

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

**Seventy-Ninth Session  
April 7, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:06 a.m. on Friday, April 7, 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](http://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 Chris Brooks  
Assemblyman Richard Carrillo  
Assemblyman Skip Daly  
Assemblyman John Ellison  
Assemblywoman Amber Joiner  
Assemblyman Al Kramer  
Assemblyman Jim Marchant  
Assemblyman Richard McArthur  
Assemblyman William McCurdy II  
Assemblywoman Daniele Monroe-Moreno  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Irene Bustamante Adams, Assembly District No. 42  
Assemblyman Ozzie Fumo, Assembly District No. 21  
Assemblywoman Ellen B. Spiegel, Assembly District No. 20



**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Scott Scherer, representing Regional Transportation Commission of Southern Nevada  
Brian McAnallen, Government Affairs Manager, Office of Administrative Services,  
City of Las Vegas  
Chaunsey Chau-Duong, Public Affairs, Southern Nevada Water Authority  
Justin Harrison, Director, Government Affairs, Las Vegas Metro Chamber of  
Commerce  
Jonathan P. Leleu, representing NAIOP, the Commercial Real Estate Development  
Association  
Mike Cathcart, Business Operations Manager, Finance Department, City of  
Henderson  
Anthony Ruiz, Senior Director, Communications and Public Affairs, Las Vegas  
Global Economic Alliance  
Rachel Gumpert, representing American Federation of State, County, and Municipal  
Employees International, Washington, D.C.  
Richard P. McCann, Executive Director, Nevada Association of Public Safety  
Officers  
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association  
of Nevada  
Michael Sean Giurlani, President, Nevada State Law Enforcement Officers'  
Association  
Marlene Lockard, representing Service Employees International Union, Nevada Local  
1107; and Las Vegas Police Protective Association Civilian Employees, Inc.  
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO  
Michelle Kim, Director of Strategic Initiatives, Clark County Education Association  
Deb Berko, Organizer, American Federation of State, County, and Municipal  
Employees, Local 4041  
John Fudenberg, representing Clark County  
Dagny Stapleton, Deputy Director, Nevada Association of Counties  
James R. Wells, Director, Office of Finance, Office of the Governor  
Bob Seale, Private Citizen, Reno, Nevada  
Kate Marshall, Private Citizen, Reno, Nevada  
Grant A. Hewitt, Chief of Staff, Office of the State Treasurer  
Tara R. Hagan, Chief Deputy Treasurer, Office of the State Treasurer  
Vincent "Budd" Milazzo, Senior Deputy Treasurer, Office of the State Treasurer  
Lynn Marie Goya, County Clerk, Clark County

Kimberley Perondi, Deputy Secretary for Commercial Recordings, Office of the Secretary of State  
John Ocegüera, representing Reno-Sparks Indian Colony  
Jeffrey M. Kintop, Administrator, Division of State Library, Archives, and Public Records, Department of Administration  
Lisa Foster, representing Boulder City  
Donna DiCarlo, President, Sierra Nevada Chapter, ARMA International  
Lawrence R. Burtness, County Recorder, Washoe County

**Chairman Flores:**

[Roll was called. Rules and protocol were explained.] I will open today's meeting with Assembly Bill 399.

**Assembly Bill 399: Establishes the Nevada State Infrastructure Bank. (BDR 28-1129)**

**Assemblywoman Irene Bustamante Adams, Assembly District No. 42:**

Before you today is Assembly Bill 399 for your consideration. I had the privilege of being a part of the Southern Nevada Forum, which is comprised of legislators from all parties, business leaders, and community leaders. Last year we worked on prioritizing issues for southern Nevada. I worked alongside Assemblyman Paul Anderson, Assemblywoman Dina Neal, Assemblyman Tyrone Thompson, and Senator Patricia Farley to spearhead the Economic Development and Workforce Subcommittee. Before you today is the number one priority on the economic development list—a state infrastructure bank. That is what you will hear about today. There is an amendment from Assemblyman Daly that I have accepted (Exhibit C). We will go through it later today. In addition, even though it is a southern Nevada priority, it affects the entire state. I will turn it over to Mr. Scott Scherer, who will go over the details of the bill.

**Scott Scherer, representing Regional Transportation Commission of Southern Nevada:**

Assembly Bill 399 would create a state infrastructure bank in Nevada. State infrastructure banks were first created in the 1990s. There are now 34 states that have state infrastructure banks. They were authorized at the federal level in 2005 in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. Since then, some states have both a federal and a state infrastructure bank. This particular bill provides for one bank, but with multiple federal and state accounts. Assembly Bill 399 does not provide any funding for this infrastructure bank, but prepares the state to receive federal funds, grants, et cetera. There is significant discussion in Washington, D.C., these days about a major infrastructure package. It looks like one of the few issues that may have bipartisan support.

This bill will help us compete for federal funds should they become available in the interim. If we have to call a special session to act, it may be too late, and we may lose funding to other states. As proposed in A.B. 399, the Nevada State Infrastructure Bank would have six separate accounts, including a federal highway account, a federal nonhighway account,

a state and local highway account, a state and local nonhighway account, a state and utility infrastructure account, and a federal utility infrastructure account. Those are in section 23 of the bill. The mock-up is on the Nevada Electronic Legislative Information System if you want to refer to that ([Exhibit D](#)). There were a number of amendments suggested. I will go through those if time permits.

The Nevada State Infrastructure Bank would have the authority to make loans to a "qualified borrower," as defined in section 15. Section 10 defines a "governmental unit," which may include a joint venture between a governmental unit and a private entity, or a utility. In addition to making loans, the bank may provide "other financial assistance," which is defined in section 13. It includes grants, contributions, interest rate subsidies, and other credit enhancements. The bank may provide loans and other financial assistance for "transportation facility" projects, which are defined in section 18. That definition has been significantly amended in the mock-up ([Exhibit C](#)). Section 19 defines "utility infrastructure project." The idea of the bank is to leverage the money in the bank to build more infrastructure projects. As the loans are repaid, new projects or new phases of projects may be funded.

The South Carolina Transportation Infrastructure Bank funded three separate phases of a roadway connector project along the South Carolina and Georgia state line in and around Augusta, Georgia, and North Augusta, South Carolina. For those of you who are golf fans, not only are you aware that the area is growing rapidly, but it gets significantly more traffic in early April of every year, which happens to be this coming weekend. With funds provided by the local communities, the federal government, the state of Georgia, and primarily the South Carolina Transportation Infrastructure Bank, they were able to build a ring road around the two communities and connect it to Interstate 20 to handle the growing traffic in the area.

This is one of the key aspects of an infrastructure bank. It leverages the money in the bank in several ways. One way is by using the loans that are repaid to make new loans. The second is by obtaining matching funds from the federal government, the local community, or available grants. The third is by offering credit enhancements or interest rate subsidies to allow qualified borrowers to obtain lower interest rates from private lenders or sales of bonds. Frequently, these tools are combined for the benefit of the same project. As of 2011, Florida's State Infrastructure Bank had leveraged \$1.1 billion in grants and loans into \$8.4 billion in projects. One of the benefits of the Nevada State Infrastructure Bank would be that it could give communities the opportunity to achieve their local priorities by leveraging the funds that they have available with loans and credit enhancements from the State Infrastructure Bank.

Section 20 of the bill provides for a Board of Directors for the Bank, consisting of seven members. Section 21 gives the Board various powers and imposes certain obligations on the Board, including the power in section 21, subsection 1, paragraph (i) to establish

policies and procedures governing the selection of qualified projects, and to establish fiscal controls and accounting procedures to ensure proper accounting and reporting. Section 36 requires an annual report to the Governor and Legislature within 90 days of the close of the fiscal year.

Section 22 provides for the appointment of an Executive Director, who will be responsible for reviewing applications and ensuring that the applicants and projects are eligible. Then we will put them in front of the Board to determine whether and what type of assistance will be provided. Section 28 provides that the obligations of the Bank are not obligations of the state, and they are not backed by the full faith and credit of the state. The Bank is liable to third parties only up to the amount of the assets in the Bank. Finally, section 39 states that the Bank may be created and the board appointed upon passage and approval. For all other purposes, the act does not become effective until money is available to the Bank, which will most likely be from the federal government initially. This bill will have no initial cost until there is money made available. There will be no cost to the state.

There is another state infrastructure bank bill, [Senate Bill 517](#). It is pending in the Senate. That bill was recently amended to conform to this bill. The mock-up in front of you ([Exhibit D](#)) tries to conform the two bills to work together. I know Assemblyman Daly has his own amendment as well ([Exhibit C](#)). The sponsor confirmed that this amendment has been accepted.

If you look at section 5 of the amended bill ([Exhibit C](#)), it added that one of the eligible costs would be "sustainability certification." The cost of obtaining that certification would be an eligible cost. The loans from the Bank could be used for those costs. Additionally, an "eligible project," as defined in section 6, would include maintenance and decommissioning. I believe that was suggested by the American Society of Civil Engineers. There were several different parties that suggested amendments. We have included as many of those as we could. In section 10, a "governmental unit" includes the ability for two or more governmental entities to combine. We wanted to make it clear that this could be through a regional transportation commission. As most of you know, the Regional Transportation Commission (RTC) of Southern Nevada is made up of the City of Henderson, the City of Las Vegas, the City of North Las Vegas, and Clark County. It is a combination of those governmental units. The same is true of Washoe County.

Continuing with the amended bill ([Exhibit C](#)), section 18 defines "transportation facility." It has been amended to make it more specific and mention specific types of things that could be funded as a transportation facility. Section 19 was a proposed suggestion from NAIOP and changes wording to "master-planned industrial or business park." As the sponsor mentioned, one of the purposes of this bill is for economic development and getting utility infrastructure projects out to new areas.

Section 20 covers the Board of Directors. Originally, the Governor was to appoint the Chair. Section 20, subsection 6 was amended so that the Chair and a Vice Chair are elected annually from among the Board members. We put in additional provisions in terms of what a quorum

is and what the voting requirements are. In terms of compensation, each member of the Board of Directors would be entitled to per diem allowances on the days they meet. There will not be meetings until there is money available. There are two members who are not already state officers or employees. Those two members would be entitled to \$100 per day for each day of meetings as well. There will not be any cost until money is available.

Section 21, subsection 1, paragraph (b) contains a technical change. It provides that the Bank may sue and be sued in the name of the Bank. In section 21, subsection 1, paragraph (r), the advisory committees suggested that we include civil engineering. We thought that was a good idea as a potential advisory committee. Further down in paragraph (x), we added that the Bank will have perpetual succession until the Legislature decides otherwise. They may request technical advice, support, and assistance from the Department of Transportation. This is a provision that was in S.B. 517. We felt it would be valuable in this bill as well.

At the bottom of section 21, subsection 5, the provisions of *Nevada Revised Statutes* (NRS) Title 55 are referenced. We added that NRS Titles 55 through 57 do not apply to the bank. *Nevada Revised Statutes* Title 55 is about banking; NRS Title 56 includes savings and loans and trusts. We call it a bank, but it is not a typical bank. The banking regulations would not apply to it. *Nevada Revised Statutes* Title 57 covers insurance. One of the credit enhancements the Bank can make is to be able to insure or reinsure debts. This would make clear that in acquiring insurance from an authorized insurer, they are not acting as a broker or required to be licensed as a broker. We have discussed this with the Division of Insurance in the Department of Business and Industry, and I think they are comfortable with that change.

Section 25 of the amended bill ([Exhibit C](#)) adds conforming language from S.B. 517. We deleted section 26, subsection 7. That was a subsection that previously exempted the Bank from some insurance provisions, but it also implied that the Bank itself would be issuing insurance, and that is not the intent. The intent is that the Bank might guarantee certain notes or offer letters of credit to help as credit enhancement. The Bank might procure insurance from an authorized insurer, but it is not the intent that the Bank would be the insurer of another's debt, so we struck that.

If a local government entity borrows money and does not pay it back and the entity is due money from the state, the state may withhold that money and pay it to the Bank, except in certain circumstances. Those circumstances are set forth in section 29, subsection 2. The state may not withhold payment to a borrower if doing so would violate the terms of an appropriation by the Legislature; the terms of any federal law; the terms of a contract to which the state is a party; a contract to which a governmental unit or qualified borrower is a party; or a judgment of a court that is binding upon the state. The amended language of "a contract to which a governmental unit or qualified borrower is a party" was suggested by Washoe County's and Clark County's RTCs. The concern here is bonds in particular—if those funds are committed to repay bonds, the idea is that those funds would not be withheld because those funds need to be paid to the bondholders.

Section 37 of the amended bill ([Exhibit C](#)) is the other change that would provide that the Department of Transportation may provide technical assistance. We had the authority to ask for it earlier in the bill. Sections 39 and 40 make conforming changes. Senate Bill 517 stems from NRS Chapter 408. There were some changes in NRS Chapter 408 in A.B. 399, but this bill stems from NRS Chapter 341. In combining the bills, we had to make conforming changes.

**Assemblywoman Neal:**

In section 14 of the bill under the definition of "project revenue," there are a lot of terms, including, ". . . rate, rent, fee, assessment, charge or other receipt derived or to be derived by a qualified borrower from a qualified project or made available from a special source . . . ." I need those broken down for me. That is a lot of different avenues. When you say "rate," what do you mean?

**Scott Scherer:**

The language drafted is very broad and allows a lot of flexibility. "Rate" could be the interest rate being paid on a loan, or it could be a rate paid for transportation—especially if this were a light rail or mass transit project of some kind. If we are talking about utility infrastructure, it could be rates charged by the utility. The idea was to capture any type of revenue that might arise from these types of projects.

**Assemblywoman Neal:**

Are we talking about special assessments? The definition does not delineate what type of assessment.

**Scott Scherer:**

I do not believe there was thought about specific assessments. If there was some kind of industrial park, business park, or some type of project where assessments might be made on the property owners or the tenants there, it would be available to help repay the loans. This language was drafted to be flexible.

**Assemblywoman Neal:**

I understand revenue from the project. But then you have, "derived or to be derived" which means future revenue. Then you have "or made available from a special source." What would that "special source" be?

**Scott Scherer:**

That may be a grant from a charitable organization, a federal grant, or another source that the qualified borrower or project may receive revenue from.

**Assemblywoman Neal:**

I assumed it did not mean that because when you read further down in section 14, it delineates grants, gifts, and other appropriations. I assumed "special source" meant something else.

**Scott Scherer:**

I did not draft that language, but that was my understanding of "special source." I certainly understand your point, Assemblywoman Neal. I can get you more clarification on what was intended when that language was put in.

**Assemblywoman Neal:**

Yes, because it is so broad that, to me, it is a catchall section. If any money from anywhere is available, we will snatch it. It says, ". . . without limitation, the proceeds of a loan made by the Bank, investment earnings, payments to a reserve for capital or current expenses, proceeds of insurance or condemnation and proceeds from the sale or other disposition of property and from any other special source . . . ." Again, "special source" shows up. Can you help me understand those sentences?

**Scott Scherer:**

I think we need to look at how project revenue is used. If we are talking about revenue that may be available to repay the loans, the unused proceeds of a loan made by the Bank may be available to make the loan repayment. There are investment earnings. The same would be true if the money was sitting in your bank account. If you have earned money on that bank account or invested temporarily in some kind of bond and you have investment earnings, those would be available to repay your obligations from the bank. If you created a reserve and those funds are available, those may be available to repay your obligations to the Bank.

If there is a project and that project has some type of casualty and received insurance proceeds, those may be available to repay the obligations to the bank. I do not see condemnations happening in most cases because these will be governmental projects, but some of the utilities are not. Theoretically, there could be a condemnation of a portion of the project, or a governmental unit decides they need a portion of the project for another public use. If they pay fair value for the property they have condemned, that would be money available to repay obligations to the bank. The idea is that this project and the land that makes up this project are going to generate revenue. These are fairly typical terms seen in loan agreements or a deed of trust for a major commercial loan. The lender wants to make sure they are recapturing all potential sources of revenue that might be available to the project.

**Assemblywoman Neal:**

In section 28, the bill talks about "Any obligation to a third person made by the Bank, including, without limitation a bond or other security . . ." and then I see paragraph (a) and the language that says "Does not constitute a debt, liability, or obligation of this State or any political subdivision . . . ." I am trying to wrap my head around the intent of this language.



**Scott Scherer:**

The intent of section 28 is to basically say that the Bank is operating independently. If the Bank issues bonds and private individuals buy those bonds and they are not repaid, those private individuals can sue the Bank. To the extent of the assets the Bank has, they can get their recovery. They cannot sue the state of Nevada and try to obtain a judgment against the state of Nevada and be paid out of the State General Fund, for example. They can only be paid out of the assets of the Bank.

**Assemblywoman Neal:**

That is why I thought it was confusing. Are we not using revenue bonds?

**Scott Scherer:**

If the Bank was to issue bonds, they would not be general revenue bonds.

**Assemblywoman Neal:**

What kind of bonds would they be?

**Scott Scherer:**

They would be backed by the assets of the Bank.

**Assemblywoman Neal:**

Are the revenue bonds only to create the Bank?

**Scott Scherer:**

Initially, there would be no bonds issued. It would be after funds become available. If they wanted to issue bonds based on having some assets and funds available, it would be more of a credit supplement. Frankly, they would be more likely to guarantee or cosign bonds being issued by a governmental unit, like a local government, to help that local government get a better interest rate on those bonds.

**Assemblyman Daly:**

Capitalization of the Bank will be with public funds. You will get grants from the state, the federal government, et cetera, to get started. At some point you may be issuing bonds. Then you will give loans to local governments or whichever governments are qualified borrowers, which is defined in the bill. They can repay those loans if they have a revenue stream or they have issued bonds. If they qualify, that is good. You may coordinate with them to sell bonds to generate the loan amount so they can take advantage of their interest rate or a lower bank interest rate. The people purchasing those bonds get to take advantage of the tax-exempt status of those types of municipal bonds. Are the Bank bonds exempt as well?

Specifically in section 18 of the amended bill ([Exhibit C](#)), I am familiar with the definition in NRS Chapter 408, which was a little more narrow. When I say "transportation facility," that definition talked about highways, roads, and bridges. I see you have a much more expansive section 18, which includes all other kinds of transportation. That will create some

public-private partnerships, which gets into the amendment that I had. These are public funds with public financing. That is the nexus. Can you give us some background on some of those questions and how that fits in with the expansion of section 18 and other types of things we will hopefully be able to facilitate for future development?

**Scott Scherer:**

Yes. The overwhelming majority of the funds will be from federal, state, and local governments. It is possible that there may be private funds—especially if there is some kind of public-private partnership. The private partnership might put funds in. There may be funds from grants from private foundations for particular projects. The overwhelming majority will be federal, state, and local funds. They will make loans to qualified projects. In most cases, the qualified borrower will have to include a governmental unit. The only exception to that would be with utility infrastructure. We have some utilities that are privately owned entities. Through the way they are regulated, they are quasi-public. If the Bank issued bonds, they would be tax-exempt bonds because the Bank is tax-exempt.

With regard to the definition of "transportation facility," it is somewhat broader than what is in NRS Chapter 408 now. The point is to look to the future and ensure that we can build projects that are taking into account the future needs of economic development. Frankly, to the extent possible, we can dig once and not have to keep going back and tearing up the same streets and property over and over again for different projects. The idea is to consolidate the projects, be efficient, and spend the money as wisely as we can. That is why we broadened that definition somewhat.

**Assemblyman Kramer:**

I am somewhat familiar with the Municipal Bond Bank we have for funding water and sewer projects throughout the state, which were initially done through some federal grants back in the 1980s. As those were paid back, it created the Fund for the Municipal Bond Bank, which allowed new loans to be made to different municipalities. Is that what this is intended for? As loans are made, we can do projects. As those projects repay the money, does it become an ongoing bank that can do different projects without having more grants come in? Can it be funded with the repayments? Is that how this is designed to work?

**Scott Scherer:**

Yes.

**Chairman Flores:**

Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill?

**Brian McAnallen, Government Affairs Manager, Office of Administrative Services, City of Las Vegas:**

We are in support of A.B. 399 and would like to thank Assemblywoman Bustamante Adams for bringing this bill forward. This is a product of many discussions in southern Nevada about how we address some challenges in being able to take parcels of land set aside for economic development and move them forward. This bill is simply a framework to do that. It has statewide implications. This Bank will be available for all entities in Nevada. We were also trying to be thoughtful and get ahead of the game when we heard that the United States House of Representatives and the Trump Administration wish to push a significant amount of investment in transportation and infrastructure dollars down to the state and local governments. This bill and the framework it establishes would give us the flexibility to leverage anything we can to move projects forward so parcels are not sitting vacant. That is the whole genesis of this bill. We think the way this bill was drafted gives us all the flexibility to move those projects forward with proper oversight.

**Chaunsey Chau-Duong, Public Affairs, Southern Nevada Water Authority:**

We are certainly in support of this bill, as we believe it is a valuable tool in infrastructure development. Southern Nevada Water Authority deals heavily in critical water infrastructure, so any additional tool that would enable us to maintain and upgrade existing infrastructure is much appreciated.

**Justin Harrison, Director, Government Affairs, Las Vegas Metro Chamber of Commerce:**

This is the culmination of months of work between the state, local governments, and private industry. It brings an additional tool to the table that is needed for not only southern Nevada but for the entire state to fund and move forward infrastructure projects. This would leverage those federal, state, and local dollars and give us the opportunity to expand those projects.

**Jonathan P. Leleu, representing NAIOP, the Commercial Real Estate Development Association:**

We would like to echo the support of the preceding speakers. This bill will help make sites that are currently nondevelopable shovel-ready. That is a primary driver toward encouraging development. NAIOP will support virtually anything that will encourage statewide development. This is a wonderful economic development tool, and we support it.

**Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson:**

We are in support of A.B. 399, and we believe it will set us up for the future in case there are infrastructure dollars made available from the federal government.

**Anthony Ruiz, Senior Director, Communications and Public Affairs, Las Vegas Global Economic Alliance:**

We are in support of this legislation. In southern Nevada alone, we know we have billions of dollars in unfunded transportation needs. The establishment of the Nevada State Infrastructure Bank, although unfunded today, prepares our state with another tool in our toolbox. This bill was unanimous in support from our Government Affairs Committee. We hope to have your support on this legislation.

**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.] Are there any final remarks?

**Scott Scherer:**

We appreciate the Committee's consideration of this bill. We think this will prepare Nevada to receive federal funds and move forward with infrastructure projects. I know some of the testimony on S.B. 517 mentioned specifically that they looked at Denver, Colorado, and what it was able to do. It was able to obtain \$1.2 billion in federal funds because it was ready to receive those funds and many other states were not ready to compete for them. We are hoping to make Nevada ready to compete for any federal funds that become available. We would appreciate your support.

**Chairman Flores:**

I will close the hearing on A.B. 399. I will open the hearing on Assembly Bill 350.

**Assembly Bill 350: Revises provisions governing relations between local government employers and employees. (BDR 23-932)**

**Assemblyman Ozzie Fumo, Assembly District No. 21:**

The policy and purpose behind Assembly Bill 350 is to codify what I believe to be good business practices in Nevada. As some of you may know, when I am not at the Legislature, my job is to defend hardworking Nevadans who may have had a misunderstanding with the law. On occasion, I have represented Nevadans who are public employees, some of whom did not realize they were breaking the law when they did so. In Nevada, we may have some public employees who are required to assist the public with things like filling out forms and perhaps giving legal advice. We have other public employees who are forbidden under any circumstances to assist with legal forms or give legal advice. There are valid reasons for both. The reasons need to be conveyed to the employees before laws are broken and damage has been done. Further, it is only fair to allow public employees the opportunity to learn about the benefits available to them. Most public employers already have new employee training. Most states, like California and Arizona, currently codify this procedure. With this bill, it is my prayer that Nevada will do the same. I have been working with stakeholders on this all through the night and up through this morning, so there have been revisions. I will be

working off of a mock-up that is on the Nevada Electronic Legislative Information System (NELIS). It was included this morning ([Exhibit E](#)). I want to thank the Chairman for allowing us to provide this information so late in the game.

Previously, there were two major sections. As I was walking through the door, I was informed that we are going to strike the second section, so it will go much faster than we initially anticipated. Instead of two major sections, there will only be the first major section to [A.B. 350](#). I will go through the sections.

Section 1 is a change to *Nevada Revised Statutes* (NRS) Chapter 284, which would apply to state employers. The second part of it begins in section 9 and is a change to local government employers. That part will be completely stricken from this point on, so we will just work with the top part. Section 1 of the bill makes a change to NRS Chapter 284. Sections 2 through 5 are simply standard definitions. Section 6 is the meat of the bill, which I would like to go over with you. Section 6 requires state employers to provide to the state employee an orientation within 30 days of hiring or as soon as practicable. Most, if not all, state employers already do this. This bill would now require that. I think it is a matter of fundamental fairness to do so.

Section 6, subsection 1, paragraphs (a), (b), and (c) state that the training shall include, but is not limited to personnel policies, rules concerning ethics, and any benefits program for which a state employee is eligible. Section 6, subsection 2 says that the orientation must be conducted in person and during regular work hours. Section 6, subsection 3 states that if the employee is eligible to be represented by an employee organization which has at least 100 members, the employer shall allow the employee organization the opportunity to make a presentation. Section 6, subsection 4 states that the organization may designate a member of the state employee organization to attend the orientation as a representative unless it would cause a disruption in the function of the state agency. Section 6, subsection 5 says that within seven days after a new hire, the employee organization shall be given basic information about the new employee.

Section 7 of the bill states that information shall be given to the employee organization regarding any member who was unable to attend the orientation so that the new hire may be provided information regarding their employment. Section 8 states that an employee who was not able to attend the orientation shall meet with the employee organization during breaks at a location designated by the employing state agency.

Continuing with the proposed amendment ([Exhibit E](#)), sections 9 through 12 will be deleted. Section 13 is already deleted in the amendment. Section 14 would amend NRS 289.025 to protect the private information of peace officers. That is currently the law, but this bill will conform to that. Their home address, driver's license photo, et cetera, would not be presented to the public.

**Assemblyman Daly:**

I do not want there to be future confusion. Are we talking about eligible bargaining unit members or actual members? There is a difference, as you probably know. You speak later in the bill about bargaining units, so I think it should be the same reference when you are talking about the 100-person threshold. I just want to ensure we have the right term so that there is no argument later. There may be 200 people but only 50 members, for example.

**Assemblyman Fumo:**

That is an excellent question. That number has been a fluid number throughout the negotiations as I have been working with the stakeholders on this bill. I am open to any suggestions. I think it was defined as "members of the organization," but I am always open to amending that language.

**Assemblyman Daly:**

I want to make sure that is the term we want. I was not sure if we were talking about members, eligible members, or people in the bargaining unit. If you want actual members, I understand. I just want to be clear.

**Assemblyman Carrillo:**

I know you talked about the amendment on NELIS, but I wrote my question before I got the amendment. I do not know if my question is relevant anymore, but I will ask it anyway. Under section 3 of the bill, what circumstances could you foresee under which an employee will not be able to participate in a presentation by the employee organization? I want to ensure we are not creating a loophole that the local government can use to withhold these presentations.

**Assemblyman Fumo:**

Are you talking about if a state employee is eligible to be represented by an employee organization?

**Assemblyman Carrillo:**

I believe so.

**Assemblyman Fumo:**

If a state employee is eligible to be represented by an employee organization which has at least 100 members, the state agency shall make reasonable efforts to allow the employee organization to make a presentation of at least 30 minutes. It just means the employer has to make reasonable efforts to allow them the opportunity to make the presentation.

**Assemblyman Ellison:**

Does the state do this now?

**Assemblyman Fumo:**

My understanding is that the state does currently do this. What I have found in my practice is that organizations may or may not do this. Some employees that I have had the privilege to represent have told me that they would not have provided such information had they known. They were never told about it at their orientation. Some of them were not even provided an orientation. I know the state in general does, but this would codify it so that it is uniform across the state.

**Assemblywoman Neal:**

What about Clark County? I do not know if they adjusted their fiscal note, but they had a huge fiscal note saying that they would need an additional six positions.

**Assemblyman Fumo:**

I know Clark County already does orientations for their employees. I believe when we amended the bill to only include NRS Chapter 284, that would carve out local municipalities in Clark County. I think that fiscal note might be moot at this point.

**Chairman Flores:**

Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill?

**Rachel Gumpert, representing American Federation of State, County, and Municipal Employees International, Washington, D.C.:**

This bill is very important, and we appreciate you taking the time to consider it. We are seeing that there is no standardized process for onboarding across the state. We have state workers who, depending on their department, may never be given any kind of standardized orientation. They miss basic information like what the dress code is, any conflict-of-interest information they should know, what basic expectations are, or describing what actions will result in discipline. Because of that, we want to ensure the state can codify this. When workers start, they should all get basic information about their workplace, ethics, et cetera. We can take what has been a best practice in our good departments and make sure it is happening everywhere.

Because there is no law mandating this—which other states like Arizona have—we have been having uneven orientations. Some departments do give orientations but some do not. Within some departments, some divisions give orientations and some do not. Within that, it can sometimes vary by building and manager. We have a situation where there is high turnover at the state. One of our issues of concern is that state workers are not given a standard orientation when they begin. Some people do not even know what their dress code is and are being disciplined for infractions. We believe we can address these things. The Secretary of State has spoken with the sponsor of this bill, and their feedback was that they already thought this was happening. We let them know that it is happening in some places, but it is not happening everywhere. This bill is really aimed at addressing the bad actors. As the sponsor mentioned, we have removed local government from this bill because

the feedback has been that local governments have been doing a better job of onboarding workers. The state is lagging behind on that. This is one of the things that can be addressed. It is a very bipartisan issue. States in many different political contexts already standardize onboarding processes.

This is something we see in the private sector constantly. You will not work for Tesla, Inc., and not have an orientation that explains your responsibilities and expectations. We want to ensure we are giving everyone the training they need to succeed. We think that since this is something the state already intends to happen, codifying it like this will not be a major change at all for the state. It will only fix the few departments and divisions that are slipping through the cracks.

**Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers:**

We are here to support A.B. 350 with the proposed amendments outlined by Assemblyman Fumo a few moments ago ([Exhibit E](#)). We appreciate all the stakeholders who have been able to work on this and come up with a good bill that does codify a workable arrangement. Approximately one-third of our members are state law enforcement employees. Just to echo Assemblywoman Neal earlier, this would take out the local government employees in Clark County. We are dealing mostly with the state. Since one-third of my members are state law enforcement employees, it is important we have consistent standards across the state. I think this bill would do that.

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

We are in support of A.B. 350 with the amendments. We appreciate Assemblyman Fumo sponsoring this bill because it probably does have a need. Most of our associations are members of state law enforcement agencies as well. With that in mind, and with local government being pulled out, we are in support of A.B. 350.

**Michael Sean Giurlani, President, Nevada State Law Enforcement Officers' Association:**

I want to echo the previous testimony and state that we support this bill. We feel it is long overdue for our state employees.

**Marlene Lockard, representing Service Employees International Union, Nevada Local 1107; and Las Vegas Police Protective Association Civilian Employees, Inc.:**

With the amendment removing NRS Chapter 288 from the bill, we are in support of A.B. 350.

**Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:**

This bill helps address a need and concern for some of our employee organizations. We are also thankful to the employee groups that are most greatly affected by this for working with the interested parties to come up with language that works for them.



**Michelle Kim, Director of Strategic Initiatives, Clark County Education Association:**

I represent the Clark County Education Association (CCEA) and its 18,000 Clark County School District (CCSD) licensed professionals. I am here speaking in support of A.B. 350, a bill that if passed would allow unions such as CCEA to provide in-person orientations to employees within 30 days after their date of hire. The Clark County School District hires thousands of educators each school year. Most of them are hired during the summer to begin school at the start of the school year.

However, due to high attrition and the number of new hires that leave in the middle of the school year, the district hires new teachers throughout the school year. Further, nearly 50 percent of the newly licensed professionals who are hired come from out of state. It is essential that new educators are provided adequate orientation to ensure their success, even for experienced educators coming from other states. Nevada and CCSD are different.

While CCSD and CCEA have worked hard to provide a new-hire orientation prior to the start of the school year, most new hires have many more questions and need help once they get into their schools. Providing the additional orientation will ensure that new hires have the information and support they need to succeed. Given the thousands of future educators this bill would have a positive impact on, CCEA is in support of A.B. 350.

**Deb Berko, Organizer, American Federation of State, County, and Municipal Employees, Local 4041:**

We want it on the record that we do support this bill, and we appreciate your time and efforts on it.

**Chairman Flores:**

Is there anyone wishing to testify in opposition to the bill?

**John Fudenberg, representing Clark County:**

I am only here in opposition to the bill as written. I would like to first and foremost thank Assemblyman Fumo for allowing us to discuss this with him. I think we have come to an agreement. We support all of the amendments he has suggested ([Exhibit E](#)). The fact that sections 9 through 12 will be removed means that it will not affect local governments. As a matter of fact, I want to ensure that in Clark County we already do almost all of what is addressed in this bill, and this issue is collectively bargained. The Service Employees International Union (SEIU) would be the only group affected by the bill as written since it says 1,000 or more members. We allow SEIU, per their contract, to present for a minimum of 30 minutes at the new employee orientation.

**Dagny Stapleton, Deputy Director, Nevada Association of Counties:**

I will echo the comments of Mr. Fudenberg and indicate that we appreciate the sponsor's and other stakeholders' willingness to amend the bill. With the amendment, we are fine. It excludes local governments, which we appreciate. Many of our members already do what would have been required in the original version of the bill.

**Chairman Flores:**

Is there anyone wishing to testify as neutral to the bill? [There was no one.] Assemblyman Fumo, in your opening remarks you stated that NRS Chapter 288 would be removed from this bill. I want to ensure we have a copy of that mock-up, or is that just a conceptual amendment you are offering that is not yet written out?

**Assemblyman Fumo:**

I thought it had been uploaded. I apologize if it is not there. I will get it to the Committee posthaste.

**Chairman Flores:**

We will wait for that mock-up. The intent is for those sections to be removed. I will close the hearing on A.B. 350. I will open the hearing on Assembly Bill 475.

**Assembly Bill 475: Revises provisions relating to education. (BDR 31-975)**

**James R. Wells, Director, Office of Finance, Office of the Governor:**

I am here to introduce Assembly Bill 475, which implements part of the state budget. The bill in front of you this morning deals with the College Savings Plans of Nevada and the Nevada College Kick Start Program. The College Kick Start Program was created as a pilot program under former State Treasurer Kate Marshall and has been continued. It makes \$50 available for each kindergarten student. They put it in a 529 plan account. At some point in the future, the parent has to claim and activate that account. This bill implements part of the Governor's recommended budget and formally establishes the Nevada College Kick Start Program in statute. The Office of the State Treasurer has notified us that the College Kick Start Program is a unique Nevada name, and there is a national, more generic name for this type of account called a "child development account." However, it is basically the same premise.

The Governor supports the \$50 per kindergarten student in the College Kick Start Program. He did include that in the *Executive Budget*. He does not support the other incentives that have been approved by the Board of Trustees of the College Savings Plans of Nevada during the interim. Those other incentives were not included in the *Executive Budget*.

Section 1, subsection 1 provides that within the limits of funding available, the Board shall deposit money into the accounts for each kindergarten student to use in paying higher education costs. This allows for the budget process to determine the amount provided for each account. Further, in section 1, subsection 2, the proposed language provides that the Board of Trustees of the College Savings Plans of Nevada adopt regulations regarding enrollment in the program, accessing or claiming the initial amount of money put into the account, the time frame in which the dollars in the account must be used for higher education costs, and distribution of funds to the participants. Section 1, subsection 3 allows for the Board to apply for and accept gifts, grants, donations, and other sources of money to carry out this program. Section 1, subsection 4 requires that each account that is not accessed by

a parent by the time the student is enrolled in third grade reverts to the Endowment Account. It further states that any dollars not used by the time limits established in regulation for higher education purposes also revert to the Endowment Account.

Sections 2 through 6 simply make conforming changes to statutes that are necessary to implement the bill. Section 6 changes the allowable uses of the funds in the Endowment Account and limits the use of the dollars in that account to either the child development account program that we talked about, which is currently \$50 per kindergarten student, or any costs related to the Governor Guinn Millennium Scholarship Program, which includes the administrative costs of that program. It does eliminate the ability to use it for other matters to assist residents in attaining postsecondary education. The Governor Guinn Millennium Scholarship Program's account has a projected shortfall in the current biennium of almost \$20 million. This was one of the alternatives identified to fund the Millennium Scholarship Program account shortfall.

Moving forward, this language would allow any unneeded funds in the Endowment Account to be used to fund the Millennium Scholarship Program when shortfalls exist. There is one fiscal note that was attached to the bill. There are two primary components to that fiscal note. The first is that the bill does not detail the amount requested for the Millennium Scholarship Program. That is a correct statement; it did not. The Millennium Scholarship account is a nonexecutive account and is not included in the *Executive Budget*. That depends on the amount that will be reverted from unclaimed College Kick Start Program accounts. We do not know exactly what the dollar amount would be, but we believe it would be somewhere in the neighborhood of \$5 million in fiscal year 2019. The second provision in that fiscal note was that it removed the administrative expense funding for the Millennium Scholarship Program. That is not the intent. Administrative expenses that are currently funded from the Endowment Account would be included in the language in section 6, subsection 5, which states, ". . . for any purpose related to . . . The Millennium Scholarship Program."

**Assemblyman Kramer:**

I guess I am looking back and seeing where some of the dollars from this account have been shared. How would this bill affect the Nevada Higher Education Prepaid Tuition Program? Would the budget for the Board of Trustees of the College Savings Plans of Nevada have to be revised? I see you are sending some money to the Millennium Scholarship Program. Are the dollars you are talking about swinging to the program significant, given the needs that it has?

**Jim Wells:**

You are correct. In the past, this account has been used to fund the prepaid program. Assembly Bill 475 would prohibit that transfer from occurring in the future. I do not believe the budget would need to be redone for this particular program. We believe the Governor's *Executive Budget* as submitted reflects the amounts outlined in this bill.

**Assemblyman Kramer:**

I am talking about the budget of the Board of Trustees of the College Savings Plans of Nevada. Would that need to be redone?

**Jim Wells:**

I am not 100 percent sure where you are going with the budget of the Board of Trustees of the College Savings Plans of Nevada needing to be redone because of this bill. I am not clear as to why you believe there would be an amendment needed for that budget. I do not believe that is the case. We believe the dollars that will be transferred to the Millennium Scholarship Program will be close to \$5 million. That is 25 percent of what we believe we need for the next biennium, so it is not an insignificant amount.

**Assemblywoman Neal:**

My question is about section 1, subsection 4, paragraph (a). This section outlines what happens if a parent has not accessed the fund. This was presented in our Committee as one of the programs being run through the Office of the State Treasurer. There was not a clear marketing structure. Some legislative members tried to do things in their schools and districts, but the effort to let people know this was out there and available was limited at best. What is the plan to ensure parents know this is out there?

**Jim Wells:**

There is currently a marketing program that is part of the College Savings Plans of Nevada. I did not know that the particular marketing campaign has targeted the College Kick Start Program. There is a basic marketing program that the Office of the State Treasurer runs for the College Savings Plans of Nevada.

**Assemblywoman Neal:**

I thought it was confusing because the College Kick Start Program was created in 2013. Now you are making it a "shall" here in section 1, subsection 1. Was it not already in law?

**Jim Wells:**

No. The College Kick Start Program itself is not in statute. It is a program that was approved by the Board of Trustees of the College Savings Plans of Nevada. It was a pilot program that was approved in 2013, as you said. It has been continuing since 2013. Basically, what happens now is that the \$50 per kindergarten student is set aside and committed until such time as the account is claimed by the parent. Assembly Bill 475 puts a time limit on that so the dollar amount is not just sitting there, committed but not used. The intent is to make the program specific to the \$50 per kindergarten student, and that the parent claim it within a specified amount of time.

**Assemblywoman Neal:**

I am looking at section 6. Let us say the parent takes advantage of this program, and they start adding to the \$50. There is language where it says it can also be used for the Millennium Scholarship Program. What if parents have saved \$6,000 in the College Kick Start Program account? Does that go towards the \$10,000 in the Millennium Scholarship Program or will it be \$16,000?

[Assemblywoman Neal assumed the Chair.]

**Jim Wells:**

If parents put aside \$6,000 in their own 529 account and you claimed the \$50 and their child qualified for the Millennium Scholarship Program, they would get up to the \$10,000 for the Millennium Scholarship Program, the \$6,000 put into the 529 account, and the \$50 and whatever interest earnings had accumulated in the 12 years it was sitting. It would be three separate accounts.

**Assemblywoman Joiner:**

I have always been a big fan of the Nevada College Kick Start Program, and when my daughter was in kindergarten, she received one of these. The idea of adding it to statute is a good idea, but I have some technical issues with it as a parent. The fact that I had to open a second account to add money was a difficult process. After calling the office several times, I still have not activated my daughter's account, and she is in third grade. As an educated person who can navigate the banking system and being unable to use the program, I am extremely concerned about how it has been implemented. How many accounts have been claimed, and what percentage per year? How will you make it simpler and easier for people to understand? My third concern is should we be doing this in first grade? There are a lot of students who do not go to kindergarten or who choose a private kindergarten. I want to make sure we are not missing out on them. I think the concept is amazing. We tell kids they can go to college and here is a way to get started, but it is not really working in my mind.

[Assemblyman Flores reassumed the Chair.]

**Jim Wells:**

I do not know the number of accounts that have been claimed. The Office of the State Treasurer may have that information. As far as the process, you are correct. You need to have two distinct accounts. The \$50 is one account, and if you want a 529 account for your child, you need to open a second account. I do not believe there is an intent at this point to streamline that process. It is a segregated amount of money. As for awarding the \$50 in first grade as opposed to kindergarten, I think we would be amendable to amending the language. I think the intent is that you get it at one point and if you do not claim it by a certain time, we can take the committed funds back to use, instead of growing a pot of money that is never claimed.

**Assemblywoman Joiner:**

I am in favor of starting it in kindergarten because I think the earlier the better, but maybe for kids who do not enroll in kindergarten, we can catch them in first grade. That is my suggestion.

**Assemblyman Carrillo:**

I am in the process of trying to help my daughter get this account set up. There is some confusion. Is it just for higher education? Can someone utilize these funds for a trade school? What is the cutoff? You said it expires and reverts back. I was initially told if they do not opt in by the third grade, they forfeit the money.

**Jim Wells:**

I do not know specifically whether a trade school is an allowable expense under the 529 program. The Office of the State Treasurer may know that. It cannot be used for high school. It does need to be postsecondary education. Currently, there is no cutoff in the program, so the money just sits there for an unlimited amount of time. The Board of Trustees of the College Savings Plans of Nevada has taken some action to establish a cutoff time frame. This bill is putting the whole program in statute.

**Assemblyman Ellison:**

When you mentioned the \$50 for the College Kick Start Program, does that amount already exist in law? I do not see \$50 in the bill.

**Jim Wells:**

The \$50 is not in the bill. The language in section 1, subsection 1 that states, "Within the limits of money available for this purpose . . ." allows the budgetary process to drive it. Through the budgetary process, we have assigned \$50 per student.

**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?

**Bob Seale, Private Citizen, Reno, Nevada:**

I was the State Treasurer for Nevada from 1991 to 1999. I currently sit on the Board of Trustees of the College Savings Plans of Nevada, but I am not here to speak on their behalf. You could say I am responsible for this legislation. I created the 529 program in the late 1990s. When I created this program, it was my intent at that time to reserve the affairs of the Board to the Board itself. This bill goes beyond that. It begins to address legislation to the Board. What is the purpose of the Board if that is going to happen? This is a tremendous program. Kate Marshall started this College Kick Start Program when she was State Treasurer. I think it should continue. However, all the monies in the trust funds should be directed by the Board in my opinion.

**Kate Marshall, Private Citizen, Reno, Nevada:**

Like my colleague, I was also a Nevada State Treasurer. I want to apologize if my appearance is disheveled: there was no power at my house. I took a cold shower and dressed in the dark. I came here just for you. I wanted to express my opposition. I have five main points to make regarding the bill. Prior to getting to those points, I want to answer Assemblyman Carrillo's question. As long as the program is accredited by the United States Department of Education, a technical school, a career school, a culinary school, or even a beauty school could be paid for with 529 funds per federal law.

First and foremost, I am honored that there is notice of the College Kick Start Program. Indeed, that program has received national attention. It was the first of its kind in the country. Many other places in the country have decided to follow Nevada's lead. We were presented to the United States Department of Treasury for the kind of program we are doing. You are on the cutting edge, and Nevada is to be honored for that.

Unlike most states in the country, the prepaid program is not backed by the full faith and credit of the State of Nevada. Prior to the financial crisis, there were 22 prepaid programs in this country. When the financial crisis hit, 11 of those programs closed their doors. Because of the fall in the stock market, at that time the prepaid program in Nevada was \$5 million in the hole. The Board used the Trust Fund to loan money to the Prepaid Tuition Program and keep it solvent, as they were required to do. That is to say, we were one of the 11 other states that did not close our doors and send those parents who had put their money and tears in the program home with nothing. The prepaid program is now approximately 120 percent funded and actuarially solvent, but it would not have been able to make it through the Great Recession unless it had reserve funding. The prepaid program is not backed by the full faith and credit of this state. If you do not have any reserve funding for the prepaid program and we see another financial crisis—which I must tell you, historically, these crises come in a cyclical manner—Nevada could go the way of 11 states during the crisis and close our doors. I would not want that.

As the saying goes, If the tree falls and no one hears it, did it fall? If the families have no notice that they have an account, I do not know how they claim an account. If a family does not have access to a computer or the Internet, they cannot claim an account. I want to remind you that this program was started in the rural areas because there is great need there to help people and give them a hand so that there is a possibility for a post-high school plan, and change the conversation we have in the state. How do you claim what you do not know exists? I do not think this bill adequately addresses that.

This bill erases what my office put in to cap the administrative costs at 3 percent of the funds of the Millennium Scholarship Program. I would encourage you to consider financial guidelines so that you do not get administrative bloat. In other states where they have these kinds of programs, you can see where sometimes a lot of money is spent on administration and staff. You do not get the money going where it is supposed to go, which is toward

helping families. I think a 3 percent cap is fiscally prudent. You may think it should be higher or lower, but I encourage you to put in some fiscal guidelines so you do not have government bloat.

The program restricts the money in the Endowment Account to be used for administration and marketing of the Nevada College Savings Program and to go to the Nevada College Kick Start Program. If College Kick Start Program funds are not claimed, that being undefined, and go to the Millennium Scholarship Program, you lose your opportunity for matching grants. It is unclear to me whether you lose your opportunity to do other types of outreach and awareness programs that would run through that office. Part of the reason it is unclear to me is because you take out the requirement that those fees should be used to the benefit of all Nevadans. Now we will use those fees to the benefit of those who claim what they have notice of and those who qualify for the Millennium Scholarship Program, not all Nevadans. You know in this state, our path to prosperity must include a cultural conversation about the value of education so it is Nevadans who can take advantage of the jobs coming here.

While the money to establish matching grants has come from the program managers—Ascensus, Inc., USAA, The Vanguard Group, Inc., et cetera—the base funding has been quickly absorbed. Now the Board has had to add to that. Let me give you an example. Let us say my family makes \$50,000 a year. My child is in kindergarten. You give me a \$50 account. That gets the conversation rolling, and Grandma decides to help. She decides she will put \$20 a month in the account for this child. Because I only make \$50,000 a year, that \$20 can be matched up to \$300 a year for five years. If I put in \$300, I can get \$300, dollar for dollar.

I do not know if any of you have children in college. I have one in college, and one in the last year of high school. Unless you are a trust-fund baby, you are scared out of your mind by college costs. Unless you have a silver platter, a silver spoon, and silver boots, you are scared out of your mind by college costs. The average family in Nevada makes approximately \$56,000 a year. This money was supposed to help all Nevadans and reach out to say that I am with you; I am here; we can do this together. You put a little in, I will put a little in, and we will get there. It is unclear to me whether those programs would be done away with.

The Nevada Women's Money Conference and financial literacy programs run through the Office of the State Treasurer received national attention because we were the first in the country to hold a women's money conference entirely in Spanish. When you talk to women about getting their children to have a post-high school plan, you have things happen like a woman paying off her payday loans in Las Vegas. Her child gets into University of Nevada, Las Vegas (UNLV), so she uses the money she was using to pay those payday loans to pay for the child to go to UNLV. You do not have that unless you have the conversation. I suggest that is a good use of government money.



**Assemblywoman Neal:**

When you originally created the program, you used the Master Settlement Agreement to handle the administrative costs. What was your reasoning behind that? It is being struck out of this bill. What other source of revenue would be used to pay for those administrative costs, which are now not capped?

**Bob Seale:**

When I established the plan, we went to the private sector and asked them if they would assist because they were going to become money managers. They agreed to offer certain funding, mostly for marketing efforts. They also offered some funding for the administrative costs. On the prepaid program, there was a certain amount that was priced into each contract that was sold to handle the administrative effort. It was the intent to not take any money from the State General Fund.

**Kate Marshall:**

In 2009 or 2010, we made a clarification with the Board that the administrative costs of the prepaid program and the administrative costs of the Millennium Scholarship Program would all come out of the Endowment Account, allowing the funding for the prepaid program and the Millennium Scholarship Program to be used for the children. Because the Millennium Scholarship Program had not previously been administered by the Endowment Account, we were able to add a cap on how much money should be used. The Millennium Scholarship Program usually takes in about \$19 million or \$20 million a year and issues about \$26 million a year—hence your problem. Do not use more than 3 percent of what you take in, in any given year, to administer the program as a matter of fiscal prudence.

**Assemblyman Carrillo:**

What happens to the money in the 529 account if the student chooses not to pursue postsecondary education?

**Kate Marshall:**

If you open a 529 account and then your child becomes a rock star—first off, congratulations—you may transfer that money to a sibling or cousin. You may withdraw the money. You would have to pay taxes on any interest you earned on the money because it was not a qualified withdrawal. The definition of "qualified" is set by the federal government. When I left the Office of the State Treasurer, the Board of Trustees of the College Savings Plans of Nevada had regulations for use. There were regulations about which withdrawals were qualified and by when they had to use it. I believe that age was 20 or 21 because kids go on missions, to the Peace Corps, to the military, et cetera. Then it would be absorbed back into the Endowment Account.

I want to suggest to you that there has been a lot of talk about money that is just sitting there. Like any fund, if you choose to do so, you can do an actuarial report to determine how much money ought to be in there to fully fund the program. That would be significantly less than the money in there now. You can do that without having to set up families to lose the money if they do not claim the money.

**Assemblywoman Bilbray-Axelrod:**

Can you give the money to a family member?

**Bob Seale:**

Under certain circumstances, you can do that. I have a 529 plan, and I have a substantial amount of money in there. I cannot get it out, but I can give it to my child or also my grandchild if I wish. I am obviously past the age of going to college, I suspect, but it can be used.

**Chairman Flores:**

Is there anyone wishing to testify as neutral to the bill?

**Grant A. Hewitt, Chief of Staff, Office of the State Treasurer:**

I have brought two other experts to discuss investments in our budget. We will hand it down, but we will be very quick. We are here today in the neutral position because the Board has not weighed in on an official policy statement yet. I would like to bring up a few issues I see. I do support the comments made by the previous two State Treasurers. They are very timely, and they are spot-on. I think it is dangerous to put into statute a program that may not have guaranteed funding. Today, we have talked a lot about \$50 for accounts, but the author of the bill said the budgetary restrictions could bring that down to \$25 or \$10 for an account in the future. We do not know what that dollar figure will be, so I think it is dangerous to put a program into statute without guaranteed long-term funding.

When the Board talked about the reclaiming of funds at third grade, it was at the end of third grade, not when they enroll in third grade. With the language of this bill, to access funds by third grade enrollment, parents are actually reclaiming these funds in the second grade and not the third grade. The Board also created a policy to allow the first two cohorts—2013 and 2014 families—an extra year to reclaim those funds so that we could communicate with the families. They actually had until the fourth grade to access those funds so that they would not be reclaimed.

In our budget, we did ask for an additional \$250,000 specifically for the task of communicating with families and ensuring that they knew their time was running out. It should also be noted that the reclaiming of these funds was a budgetary need because of the incentive package that the State Treasurer and the Board put forward. If there was no incentive package that at that time equaled \$1,000, there would be no need for the reclaiming. That was purely a budgetary necessity. I do believe it is important to have some deadline for claiming—maybe third grade or sixth grade. It gives families time to act.

When there is a deadline, there is a run up on the item. People take action. I think it is important that there is some sort of reclaiming. However, it should be noted that the need for it was due to the incentive package.

I also think it is dangerous because there would be no ability to prop up the prepaid program. It is concerning that they are eliminating the ability of the Endowment Account to work to help those families and keep that account solvent. We are a leader in the nation as it relates to college savings innovation and ideas, from the College Kick Start Program to opening the first ever robo-advisor 529 plan and our matching grant programs.

We are in the neutral position because there are so many questions. But this legislation seemingly limits the Board's ability to continue to be an innovator and be a national leader in college savings. Those are my concerns.

**Tara R. Hagan, Chief Deputy Treasurer, Office of the State Treasurer:**

I want to echo the concerns stated by both State Treasurer Marshall and State Treasurer Seale regarding the bill's removal of the Board's ability to use those endowment funds to stabilize the prepaid program and honor those contractual agreements for those beneficiaries. I want to give some dollar amounts associated with that. Currently, the Board has a 120 percent funding status policy to ensure that we are substantially funded to meet those contractual requirements. The actual funding status of the prepaid program as of June 30, 2009, was 87 percent. As State Treasurer Marshall testified, there was a \$5 million loan from the Endowment Account to the prepaid program fund, and there were six additional annual payments that continued throughout 2016 for a total of \$13.76 million that obviously enabled that prepaid program fund to be at the 130 percent funding it has today.

**Vincent "Budd" Milazzo, Senior Deputy Treasurer, Office of the State Treasurer:**

I have some budget statements in reference to our fiscal note. We said we could not determine what the impact was based on what was going to the Millennium Scholarship Program. We think there would need to be a budget amendment because budget account (BA) 1094, which is the Endowment Account, is part of the *Executive Budget*. That is where the funds go. In order to transfer those funds to the Millennium Scholarship Program, which is BA 1088, a nonexecutive budget, BA 1094 would need an amendment to specify how much money was being transferred. We are uncertain about the timing and amount of that transfer. As far as the funding of the administrative expense for the Millennium Scholarship Program, the language struck out in section 6, subsection 5, paragraph (b) says that the Endowment Account will pay for the administrative expenses and refers to *Nevada Revised Statutes* (NRS) 396.926. That NRS section states that the administrative expenses come from the tobacco settlement dollars. That concern is budget neutral to us, but it would be coming from a different budget account than where it currently is.

**Chairman Flores:**

I appreciate the spirit of trying to be amicable in staying neutral, but I think you are all in opposition. Your testimony was in opposition.

**Assemblywoman Neal:**

I know there was a conversation in the Interim Finance Committee (IFC) that gave direction on how to manage this program. I was trying to get more information about the specific direction that was given and supposedly not followed. Can you talk about that? I know the Interim Finance Committee gave some direction. I am trying to figure out what was said.

**Grant Hewitt:**

At the Interim Finance Committee meeting, the discussion centered around a request of the Board, and subsequently the State Treasurer, to fund an incentive program to do two things. The first was to make the College Kick Start Program permanent from the Board's position. The second was to fund an incentive package that would have maxed out at about \$1,000 per person who claimed and met all the requirements. During the discussion at the IFC meeting, the instruction from IFC was to continue the program at the \$50 level. Subsequent to that meeting, the Office of the State Treasurer in conjunction with the Board wanted to show that there was the ability, if you had a small incentive, for people to want to claim an account and open their own account. An incentive would drive the opening of your own account.

As has already been discussed here today, you have a College Kick Start Program account, and then you have to open your own 529 account to save. The Board offered a limited pilot program for a \$200 incentive if you opened your own college savings account. In discussions with families through email and snail mail, we notified families that in order to be eligible for future possible incentives—because we knew we did not have the authority for more than the pilot program—you have to claim your account. Claim the account so that you will be eligible if there are other incentives. We have seen about 5 percent of all College Kick Start Program accounts have claimed their account through those communications. The desire to be eligible for an incentive has driven people to make that claiming action, identify their account, and claim it so that it would not be reclaimed at the end of their third-grade year as the Board intended.

That is the discussion that occurred in the Interim Finance Committee. To come back and narrow it down, the direction was to continue the program at \$50—which this bill does not guarantee—and then we would talk about it during the budget process. We are pleased that the Governor included the \$50 in his budget, but this bill does not guarantee that \$50 going forward.

**Assemblywoman Neal:**

Why is the disconnect happening between the Office of the Governor and what the Interim Finance Committee is seeking? If you are saying the direction was to keep it at \$50, and now we have a bill that will place a pilot program into law which does not maintain that direction and also creates uncertainty, this is clearly the opposite direction of legislative will. This is a political conversation I guess, but I want to be clear. Why are we on two different pages?

**Grant Hewitt:**

I cannot speak to that. When we first learned about the Office of the Governor's intention to use dollars from the Endowment Account to help the Millennium Scholarship Program, we wanted to take those reclaimed accounts and use those dollars to spend in the Millennium Scholarship Program. My assumption at that time was that in section 6, subsection 5 of this bill, we would add a paragraph (d) to the allowable expenses from the Endowment Account to allow a transfer to the Millennium Scholarship Program. Never was there an indication in conversations with the Office of the Governor that they were going to codify the College Kick Start Program, that they could not maximize the \$50, et cetera. It was merely that the Governor was seeking a permanent stream of funds into the Millennium Scholarship Program. I think it has been noted that it does not do a ton to solve the long-term needs for the Millennium Scholarship Program. This is a small drop in the bucket. We were supportive of the small drop in the bucket and the show of support, but never did I imagine I would see the codifying of the College Kick Start Program without guaranteeing the \$50. I really thought we would add a paragraph (d) to section 6, subsection 5. That is not what was drafted. We will try to get some of the answers to questions that were asked specifically about the College Kick Start Program.

**Jim Wells:**

Assembly Bill 475 was intended to put some fences around the uses of the Endowment Account. The Governor is supportive of the College Kick Start Program and the \$50 per kindergarten student. He did include that in his budget. Again, he was not supportive of the matching programs that had been approved by the Board over this biennium and did not include those in his *Executive Budget*. Mr. Hewitt made a comment that there is no guarantee that the program will continue. I do not think there is ever a guarantee of anything. It does put things into the budgetary process. It really starts the discussion in the budgetary process as opposed to at the level of the Board of Trustees of the College Savings Plans of Nevada.

**Chairman Flores:**

I will close the hearing on A.B. 475. I will open the hearing on Assembly Bill 317.

**Assembly Bill 317: Revises provisions governing limitations on conducting business using certain fictitious names. (BDR 52-1019)**

**Assemblywoman Ellen B. Spiegel, Assembly District No. 20:**

When I first moved to Nevada, my husband and I bought a house. All of a sudden, we started receiving notices in the mail. The envelopes all had an insignia on them that looked official. When we opened them up, they were from entities that had various names. I will read you some of the names that were in business at the time. They are no longer in business. They include State Recording Service, Municipal Recording Service, Clark County Recording Services, and Office of Homestead Declaration Service Agency. Each of these solicitations had something that looked like an official governmental seal. When I would

open these letters, they would try to sell me services to help homestead houses. They included a form, which was an official homestead declaration form. Currently, it costs about \$17 to file if you do it yourself. The businesses would charge you fees to fill out the form, and they would file it on your behalf. For an extra \$50 or \$75, they would bear the burden of going to the county recorder's office and recording your homestead paperwork for you. The thing is, a lot of people did not realize that these entities were not from the government. They thought this was paperwork necessary to satisfy some government requirement to protect their home. Having businesses conducting themselves under the guise of a fictitious name that sounds like a governmental entity is really deceptive to our hardworking Nevadans. This bill seeks to end the practice of allowing government-sounding entities to exist. I am going to turn this over to Lynn Goya, our Clark County Clerk. She deals with companies that are currently still doing these things. She will speak to the current problems, and then I will come back and talk to you about the bill.

**Lynn Marie Goya, County Clerk, Clark County:**

The reason we are putting this bill forward is because it is one thing to get a letter in the mail that sounds like a government entity asking you for funds. In the current age, companies are getting names that mimic government agencies. They are buying public records so that they have the information from the recorder or the clerk's office. They can get marriage records and deeds. They are culling those names and can actually buy these people's phone numbers on the Internet. Now they are starting to call individuals, telling them that they are from the clerk's office or the recorder's office and that they have their documents ready. We charge \$15 for our marriage certificates. Some of these companies are charging \$70 or \$80 and implying they are from the clerk's office. I am getting multiple complaints weekly that the clerk's office did not get something done, but it is not the clerk's office at all. I see this goes beyond just one government agency. As the people who are issuing fictitious names, we would like the ability to deny a name that we believe mimics a government agency.

**Assemblywoman Spiegel:**

This bill adds a new subsection 7 to *Nevada Revised Statutes* (NRS) 602.017 as shown in section 1 of the bill. It would prohibit an entity from adopting a fictitious name that imitates the name of a governmental agency. I have an amendment that you should have on the Nevada Electronic Legislative Information System, and I also have paper copies if anyone needs it ([Exhibit F](#)). There are three additional concepts I want to incorporate into A.B. 317. The first is to add the word "renew" into section 1, subsection 7 so that the bill would also apply to entities that already have fictitious names. The entities that hold fictitious names need to renew that name every five years. The way you can get people who are already doing business like this out of the pipeline is to do this: when they come in to renew, have the right to allow the clerk to turn down that fictitious name.

The second component would be to add a provision that proposed fictitious names which are not actual names of official entities but sound like them may be denied. It is having a business like the "Registration Service of Clark County." Someone will think that is the official name. The third component is to make clear that the phrase "entity of this State"

includes all governmental entities found within the state's borders, including a federally recognized Indian tribe. For example, you could not have a fictitious name like "The Paiute Nation of Henderson." That does not exist. That is what this bill does and how it does it.

**Assemblywoman Bilbray-Axelrod:**

I can see that this would be a big concern. What if your last name happens to be Henderson? Who makes the final determination on whether it is trying to mimic a governmental entity?

**Lynn Goya:**

Currently, fictitious firm name file decisions are made by each county clerk. Often we make determinations for things like obscenity. We have the ability to not issue a fictitious firm name in that case. It would be within the clerk's domain to consider that. Clearly, if your last name was Henderson it would be different than if your last name was Smith and you are trying to say you are the "Paiute Tribe of Henderson." "Paiute Tribe" would probably be the key point, not the "Henderson."

**Assemblywoman Bilbray-Axelrod:**

Is there an appeal process? If the name was turned down, can I come back and clarify?

**Lynn Goya:**

I am not aware of any appeal process at this point for anything like that, including some of the other decisions made for fictitious firm names.

**Assemblyman Ellison:**

I think I get all the letters you are talking about. Sometimes auto body shops are called "State Auto Body." Would they have to go back and say that they have to change their name? How would you address people like this?

**Assemblywoman Spiegel:**

That is why in the amendments we are adding the word "renew." It can be difficult to go back to people and have the burden on the government to go through everything and find all the names. When they come in to renew it, if the name sounds like a governmental entity, that name could then be denied.

**Assemblyman Ellison:**

All their papers from the Internal Revenue Service, U.S. Department of the Treasury, all their business licenses, et cetera, might be under that name. They would not be able to keep that domain name. Would they have to give up and change it? That is a lot of expense.

**Assemblywoman Spiegel:**

Fictitious names are when you are "doing business as." There is not necessarily a requirement that they change the name of the parent corporation. It just means they can no longer use their "doing business as" fictitious name.

**Assemblyman Carrillo:**

You were with me last session in the Assembly Committee on Transportation. I brought forward a bill regarding extended vehicle warranties [Assembly Bill 256 of the 78th Session]. Offers look official; they look like they are coming from the Department of Motor Vehicles (DMV). That seems to get people's attention. They feel like they should respond to it because it looks official. I am not sure if this bill would address that because they may not have to register with the county clerk. They might send these letters from another state, and they throw them into people's mailboxes. They have what kind of vehicle it is, and they give them an opportunity to renew it. They charge an exorbitant amount, so people believe they have to take care of it quickly. That is the first part of it.

The second part is that we have companies like "DMV Services" that operate near the DMV. They hold signs and say they will register your car for you. I assume they have fictitious firm names, too. It is John Smith operating as "DMVservices.com," when dmvnv.com is the actual government website. Would that be caught under this bill?

**Lynn Goya:**

This is only one portion. Anyone who does business under a fictitious name is required by NRS to file a fictitious firm name with the county clerk. This would allow the county clerk the legal ability to deny them the ability to use that fictitious firm name. It would not address the issue of deceptive advertising you brought up. It would just allow us to not accept fictitious firm names that closely mimic a government agency and may cause confusion.

**Assemblyman Carrillo:**

This would apply to all counties in Nevada, correct?

**Assemblywoman Spiegel:**

Yes, this would apply to all counties. I believe later in this hearing we will hear from the Office of the Secretary of State. They will be able to address your other question.

**Chairman Flores:**

Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill?

**Kimberley Perondi, Deputy Secretary for Commercial Recordings, Office of the Secretary of State:**

The Office of the Secretary of State is in support of this bill and of the prohibition of the use of names that closely mimic a governmental entity which could cause confusion or deceive the public. The Office of the Secretary of State has policies and guidelines in place that are similar when considering a business entity filing for a name reservation. This change would solidify our position. We thank Assemblywoman Spiegel for bringing forward this bill.



**John Oceguera, representing Reno-Sparks Indian Colony:**

We would like to offer support for the bill. The addition of federally recognized tribes to A.B. 317 is important to us. Often when we pass legislation in this building, we forget about Native American tribes. I think this is good protection for Native American tribes, so we offer our support.

**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.]

**Assemblywoman Spiegel:**

I want to clarify for Assemblyman Carrillo that when an entity wants to do business in the state, they have to clear their corporate name with the Office of the Secretary of State. Then they go to the county for a "doing business as" form and the secondary "fictitious name" form. This bill will allow the Office of the Secretary of State to deny people using some of these names.

[[\(Exhibit G\)](#) and [\(Exhibit H\)](#) were submitted but not discussed and will become part of the record.]

**Chairman Flores:**

I will close the hearing on A.B. 317. I will open the hearing on Assembly Bill 479.

**Assembly Bill 479: Revises provisions governing the retention of records by a local government. (BDR 19-900)**

**Jeffrey M. Kintop, Administrator, Division of State Library, Archives, and Public Records, Department of Administration:**

I am not the bill sponsor. The bill sponsor is the Office of Finance, Office of the Governor. I am the Administrator of the Division of State Library, Archives and Public Records, Department of Administration, and I can explain what the bill would do. Right now, *Nevada Revised Statutes* (NRS) 239.125 requires the Division of State Library, Archives and Public Records to ". . . adopt regulations to carry out a program to establish and approve minimum periods of retention for records of local governments." This bill, in section 1, subsection 2, changes the "shall" to a "may." It still allows us to make the regulations and set the standards, but it eliminates the requirement.

It puts it more in line with our main legislation, outlined in NRS 378.255. It states, "The State Library, Archives and Public Records Administrator may: 1. Adopt regulations and establish standards, procedures and techniques for the effective management of records . . . . 3. Establish standards for the preparation of schedules providing for the retention of state records . . . ." When the Governor's *Executive Budget* was released, one of our program officers was eliminated. They provided the full-time support for this program. We wanted to use more permissive language in the statute rather than have the requirement in there.

The local governments can still establish a program for their own records and adopt their own schedules as long as they comply with the chapter and meet the minimum retention schedules. The minimum retention schedules that we have are already set and online. They were updated last year. We also have a local government records manual that provides guidance. We will continue to support those, but only as staff time permits ([Exhibit I](#)).

**Assemblywoman Joiner:**

I have had some experience with this program in the Executive Branch. We used to send some of our materials to the State Library and Archives. I have also been a researcher who has accessed the materials you have there. I really want to ensure this program is maintained. My main question is on the need. I heard you explain that there is a staffing issue or a financial issue. If you already have the retention schedules online, is it your intent to just use those? I do not understand why there is a time frame attached to the "shall." It does not say that every year you shall adopt new regulations. It does not in any way require you to change the regulations you currently have. I am wondering why you need it to be "may." It is not clear to me yet.

**Jeff Kintop:**

Record schedules are usually updated following a legislative session. The laws change and they have different requirements set. They create records, they eliminate certain programs that eliminate records from being kept, et cetera. We monitor those bills. We change the state records schedules following the session. We update our regulations accordingly. We also look at things that may affect local governments. We have tried to model our minimum retention schedules for local governments after the state schedules. Usually there is a legal requirement for legal records, fiscal records, personnel records, et cetera. It can be applied uniformly. We also monitor federal legislation because agencies that receive lots of federal money have federal requirements for keeping records. We will continue to support those schedules online. This came up in the session last year when the Legislature introduced Assembly Bill 135 of the 78th Session, to require the Division to have training for everyone in the state government on public records requests. When the fiscal notes came in on that, the "shall" was changed to a "may." We can still do that, but we are not required to. That is what this bill does. The full-time staff position that supported this has been eliminated. The "shall" is changed to a "may." We will still maintain this, but not as actively as we were.

**Assemblywoman Joiner:**

I am still confused. The bill does not give you a time frame. It just says you shall keep it updated. So I am still not convinced. But I have a follow-up question. We have received emails from people concerned about this affecting the public records laws and access to that information. Do you have a response to that? It seems that it does affect the public's access to public records if you are not going to have a staff person there and you are not required to maintain these schedules. It does concern me that the public would lose access. There also seems to be some concern about public notices as well. I do not know if this bill relates to that or not.

**Jeff Kintop:**

We will not give up on keeping these things updated. They will still receive the guidance that we have put together over the course of 30 years. Our agency was given the responsibility in 1977 following a public records study done in the Legislature's interim. Local governments wanted minimum retention schedules. That is where the "shall" came in. We did not have any staff to do that at the time, so we applied for a federal grant from the National Historical Publications and Records Commission in the U.S. National Archives and Records Administration to create the schedule. When it was time to review and update the schedule, we applied for another grant from the National Historical Publications and Records Commission to have a local government regrant project. We basically granted out to the local governments so they could create their own records programs in their cities and counties. We had a full-time staff member who updated those schedules at that time. The schedules are maintained. They might take a few years longer to actually update, but the requirement is that you cannot get rid of records in a shorter period of time than our regulations allow. We try to meet everyone's goals on that. We will not give up on the program. It will just not be a fully staffed program.

**Assemblyman Daly:**

I hear what you are saying. I do not see how the "shall" hurts you at all. It does not say when you have to do it. You may have laws that change each session, and you can leave the old retention records in place if you do not have time or you do not think the regulation change was material enough. When the law changes, you will need to do it whether or not it says "shall" or "may." I am really not following what difference this makes. You have established records. Regulations are not that difficult. I know you may have to do some studying, but then find the time to hold the hearing and a workshop and submit it to the Legislative Counsel Bureau and come to the Legislative Commission. That is not a full-time job, and it would be once every two years from what you are saying. I do not understand it.

**Jeff Kintop:**

I am neutral on this bill. I am just trying to explain how we do things. I am not the bill sponsor. I basically wanted to point out that our obligations to state records basically contain the same "may" wording. The only "shall" we have in NRS is with the local governments, and we are the Division of State Library, Archives and Public Records. You would think it would go the other way, but it does not. The "may" brings all our legislation in line. We still have to do it though.

**Assemblyman Carrillo:**

Obviously, this has been in statute for quite some time. What changed, and why are we looking to change this now?

**Jeff Kintop:**

The full-time position that worked with the local governments was eliminated.

**Chairman Flores:**

Thank you for bringing this forth. We understand sometimes people are asked to present. 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?

**Lisa Foster, representing Boulder City:**

I spoke against the budget item on behalf of Boulder City for the reason that Boulder City tries to be as transparent as it can and tries to follow the records retention schedule the best it can. Boulder City employees frequently turn to the person in the state position that is being eliminated to ensure they are doing it correctly. Perhaps, according to Mr. Kintop, it can still be covered by the other staff, but the specific staff person who is being cut is the one who Boulder City uses. I assume the other small cities use them too. I cannot speak for them.

**Donna DiCarlo, President, Sierra Nevada Chapter, ARMA International:**

I am here to ask you to not change the wording of NRS 239.125 from "shall" to "may." The bill as drafted states there will be no impact on the local governments. I do not believe that to be a true statement. This line item also removes the program officer position and the local government records retention services. Many of the local entities have adopted by resolution the Local Government Records Management Program Manual and the local government records retention schedules. Since adoption, those entities have used the manual and the schedules exclusively in the administration and management of their records.

Currently, the records management services for local governments include the records retention schedules, records management manual narrative, training, and consulting opportunities. *Nevada Revised Statutes* 239.125 currently states:

1. A local governmental entity may establish a program for the management of records, including the adoption of schedules for the retention of records and procedures for microfilming, which must be approved by the governing body and comply with the applicable provisions of this chapter and any regulations adopted pursuant thereto.
2. The State Library, Archives and Public Records Administrator shall adopt regulations to carry out a program to establish and approve minimum periods of retention for records of local governments. The proposed regulations or any amendment thereto must be submitted to the Committee on Local Government Finance, established pursuant to NRS 354.105, for its advice and recommendations.

Many of the local governments within the state are administered by staffing as small as one or two positions. The program and the position up for elimination are integral to the local entities within the state for their ability to have a records program. Decreasing or removing the local government records retention services will create a hardship based on resources and consistency throughout the state.

Nevada is not the only state to have a program like this. Other states such as California, Florida, Georgia, Michigan, Missouri, Montana, North Carolina, Texas, and Washington have similar programs. Within those states, there are local government entities such as ours that would not be able to have a functioning records program without the valuable resource provided by their state.

I believe keeping this program is vital to the various entities within the state and the citizens of these entities. Without a records retention schedule, the entities will not be able to dispose of documents that have reached the end of their life cycle. The increased cost of physical and digital storage would overburden their already stretched budgets. Having to manage and update the records program without this resource will also be cost prohibitive. This is an essential service, and I ask that you reconsider the elimination of the program ([Exhibit J](#)).

**Brian McAnallen, Government Affairs Manager, Office of Administrative Services,  
City of Las Vegas:**

We are opposed to this bill as well. We have an extensive records management program at the City of Las Vegas. If anyone is interested, I would be happy to show you our secure warehouse where we store our records. They are on a retention and disposal schedule. That warehouse often reminds me of *Raiders of the Lost Ark* where you see shelves and shelves of tall boxes of records being stored. While we have several specific and dedicated staff members in the Las Vegas City Clerk's Office, this position at the state is pretty important for us to liaise and ensure the schedules are consistent.

We understand the position is being eliminated at the state level, but we are concerned about the dedicated staff person who would be a part of that process and continue a liaison with the local governments on these retention schedules. It is important that with our changing technologies related to records, there is some consistency in the new changes and understanding the federal and state laws that apply. We do look to this office and that individual as a resource. We have some concerns that with this going away, and with us managing our records the way in which we do, there may be inconsistencies throughout the state in how records management is handled. For those reasons, we are opposed to this measure.

**Lawrence R. Burtness, County Recorder, Washoe County:**

I am here to speak in opposition to A.B. 479. There is some broad concern about A.B. 479 from the local government entities that this bill directly impacts. This was expressed on March 2, 2017, during budget hearings, and is being expressed again today before this body. We all understand that records are a vital asset of government. Proper management and retention is a critical component of that asset. The public that we serve expects appropriate custodial attention and protection of these records.

Assembly Bill 479 changes NRS Chapter 239 with only one word. It replaces "shall" with "may." While this seems like an insignificant change, the downstream impact could be very significant. Local government entities in Nevada have benefited greatly since the 59th Session that added this section to NRS Chapter 239. The local government records retention schedule that resulted has been regularly updated to reflect changes in the law as they pertain to existing record series, newly created record series, and to the retention requirements. Users of this schedule include cities, counties, school districts, law enforcement, et cetera. All of the departments within these entities are subject to records retention requirements. That is why this records retention schedule is a significant document. However, with the minor change to NRS Chapter 239 that we have in A.B. 479, there is a very real possibility that this program will eventually cease to exist. If this program supporting local governments is significantly changed or ultimately eliminated, each entity would have to assume the responsibility for the maintenance of their records retention schedules. There will be a significant cumulative unfunded cost to do this.

Some local governments will recognize the importance of this, embrace it, and incorporate the cost into their budgets. Others will not embrace it. Some may be unable to fund it and become vulnerable to a variety of liabilities. Whether embraced or not, it is certain that there will be an inconsistent approach to the retention schedules of these important government assets if the local entities are left to their own devices to manage them. I would respectfully suggest leaving the word "shall" in NRS Chapter 239.

[The witness submitted prepared text that included additional testimony ([Exhibit K](#)).]

**Dagny Stapleton, Deputy Director, Nevada Association of Counties:**

We are also in opposition to A.B. 479. We would echo the concerns expressed by others in opposition today, especially Mr. Burtness. As you have heard, this program is very important to counties and the ability for county recorders, clerks, and others to best manage the records they are responsible for.

On the Nevada Electronic Legislative Information System there is a letter that was submitted to you regarding this bill also in opposition from the Nevada Association of County Clerks and Election Officials ([Exhibit L](#)). They are an affiliate member of our organization, as is the Recorder's Association of Nevada. On their behalf, we support their concerns. We also have concerns on behalf of all counties as well as the communities they serve.

**Assemblyman Ellison:**

When this position went away, did everyone stand up and throw a fit? If this position is not filled, who will pick up the workload?

**Larry Burtness:**

I think our concern became prominent when we became aware through the budget hearings on March 2, 2017, that the position was being eliminated. We provided testimony during that hearing as well as in writing of the general concern of local government entities. To your question of how the responsibilities will continue to be fulfilled, I think Mr. Kintop has addressed how that will play out if A.B. 479 is passed.

**Chairman Flores:**

Is there anyone wishing to testify as neutral to the bill? [There was no one.] Are there any final remarks?

**Jeff Kintop:**

You saw the breadth and depth of the schedule. It was developed over the years. We have identified a lot of the records that need to be scheduled and their retention periods. We have to modify it when laws change and maybe create new records. Sometimes we have more records to deal with than other times. With existing staff, we will be able to maintain the regulations that govern the process, the schedules, and the manuals. We will be able to answer questions as staff time permits.

**Chairman Flores:**

I ask that the opposition and different stakeholders reach out to the appropriate individuals so we can find middle ground. I do not see that happening because it is either you like "may" or you do not. I would appreciate at the minimum that you express your concerns if you have not had an opportunity to do so. Please see if the sponsor wishes to move forward with the bill. I will close the hearing on A.B. 479.

We are going to pull Assembly Bill 301 from the work session. The bill sponsor is still working on an amendment, so we will wait for that.

**Assembly Bill 301: Provides for the confidentiality of certain communications between parties during a peer support counseling session. (BDR 23-186)**

We will open the work session for Assembly Bill 151.

**Assembly Bill 151: Provides for the certification of law enforcement dispatchers. (BDR 23-767)**

**Jered McDonald, Committee Policy Analyst:**

Assembly Bill 151 requires the Peace Officers' Standards and Training Commission to adopt regulations regarding law enforcement dispatchers. You reviewed an amendment on Wednesday, April 5, 2017. The sponsor has come back with a revised amendment that you can review. The amendment requires the Commission to establish a voluntary training program for law enforcement dispatchers, certify qualified instructors, and issue certificates ([Exhibit M](#)).

**Chairman Flores:**

I will accept a motion to amend and do pass Assembly Bill 151.

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO AMEND AND  
DO PASS ASSEMBLY BILL 151.

ASSEMBLYMAN KRAMER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Flores:**

Assemblywoman Carlton will take the floor statement. I want to quickly address one thing. I appreciate that we are working through all the bills. Next week will be very intense. Bills may need to be moved around. That is the nature of how that week works. I know many of us have bill presentations coming up. We have meetings that we have to go to. Moving forward, I do not want anyone to come in and apologize. However, it is my expectation that you tell me if you are leaving Committee to do anything. People getting up and not saying anything is not appropriate; that is out of respect to the Committee. This meeting is adjourned [at 10:50 a.m.].

RESPECTFULLY SUBMITTED:

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Isabel Youngs  
Committee Secretary

APPROVED BY:

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Assemblyman Edgar Flores, Chairman

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



## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed conceptual amendment to Assembly Bill 399, submitted by Assemblyman Skip Daly, Assembly District No. 31, presented by Assemblywoman Irene Bustamante Adams, Assembly District No. 42.

[Exhibit D](#) is a proposed amendment to Assembly Bill 399, submitted by Assemblywoman Irene Bustamante Adams, Assembly District No. 42, presented by Scott Scherer, representing Regional Transportation Commission of Southern Nevada.

[Exhibit E](#) is Proposed Amendment 3531 to Assembly Bill 350, presented by Assemblyman Ozzie Fumo, Assembly District No. 21.

[Exhibit F](#) is a proposed conceptual amendment to Assembly Bill 317, dated April 6, 2017, presented by Assemblywoman Ellen B. Spiegel, Assembly District No. 20.

[Exhibit G](#) is a letter dated April 5, 2017, in support of Assembly Bill 317 to Chairman Flores and members of the Assembly Committee on Government Affairs, authored and submitted by Nancy Parent, President, Nevada Association of County Clerks and Election Officials.

[Exhibit H](#) is a letter dated April 4, 2017, in support of Assembly Bill 317 to the Assembly Committee on Government Affairs, authored and submitted by Aviva Gordon, Legislative Committee Chairwoman, Henderson Chamber of Commerce and Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce.

[Exhibit I](#) is written testimony dated April 7, 2017, authored and submitted by Jeffrey M. Kintop, Administrator, Division of State Library, Archives, and Public Records, Department of Administration, regarding Assembly Bill 479.

[Exhibit J](#) is written testimony dated April 7, 2017, in opposition to Assembly Bill 479, presented by Donna DiCarlo, President, Sierra Nevada Chapter, ARMA International.

[Exhibit K](#) is a letter dated April 5, 2017, in opposition to Assembly Bill 479, authored and presented by Lawrence R. Burtness, County Recorder, Washoe County.

[Exhibit L](#) is a letter dated April 5, 2017, in opposition to Assembly Bill 479, authored and submitted by Nancy Parent, President, Nevada Association of County Clerks and Election Officials.

[Exhibit M](#) is the Work Session Document for Assembly Bill 151, dated April 7, 2017, presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.