsibility and decision making for the program and its funds.

The Public Employees' Benefits Program would remain an independent organization with the executive officer continuing to serve at the pleasure of the Board of the Public Employees' Benefits Program. However, the quality control officer, who previously served at the pleasure of the executive officer with concurrence of the Board, would now be appointed by the Director of the Department of Administration.

The bill also changes the composition of the Board of the Public Employees' Benefits Program, while retaining a total of ten members. The Board would eliminate the local government representative. There would be two members representing retirees—there is no change from current law. Two members will represent the Nevada System of Higher Education (NSHE). One member will be from the north and one will be from the south. That is an addition of one member for NSHE. Two members would represent state employees. That is modified from current law to specify that they be in the classified service. One member will represent state management with expertise in the field. The requirements for what constitutes expertise has been modified a bit to allow for a broader pool of candidates. The same is true with the two members who represent subject-matter experts. Generally, they are not state employees. The Director of Finance position would be replaced by the Director of the Department of Administration.

Additionally, the bill repeals statutory requirements for continuing education for the Board of the Public Employees' Benefits Program and the executive officer. Continuing education requirements in statute are rare for boards and commissions. This is better addressed in board policies. It should be noted that the elimination of the statutory requirement does not mean elimination of education. The PEBP budget closing includes funding for continuing education.

Lastly, the bill makes changes concerning procurement for both programs. The bill eliminates some existing exceptions to *Nevada Revised Statutes* (NRS) Chapter 333—the state purchasing law for PEBP, which has proved problematic in the past. Instead, language is added for both the PEBP and Nevada Deferred Compensation Program that recognizes the primacy of NRS Chapter 333 and the authority of the Administrator of the Purchasing Division in the Department of Administration while also allowing the Board of the Public Employees' Benefits Program and the Committee on Deferred Compensation for State Employees to participate on request for proposal (RFP) evaluation committees in part or in whole without requiring open meetings in conflict with NRS Chapter 333, as well as providing some review and approval over awards ([Exhibit D](#)).

Chairman Flores:

Is there anyone wishing to testify in favor of the bill?

Marlene Lockard, representing Retired Public Employees of Nevada:

As many of you know, S.B. 502 (R1) as originally introduced was opposed by RPEN, but we have spent many hours working with Director Cates and have come to this amended version, which we feel strongly enhances the efficiency and functions of both programs. We strongly support S.B. 502 (R1) in its current form.

Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees, AFL-CIO:

We are in strong support and have been very engaged in crafting something that we feel is a good bill and will help both programs.

Kent M. Ervin, Ph.D., Legislative Liaison, Nevada Faculty Alliance:

I am representing all eight of the NSHE institutions, north and south. I am also an appointed member of the Committee on Deferred Compensation for State Employees. As Mr. Cates noted, the Committee voted unanimously in support of this bill as amended. The Nevada System of Higher Education now represents 36 percent of the active PEBP participants, so it is just time to add a second member for the ten-member board. The Nevada Deferred Compensation Program, unlike PEBP, is a very small program with just one and three-quarters staff members. Bringing them into the Department of Administration provides them more human resource, information technology, and office infrastructure support. We think that is a good thing. It is a different situation at PEBP, which will remain independent under this bill.

Regarding the RFP procedure, this is a successful attempt to strike a balance between the needs that all programs should follow state purchasing rules in evaluating RFPs with no carve-outs. The evaluation of competitive bids really has to be done confidentially. That is how the purchasing process works. On the other hand, board members are often the experts on their programs and what is needed, particularly for the more complex RFPs and contracts. It makes sense to allow them to be members of those confidential review committees.

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:

We are in support of the amended S.B. 502 (R1).

Assemblywoman Neal:

I have a question about section 24.5, subsection 5. You were discussing confidentiality of awards, but the language struck out of section 24.5 is the removal of the Purchasing Division evaluating the proposal. What were the inefficiencies that were happening around the Purchasing Division being involved in evaluating the proposal? Now it says the action should take place in an open meeting. I would like clarity around that provision.

Kent Ervin:

The idea is that PEBP formerly had a carve-out where after purchasing, the confidential evaluation committee did its thing. It could then be taken to the Board of the Public Employees' Benefits Program as an open meeting to reevaluate. We are taking that out. That is where some of the issues occurred. Perhaps Mr. Cates would like to address that, but until the contract is awarded, the review has to be confidential. That is fully following current state purchasing practices. Once the selection of the winning bid is made, it comes back to the Board for confirmation because they are ultimately the ones issuing contracts.

They might send it back because the process did not work, and then the bidding would start over. This is actually the process that the Committee on Deferred Compensation for State Employees used in its last major recordkeeper RFP before I was on the committee. It worked. It was appealed, but defended, and it went through.

Assemblywoman Neal:

In section 55, there is a strikeout of the continuing education requirements. What were the inefficiencies that were created by having the Executive Director or board members do continuing education?

Marlene Lockard:

We opposed continuing education being cut. The administration felt that there could have been some abuses due to places that some members had traveled. However, the Senate Committee on Finance and the Assembly Committee on Ways and Means have put money for continuing education back into the budget.

Chairman Flores:

Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral to the bill? [There was no one.] I will close the hearing for S.B. 502 (R1). We have suspended the rules, and this last bill was fairly clean. Assemblywoman Neal would like Mr. Cates to address one question before we vote.

Assemblywoman Neal:

Can you answer my question that I raised on section 24.5, subsection 5?

Patrick Cates:

I think there is a history of both the Board of the Public Employees' Benefits Program and the Committee on Deferred Compensation for State Employees struggling with the process for procurement for RFPs and evaluation committees. I have been in my position for about a year and a half. One of the first issues that I was involved in as Director was the Board of the Public Employees' Benefits Program conducting an RFP for health maintenance organizations (HMOs). They did that last year. A process was set out with the Purchasing Division whereby a technical committee would score the proposals, rank them, and make a recommendation to award. The Committee had a similar process where they were going to score these proposals in a public meeting and then make their award. What happened over a series of meetings was that the technical committee selected two vendors, who are the current vendors that provide HMO services. The scoring that the Board of the Public Employees' Benefits Program performed would also indicate that those two vendors should have been awarded.

The Board proceeded to have further discussions in an open meeting with all of these vendors present and set aside all those scoring criteria and agreed to award it to a third vendor instead. That process dragged out over several meetings. There were repeated attempts by the Purchasing Division Administrator and the Executive Officer of PEBP to steer them clear of that course, and ultimately the decision was made to extend the current

contracts so they could go through another RFP process, which they did successfully complete. That was done according to more normal procedures, and we had a successful award. However, I think, had the Board of the Public Employees' Benefits Program awarded in the manner they had decided, the state would have been sued, and I do not think that contract would have stood if we tried to proceed with it. That is a real concrete example of what got me started on this bill in the first place.

Chairman Flores:

I would like to entertain a motion to do pass S.B. 502 (R1).

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO DO PASS
SENATE BILL 502 (1ST REPRINT).

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BROOKS, ELLISON, AND
WOODBURY WERE ABSENT FOR THE VOTE.)

Assemblyman McArthur will take the floor statement.

I encourage you to go back and review Senate Bill 501. We may have a meeting behind the bar to address that specific bill.

Is there any public comment? [There was none.] From here on out, we will probably only have behind the bar meetings. This meeting is adjourned [at 10:20 a.m.].

RESPECTFULLY SUBMITTED:

Isabel Youngs
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a letter dated May 18, 2017, in support of Senate Bill 25 (1st Reprint), authored and submitted by Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General.

[Exhibit D](#) is written testimony authored by Patrick Cates, Director, Department of Administration; and Chair, Board of the Public Employees' Benefits Program, regarding Senate Bill 502 (1st Reprint).