

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

**Eighty-First Session
February 5, 2021**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 9:01 a.m. on Friday, February 5, 2021, Online. 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/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblywoman Selena Torres, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Annie Black
Assemblywoman Venicia Considine
Assemblywoman Jill Dickman
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Susie Martinez
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Clara Thomas

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Judith Bishop, Committee Manager
Lindsey Howell, Committee Secretary
Lori McCleary, Committee Secretary
Cheryl Williams, Committee Assistant



OTHERS PRESENT:

Katherine Miller, U.S. Army Colonel (Ret.), Director, Department of Veterans Services
Amy Garland, Deputy Director of Support, Department of Veterans Services
Fred Wagar, Deputy Director of Operations, Department of Veterans Services
Kara Jenkins, Administrator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation
Lila Vizcarra, Chief Compliance Investigator and Outreach Specialist, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation
Tony Yarbrough, representing Veterans of Foreign Wars, Department of Nevada; and United Veterans Legislative Council

Chair Flores:

[Roll was taken. Committee rules and protocol were explained.] We have two presentations scheduled for today. Before we do that, we do have a bill draft request (BDR) introduction. All we are doing is making sure it gets a hearing.

BDR 42-109—Makes various changes relating to wildfires. (Later introduced as [Assembly Bill 100](#).)

This BDR comes out of the Committee to Conduct an Interim Study Concerning Wildfires. I will entertain a motion to introduce BDR 42-109.

ASSEMBLYWOMAN TORRES MOVED FOR COMMITTEE
INTRODUCTION OF BILL DRAFT REQUEST 42-109.

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

Members, any discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

We will now open the presentation from the Department of Veterans Services.

Katherine Miller, U.S. Army Colonel (Ret.), Director, Department of Veterans Services:
With me today I have Deputy Directors Amy Garland and Fred Wagar, as well as our Executive Officer, Kurt Green, should I need some additional assistance answering any of your questions. In my Department of Veterans Services (NDVS) presentation [[Exhibit C](#)], I will be providing information about the veterans we serve, a department overview, a high-level introduction of our department bills, and our recent accomplishments and future plans [page 2, [Exhibit C](#)].

There are about 19 million U.S. veterans. Nationwide, this population is declining and predicted to be about 13.6 million in 2037. This presumes that there are no major worldwide conflicts. A veteran is older, on average, than a nonveteran, and almost 90 percent of them are male. However, the number and percentage of women veterans continue to grow. It is projected that in 2045, about 16 percent of veterans will be women. Veterans have a higher household income than nonveterans and compare well in other economic and educational indicators [page 3, [Exhibit C](#)].

This slide [page 4] shows demographic data about Nevada's veterans. Almost 250,000 veterans call Nevada home. The largest cohort is Vietnam-era veterans. Forty-nine percent of veterans are age 65 or older.

This slide [page 5] lays out the NDVS's vision, mission, and our seven major lines of effort. Our mission is to ensure that Nevada veterans and their families understand and can connect to benefits and services they have earned.

This slide [page 6] displays the NDVS's organizational diagram. We have three major divisions: the Programs and Services Division, Health and Wellness Division, and Administrative Support Branch.

Next, I wanted to share our current strategic goals [page 7]. Our first and oldest goal, which has been around since 1943, is to reintegrate current-era veterans into Nevada communities. Back then, we were reintegrating World War II veterans; today we are reintegrating Global War on Terrorism veterans. The last goal on this slide is our newest, and hopefully it will be a short-term goal: to respond to the COVID-19 pandemic.

This slide [page 8] shows our various programs. The Veterans Service Officer Program, our oldest program, is how we help veterans connect to their benefits. Our two veterans' cemeteries were established in 1990. Our first veteran skilled nursing home was constructed in southern Nevada in 2001. In 2019, a second nursing home was constructed in northern Nevada. In the past decade, the NDVS has expanded operations to better reintegrate veterans and their families into our community. Our newest program is our Veterans Justice Reintegration Program. We work in collaboration with the Department of Corrections and veterans courts across the state.

I am going to dive a little deeper into some of our major programs. First, I will discuss our nursing homes [page 9]. We offer 24-hour skilled nursing care for veterans, spouses, and Gold Star parents at our two state veterans' homes. The Southern Nevada State Veterans Home (Southern Nevada Home) in Boulder City has 180 beds, and is an award-winning, five-star facility. The Northern Nevada State Veterans Home (Northern Nevada Home) in Sparks is a 96-bed facility. That home is currently at 87 percent occupancy. Veterans in the Northern Nevada Home have their own private room and share a den, living room, and kitchen with 15 other residents. In the Southern Nevada Home, veterans live in double-bed rooms.

As I mentioned, we have two state veterans' cemeteries—one in Fernley and one in Boulder City [page 10, [Exhibit C](#)]. These cemeteries honor veterans, eligible family members, and Gold Star parents with dignified burials and final resting places. Over 58,000 veterans and family members have been interred at our cemeteries. The cemeteries were built and expanded using grants awarded by the U.S. Department of Veterans Affairs (VA). The VA reimburses the state \$807 per interment. Veteran interments are offered at no charge, but family members and Gold Star parents are charged a state interment fee of \$450.

Our next major program [page 11] is our Veterans Advocacy and Support Team, which helps veterans, service members, and their families access benefits and opportunities. Veterans service officers (VSOs) respond to over 1,000 requests for assistance a month; each VSO generates about \$17 million in benefits annually on behalf of veterans. The Veterans Advocacy and Support Team manages the Nevada Veterans Advocate Program, with over 700 volunteers who help share benefit information within their community. This is an increase of over 200 veterans advocates since the last report given to this Committee.

The community outreach program helps connect veterans and community supporters. This slide [page 12] shows the many community outreach programs, such as employer education programs, justice reintegration, and homelessness and suicide prevention. Our programs also include our rural outreach programs under the Rural Outreach and Veterans Enrichment and Resources Program, as well as the Nevada Women Veterans Program.

I wanted to show the Committee our revenue sources in our last fiscal year [page 13]. The revenue used to operate our programs comes from many sources, but 75 percent of our revenue last fiscal year came from federal funds, 9 percent from the State General Fund, and 4 percent from donations. The percentage from donations has historically been around 7 percent. The reason for the reduction in 2020 is that since opening the Northern Nevada Home, we have seen more federal revenue come in. We are not receiving fewer donations, but they make up a smaller percentage of the pie. This slide [page 14] displays our 2021-2023 revenue projections in greater detail. The projected revenue is similar to our 2020 actuals, with a slight increase in federal revenue associated with being full census at our Northern Nevada State Veterans Home.

I am now going to jump to our session activities. Our budget bill and the NDVS portion of the Governor's budget bill are cross-associated with operating two veterans' cemeteries, two veterans' homes, two headquarters offices, and eight veterans service officer locations; funding essential equipment replacement and one flooring maintenance project; and we also have four capital improvement projects. I wanted to call out one of these plans, the Southern Nevada State Veterans Home renovation planning project. Earlier, I mentioned that our Southern Nevada Home has double rooms. For the last three years, we have been trying to develop plans to get that to be a single-room facility. A resident of a double room in a nursing home is 3.7 times more likely to contract a respiratory disease than one in a single room. I think it would be self-evident why. By moving to single rooms, not only does it improve the quality of life for our residents, but it better protects them as well. On the other side of the slide [page 15], there are our nonbudgetary bills. Assembly Bill 22 would

establish a State of Nevada transition assistance program for veterans and their families. There is already a federal transition assistance program, but it does not cover many state benefits. When a veteran is discharged, the things that they ask for and need help with are employment, homing, health care, and assistance if their child is in school. These are all things that are still county-led services.

The next bill is Assembly Bill 76, which would authorize the NDVS to establish and operate programs to provide adult day health care. This bill does not ask for permission to build another nursing home or start one immediately. It would just give us the authority to establish one so that we can start applying for grants. Three years ago, the VA added a new per diem category; it allowed reimbursement for veterans and adult day health care. That is important, especially in southern Nevada, because we have many families where both the adults work. For instance, if a family member or a veteran has a memory care issue, it is very difficult and dangerous to leave that person at home. Adult day health care would give the family an opportunity to leave the parent who is a veteran at home in the evening, so she could be with her family but go somewhere safe during the day. Again, we are not seeking funding for this or anything; it just gives us the authority to establish the program so I can start going after grants.

The last bill is Assembly Bill 77. This bill would revise the duties of the NDVS directors to capture missions we are already doing and to change the terms of the members of four veterans' advisory commissions and committees to standardize the number of years for which they are appointed.

As I look back over the last two years, it amazes me that we were able to get as much done as possible under the current circumstances. I want to highlight a few of our accomplishments [pages 16, 17, and 18, [Exhibit C](#)]. We expanded our Nevada veterans suicide programs, adding the Governor's Challenge to Prevent Veterans Suicide Among Service Members, Veterans, and Their Families! We also added Winnemucca and Elko to the list of Mayor's Challenges we already have in the Truckee Meadows area and in Las Vegas. We published the first NDVS Caregivers and Survivors Guide brochure. As mentioned, we established a new justice reintegration program; we are working with partners to focus on the needs of incarcerated veterans and those participating in veterans courts.

I also want to highlight the dozens of virtual memorial and educational events conducted during the pandemic. Among these is our new "In the Know" series, which helps veterans and their families connect to earned benefits. One of the parts of this series I would like to specifically point out is the discharge upgrade seminar we had, which helps veterans understand how they would upgrade their status if they were not honorably discharged so that they can tap into those veterans benefits.

At both nursing homes, we implemented telehealth appointments and family connection video calls and created the family connections task force to combat the isolation many older veterans may be experiencing during the COVID-19 pandemic. This task force comprised people from across the state and was aimed at looking for solutions to combat isolation for veterans in any nursing home or assisted living facility across the state.

We created a video that has been viewed nationwide, designed to reduce veterans suicide. In addition, with the help of volunteers, we scanned over 25,000 of 80,000 archived military documents into the Veterans Information System (VIS). This will help us locate and support Nevada veterans and their families. We also shared our nationally recognized Bravo Zulu dementia training program for caregivers of veterans with the Sanford Center for Aging, which implemented the program through a statewide grant.

Last, I want to discuss the NDVS's "Over the Horizon" projects—what is next for us. On this slide [page 19, [Exhibit C](#)], which focuses on the Programs and Services Division, I want to highlight four things. I mentioned Assembly Bill 22—we are already working on an online version of that and working with partners to see how that might be implemented. We are halfway through developing our GPS-enabled system to help families locate their loved ones at the burial locations. The VA has a system at our cemeteries, but it seems like it is down about half of the time. If you were coming from out of town and did not know where your loved one was buried, it would be awfully nice if you could just pull out your cellphone, type in their name, and be directed to walk to the exact location of the burial site. In addition, we are working with our congressional delegation and the VA to establish a Veterans Rural Burial Ground in Elko. This was approved in 2013, but there have been a number of roadblocks. At this point, it is taking a land bill and I think they are well on the way, but COVID-19 slowed us down a bit. Hopefully, we will get that land bill passed, do everything we need to do, and get a rural burial ground. A burial ground is different from a veterans cemetery; this is where the VA actually contracts out. We have another local cemetery that is held to the same standard and operated in the same manner as our veterans burial area, but it is not run by the state, although we will be helping once it is established. The last thing, which I am proud of, is that we plan to continue growing our Nevada Veterans Advocates Force, from 700 to 1,000. These veterans advocates are out in their community; they are well trained, taking an online course with 20 modules. They are then able to help in their community by navigating veterans and their families to the services they need.

We have a number of exciting plans for our health care services branch as well [page 20]. We have a plan to renovate the Southern Nevada State Veterans Home, converting it to a single-bed facility. We want to create a certified nursing assistant training program at the Southern Nevada Home so that we can "grow our own." We would like to expand programs to educate community care providers regarding veterans' mental and medical health needs, as well as their benefits. We want to connect family members and caregivers to needed federal, state, and local resources.

This slide [page 21, [Exhibit C](#)] details our future plans for the Administrative Support Branch. We want to improve our VIS; we have recently procured a source code that will dramatically improve our data collection. We want to complete the gravesite GPS program I mentioned earlier. We would also like to finish our Battle Born Memorial Kiosk Project—we would populate the kiosk with information about Nevada's fallen heroes. Of course, we want to increase the number of grants we successfully apply for.

This concludes my briefing, and I stand ready to answer any questions you have.

Chair Flores:

I do want to say thank you to Fred Wagar. We worked with him over the interim. He consistently provided updates to the Committee and worked with us very well. I am grateful for all the information he has provided throughout the past year, especially given how difficult it has been for our veterans. Thank you for all the work you do; we appreciate your being here. Are there any questions?

Assemblywoman Black:

I wanted to echo what Chair Flores said. Since I represent Assembly District 19, Mr. Wagar has generously given up his time to update me about what is going on in the veterans' home in Boulder City. I also want to mention how proud I am of how you have handled the pandemic and kept residents safe. I want to acknowledge all the fine work you do and say thank you.

Kat Miller:

When the pandemic started, Amy Garland—who is in charge of the two veterans' homes—and I knew we would have to divide and conquer. Mr. Wagar, our state emergency operations center lead, has done a wonderful job. I am happy to report that we currently have no residents who have tested positive for COVID-19; we do have two asymptomatic staff members. We have been calling key leaders in the Legislature, as well as those in the districts where our veterans' homes are. If we did not call you, it is not because we thought you did not need to know. Some of those calls take about 20 minutes for Mr. Wagar to get through, and we wanted to make sure those on key committees and those in the districts where our homes are knew what was going on in our veterans' homes.

Assemblyman Matthews:

Thank you, and everyone in your department, for all the work you are doing to support those who have served our country. I had a question regarding Assembly Bill 22. You noted that it would establish the State of Nevada transition assistance program for veterans. My understanding is that a few years ago, we had something called the Green Zone Initiative in place. The function of that initiative was to help returning service members transition back into civilian life, with a particular emphasis on finding employment and developing the skills to gain employment.

My understanding is also that this initiative is no longer in place. Is the aim of A.B. 22 to create a program that would take on the responsibilities of the Green Zone Initiative? Are some of those responsibilities already delegated to other programs within the NDVS? Could you speak to why the Green Zone Initiative was disbanded, what some of the inefficiencies may have been, and how A.B. 22 or existing programs would improve on said inefficiencies?

Kat Miller:

The Green Zone Initiative was very successful. It was not disbanded; it was renamed. The "Green Zone" refers to an area in Iraq where services were marshaled and aligned. That was what our then-director Caleb Cage wanted to do; he wanted to change the paradigm. We brought together local, county, and state nonprofits. We brought people together in a way that could really identify and address the needs of veterans. Unfortunately, a lot of people thought the Green Zone meant that we were selling solar panels or something similar, so the title caused some confusion. But the Green Zone Initiative was really about "turning the battleship," as the Navy would say, for the NDVS and its mission. However, the initiative was not in itself a program, other than that it created veterans community councils. It created the Interagency Council on Veterans Affairs, and it was about creating an architecture and a structure that could bring problems from the grassroots level to the Governor and the Legislature so we could address and solve them. Those systems are still in place, but we did not need to "turn the battleship" anymore. The website was called the Green Zone Network. We changed that to NVVetNet because when people search for services online, they do not know to put in "Green Zone," but they do know to put in "Nevada Veteran." As a result, we increased the number of hits on our website dramatically; we get traffic from all over the world. In fact, on our website, there is a link that says "Ask a VSO." People all over the world click that link, and then we can give them an immediate response.

Now, let me discuss A.B. 22. This bill formalizes the way we address the information needs of departing service members so that we can get them before they are departed. We would be operating outside the Nellis, Creech, and Fallon military bases, working with commanders. Before a service member gets out, she already gets a federal Transition Assistance Program (TAP) that talks about VA benefits. This program would be a companion piece to say, By the way, do you want to get a job in Nevada? Do you want to get a house in Nevada? Do you want to put your kids in a school in Nevada? Do you need health insurance in Nevada? None of that is in the federal TAP.

Assemblyman Matthews:

I do have one other question. According to the information you provided, it looks like roughly three-fourths of the funding for NDVS comes from federal funds. Could you touch on what the trend might be and how that percentage compares to the percentage from, for example, ten years ago? I am wondering whether the federal government is offering a larger portion of the revenue, or if it is going in the other direction.

Kat Miller:

When we opened our first cemetery in 1990, we started getting reimbursed for that. That added to the amount of federal funding we received. Then, when we opened our nursing

homes, almost all of the funds—I think it was about \$18 million two years ago, though I would have to look that up—to operate those also came from federal funding. But the bulk of that money is in reimbursements that are coming to operate our nursing homes. We have not reached full census yet in the Northern Nevada Home because the pandemic hit, and we had to keep one wing of eight open as an isolation area. Once we get to full census, we will have a slight increase in federal funding. I think our balance will be about the same; our goal is not to be a heavy draw on the General Fund. The only thing I could see that would make a dramatic increase in federal funds would be the opening of another facility that would draw from those. For example, if ten years from now, somebody decided to open an adult day health care facility, that would be additional federal funding. That piece of the federal fund pie would get larger. I will open this question to Deputy Director Amy Garland—she is my budget brain.

Amy Garland, Deputy Director of Support, Department of Veterans Services:

You presented it beautifully. Most of the federal funds are from our state veterans' homes reimbursement. I will give you some examples that might help the Committee understand what that federal money is. That money is Medicare and Medicaid; the VA also gives us a per diem, plus a reimbursement for those who have a 70 to 100 percent service-connected disability. That is a big majority for both homes.

Assemblywoman Dickman:

I just wanted to thank you for the great presentation, and more importantly, for all the amazing work you do to support our veterans. I am thrilled to be able to work with you again.

Kat Miller:

I have the best job in the state.

Assemblywoman Thomas:

I would like to thank you for your service and presentation. I have a couple of questions. On a couple of slides [pages 16 and 18], you spoke about the NDVS's accomplishments as regards the veterans suicide prevention programs, such as the video designed to reduce veterans suicide rates. Could you explain how the addition of the Governor's Challenge expanded the Nevada veterans suicide programs?

Kat Miller:

I want to start by saying Nevada is the only state in the Union that showed a reduction in veterans suicide for the last two years in a row. It is a small reduction, but it is going in the right direction. A lot of that has to do with the bills that were passed in the Legislature during the last few years. For example, we were able to get training for police, first responders, and medical providers on what to do in terms of suicide prevention. The veterans programs we talk about in this slide were created by the Substance Abuse and Mental Health Services Administration (SAMHSA). The VA created this program and first offered it to different states that were having difficulties with veterans suicide.

We received the first program in Las Vegas several years ago. That was a Mayor's Challenge, and our Department was just part of the mayor's team under Mayor Goodman. There were some great results. We asked the VA and SAMHSA if they would expand the program to the Truckee Meadows area—to Reno and Sparks—and they did. Mayor's Challenges bring together providers at the local level to make sure there are no gaps in services. We identify veterans' needs, develop new programs, and do that actual connection of people in need to resources. Then we asked if they would give us a Governor's Challenge. A Governor's Challenge is more policy-associated and is about determining what we need to do as a state. We got the Governor's Challenge in 2019. I am very excited about the work being done; there are some things in these challenges that SAMHSA has taken to other states because they were so impressed by the initiatives.

About seven or eight months ago, we asked to be expanded so that we could get Mayor's Challenges in Winnemucca and Elko; those are just now standing up. Again, the challenges are about bringing all the right people together in a room and doing what is almost case management, at least at the Mayor's Challenge level. We figure out what we need to do better. It has really created a synchronization across our state, and I think that, combined with some of the legislation that has passed, has started to make a difference. We have been worried this past year because studies show that isolation leads to depression and depression can lead to suicide. Keeping people connected during the pandemic has been a major effort on the part of Mayor's Challenges and the Governor's Challenge. Could I use a lifeline really quickly to see if I have left anything out and turn it over to Deputy Director Fred Wagar? The suicide prevention program falls under him.

Fred Wagar, Deputy Director of Operations, Department of Veterans Services:

I just wanted to let everyone know that SAMHSA stands for Substance Abuse and Mental Health Services Administration under the U.S. Department of Health and Human Services (DHHS).

Kat Miller:

I did also want to mention that Nevada has an Office for Suicide Prevention within the state DHHS. We work closely with them; we do not do anything without our partners in the state DHHS, such as Misty Vaughan Allen and Richard Egan, when it comes to dealing with suicide.

Assemblywoman Thomas:

I wanted to know if we have a behavioral health facility that specifically addresses veterans' mental health issues, and more importantly, suicide, anywhere in the state of Nevada.

Kat Miller:

Yes, we do. Our VA hospitals in Reno and Las Vegas have wonderful mental health activities. These hospitals, as well as the clinic in Elko—which falls under the Salt Lake City Regional Office for the VA—offer these services to any veterans at risk for suicide, regardless of their eligibility in other ways or character of discharge. These VA hospitals are

not stand-alone mental health facilities, but each is housed in a separate, segregated area. They also contract out to other facilities. On top of that, they have something called the "Veterans Resource Center," which falls under the VA, that is specifically for combat veterans who are experiencing issues associated with the trauma of war. There is an office in Las Vegas and an office in Reno.

Fred Wagar:

I will touch on the President's Roadmap to Empower Veterans and End a National Tragedy of Suicide (PREVENTS) program that the VA developed under the previous administration and is continuing under the current one. It provides additional mental health and suicide prevention resources. Kim Donohue is our program manager for suicide prevention for NDVS and has been named an ambassador for the State of Nevada for the PREVENTS program. We are very proud of her. She works as our agency lead for the Mayor's and Governor's Challenges and gets a lot of different people involved. Those have expanded into a lot of programs; there are many different agencies involved in them. We would encourage you to get involved with the Mayor's Challenge in your communities if you can.

Assemblywoman Anderson:

I have two questions. The first has to do with outreach: How do our newly retired armed services members find out about these amazing services, and how do people find out about these services when they move into Nevada? My second question is about the staffing at the veterans homes. As with Assemblywoman Black, there is one in my own Assembly District 30. Are these nursing homes staffed by state or federal employees, or are there private entities that run these locations?

Kat Miller:

Let me start with the staffing at the nursing homes. The Southern Nevada Home is staffed by state employees. The Northern Nevada Home is run by a contracted management company called Avalon Health Care. That may seem strange, but I asked the Legislature during the 2019 Session. It took ten years to get into the black for the Southern Nevada Home. We had the experience of constructing one nursing home, and then we had a management company with an incredible track record and the business practices to get us up and running. We estimated that it would take about two or three years to become General Fund-independent. It will probably take three to four years right now, as I am a year behind due to COVID-19. We are well on track to achieving that; a future legislative session will probably need to take a look at these two systems to see which one works best. I think it will be another couple of years before the NDVS has the data to make that recommendation, but both are working well.

Regarding your first question about the newly discharged service members, we receive a copy of discharge documents from the U.S. Department of Defense (DOD) of everyone who says they are moving to Nevada. We send all those service members a welcome letter as soon as we get their data. That welcome letter includes information about State of Nevada services and how to contact a VSO to help them more specifically. It also has information from the Department of Employment, Training and Rehabilitation about jobs and the

Department of Business and Industry about homes. Finally, there is information about health insurance. We are proud of that letter. The TAP program, if instituted, would not only be for service members in the Nellis, Creech, and Fallon military bases, but also for veterans coming back to the state. Those veterans could attend one of these sessions to learn about the services provided. For example, a service member might tell the Department of Defense that she would go to North Carolina after she was discharged, but then a year later, she might decide to move to Nevada for a job, at which point she will need the information. That is the biggest problem we have: How do we let veterans know we exist? We spend a lot of time and effort trying to answer that question. We are much better at it than we were before, but that is where VIS is so important. Gathering data from the Department of Motor Vehicles is also important as a way to find people who have registered as veterans. We also get data from DHHS. We work with as many partners as possible to locate veterans, but sometimes we have to do things like public service announcements. We are working on one right now.

There is Agent Orange for Vietnam veterans; formerly, there were eight presumptive conditions. If a Vietnam veteran had any of these eight diseases, he did not have to prove that it was caused as a result of his military service. He could immediately get not only medical care, but a financial compensation check regardless of his income level. Three new conditions have just been added to Agent Orange, so the question is this: How do we let all these Vietnam veterans know that if they have, for example, bladder cancer, they can get a compensation check and care from the VA? That consumes a lot of our time, but we are going to figure it out. But unless they microchip every veteran when they get out the service, it will continue to be a problem; I am not recommending that course of action.

Assemblywoman Anderson:

I assume that most of the information is sent via physical mail, not emails, which could be one reason why it is so difficult sometimes to reach our homeless veterans and give them the help they need.

Kat Miller:

The DOD was providing us with veterans' emails for where they were currently, not where they were going. It was not very helpful to us, so we send a hard copy of the information by mail. We also have a great newsletter and a phone app that is getting pretty good coverage. Right now, if someone looks up "Nevada Veteran," people can find us easily. If anyone has any suggestions for better ways to reach out to veterans to let them know about their benefits and services, we are always open to that.

Assemblyman Ellison:

I have a question. Senator Pete Goicoechea and I both sit on the Advisory Committee for a Veterans' Cemetery in Northern Nevada. One seat needs to be filled, and I put in a recommendation that local Elko veteran Gil Hernandez take that position. I have not heard back about that. Can you check on that for me?

Kat Miller:

I will. You will get a status update on that as soon as possible.

Chair Flores:

Are there any additional questions? [There were none.] Thank you again for the presentation, and I want to thank all of you for the work you do. It is incredibly important to take care of those who have given everything for this country. It is an honor to have you before this Committee. Members, I encourage you to reach out and use these NDVS staff as a resource for yourself if you ever have any questions related to veterans services. We will now close the presentation from NDVS and open the presentation from the Nevada Equal Rights Commission (NERC) within the Department of Employment, Training and Rehabilitation.

Kara Jenkins, Administrator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation:

I have with me my chief compliance investigator and outreach specialist, Lila Vizcarra. She will be running the presentation slides [[Exhibit D](#)]. I also have the Department of Employment, Training and Rehabilitation (DETR) Deputy Director Jenny Casselman and NERC's legal counsel, Sophia Long. I am very passionate about NERC. I have been the administrator for quite some time now. My goal in this presentation is to explain what we do and how we do it. If you have any questions at the end, we would be happy to answer them.

This slide [page 4, [Exhibit D](#)] has an overview of NERC. We are housed within DETR. You may have heard of that department, especially last year and moving forward. Essentially, NERC is a commission similar to the federal Equal Employment Opportunity Commission (EEOC). We have an agency component, which includes my team and me, and we have five governor-appointed commissioners who will foster the goodwill of equal rights. These commissioners are supposed to be reflective of Nevada in terms of diversity and have a passion for essentially spreading the gospel of equal rights in the state.

The Nevada Equal Rights Commission oversees the state's Equal Employment Opportunity program. We also have jurisdiction not only in settling employment discrimination allegations, but also in public accommodation discrimination complaints and housing complaints. I will also talk about our relationship with the U.S. Department of Housing and Urban Development (HUD), with whom we are striving to get substantially equivalent in law so that we can partner with them. We investigate complaints of discrimination and try to settle them. Essentially, we are the administrative entity you go through before you go to state or federal court and sue on a claim of employment discrimination or housing discrimination, something which you work through with HUD. You would also go through us for a public accommodation or access or equal enjoyment state-owned litigation complaint. You have to come to us; it is strongly recommended and, in fact, most judges will ask attorneys representing their clients if they went through NERC first. We prepare cases for litigation with the goal of settling for all Nevadans.

We take in and settle complaints and give everybody due process—not only the charging party, but also the employer, whose rights we protect and to whom we give education, training, and toolkits, so that he can avoid discrimination complaints or charges. However, before that, I want to go over some federal employment discrimination laws that you are all

aware of, the ones I loved learning about in law school. I will review them briefly today, as they are very relevant. I am proud to say that Nevada mirrors all these federal protections.

Let us start with the first point on the slide [page 5, [Exhibit D](#)]. The "Grand Poobah" of federal equal rights protections, which is unmatched in any other country, is Title VII of the Civil Rights Act of 1964. In 1964, there was a strong push for civil rights legislation to protect certain key categories of folks in employment. These "Big 5"—race, color, religion, national origin, and sex—categories were getting differential treatment under the law in terms of employment. When we talk about race—and this is the training that Ms. Vizcarra and I give to most employers—the federal government only acknowledges five races. This is interesting, since the U.S. is a huge melting pot, and we all have ancestry from somewhere or another. When we look at charges or allegations of discrimination, we have the complainant check off whether it is race discrimination; for example, was it because she felt like she was discriminated against based on being Black? I will use that as an example, as I am an African-American woman. These are the protected categories on our complaint forms that comprise race discrimination. We also talk about color discrimination, which is literally about the color of a person's skin. It is possible to be discriminated against based on skin color—not necessarily race because it is possible for two people to be of the same race but have different skin colors. In addition, we look at complaints of discrimination based on religion. That is the belief in a god or gods, or the lack of belief—atheism is covered under this protection too. We also have national origin; that is ancestry. For example, this is when someone talks about being a Hispanic American, or just Hispanic. That person's race could be African; he could be Afro-Latino. Or he could be European—white Hispanic—or Central American. Sometimes, folks will put their race as "Hispanic," but that is really their national origin or ancestry. Where you are from is covered under the Civil Rights Act of 1964 too. Finally, there is sex discrimination. The courts have now interpreted that to be inclusive of sexual orientation, gender identity or expression, and sexual harassment. But in 1964, sex discrimination really looked at whether a person was denied an employment opportunity because she was female—or, for example, if someone were male and then could not get paternity leave to take care of his kids. Those were the "Big 5" protected categories under the law in 1964 under Title VII. Again, we mirror that here in Nevada.

In 1967, former President Lyndon B. Johnson also pushed for legislation covering age discrimination in employment. That is the second point on the slide [page 5]: the Age Discrimination in Employment Act of 1967 (ADEA). This protects workers who are 40 and over. I recently joined this category; I have been in it, lovingly, for two years now, and Ms. Vizcarra just joined that protected category herself. Between the two of us, we check off a whole lot of boxes here at NERC. If you are 40 or over, you have protections under the law. This is what that might look like: Say you are being pushed out of your job in favor of younger workers who will work for less pay. That actually happened in my family: A parent with a lot of experience found herself being pushed out of her profession. It was conditioned on her going back to get her degree; that was pretext, though. You might see that as an example of age discrimination, the thought that employers can get rid of older workers, bring in younger workers, and pay them less. Age discrimination could also be harassment based on age, such as if someone is constantly saying, Hey, pops. Hey old guy. Hey old girl. Are

you sure you know how to work that scanner?—any kinds of comments that dig at your age. Sometimes, we get folks who complain about being too young, and they want to know if they are protected under ADEA. They are not; it is for employees 40 and over.

For almost 30 years, there was no more federal legislation to protect workers until one huge piece of legislation. It is monumental. It is the Americans with Disabilities Act of 1990 (ADA). Former President George Herbert Walker Bush signed this law and protected a whole vulnerable community of workers who, before 1990, were facing workplace discrimination because of their disability. As we know, the ADA protects folks with a disability—this was the first time there was a legal definition of "disability." That definition is that a disability is anything that substantially limits a life activity, such as sitting, standing, breathing, sexual activity, eating, walking—anything that will require some kind of accommodation. "Accommodation" is the key word when we talk about the ADA. I will explain how that plays out in your work life. There is a home life, a personal life, and a work life. You take yourself wherever you go, so you take yourself and all your stuff to work. If you can get the job done, the ADA says that so long as accommodations for disabilities do not pose an unreasonable burden for the employer, that employer should provide said accommodations. When we get complaints of discrimination based on disability, we look for undue burdens by asking things like, was the employer able to give the complainant additional breaks; does it cost the employer that much, really? Is an ergonomic chair too expensive? We have had folks with epilepsy say that bright lights trigger seizures, so changing a lightbulb could be an accommodation, as could removing glass from a workplace kitchen so that plates, cups, or other things that could shatter and be hazardous to a person having a seizure do not present problems. We would ask if the glass could be removed and replaced with plastic utensils. That is fine. These are not undue burdens that we have seen, not in the United States Court of Appeals for the Ninth Circuit and not at NERC.

The ADA was great, but it was a little bit shortsighted in 1990. It was not bad legislation; it just did not include a lot of other disabilities that we recognize today. Then, the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) was passed into law, signed by former President George W. Bush. With it came more coverage for folks with disabilities. The ADAAA covers mental health conditions such as bipolar disorder and schizophrenia, as well as blood disorders like hepatitis and HIV/AIDS—conditions for which the person does not necessarily need a ramp built, but still is a life-limiting activity that he needs accommodation for. Cancer is also included. The ADAAA includes the 1990 legislation and the 2008 amendments and basically gives coverage for any condition you can think of.

I will digress: NERC just did a no-cost employers' training about the ADA and how that relates to COVID-19. We will also be partnering with the EEOC to do trainings on the vaccine. When we talk about a disability, or anything that substantially limits a life activity, that does bleed in with some of the preexisting conditions that we have acknowledged. The Centers for Disease Control (CDC) has advised that some of these conditions could lead to a more troublesome COVID-19 infection. COVID-19 has definitely hurt Americans and Nevadans, and we hope to get through it, but if you have preexisting conditions that are also covered under ADA, you have a good cause for getting a reasonable accommodation for

remote work. We found that a lot of employers needed guidance on what was allowable in that area, such as whether they would have to pay for the equipment used by remote workers and whether they would still need to offer accommodations for employees with preexisting conditions distinct from COVID-19. The training we did on that was really successful.

Next, we have the Genetic Information Nondiscrimination Act of 2008 (GINA). The Genetic Information Nondiscrimination Act of 2008 is sort of a cousin to the ADA, though we at NERC do not take a lot of GINA cases. Essentially, GINA means that you cannot have your genetic information used against you in the workplace. I remember when I first took this position many moons ago, I asked Ms. Vizcarra to explain GINA to me in a way that would be easy for me to train on. She described it like this: Say you have cancer, a disposition for developing cancer, or cancer runs in your family. Somehow, your employer knows of that. Maybe you had cancer at work, you went into remission, and you are back to work. There is now a promotional opportunity for you; you are the most qualified for that promotional activity. However, everybody knows that you were out because you were getting cancer treatments, and your employer is a little worried—not about your ability to do the job, but your health. Maybe you will get cancer again; it will come back. You get passed over because of your predisposition to cancer. Well, that is discrimination based on your genetic information. That is GINA. We rarely see that; we would probably write that up under the ADA unless we got more evidence that the discrimination was based on genetic information. It is super hard to prove; it is a lot easier to charge an employer with violating the ADA by not giving a reasonable accommodation to someone who needs it.

The last point on this slide [page 5, [Exhibit D](#)] is the Equal Pay Act of 1963. That is an amazing piece of legislation and we are happy that Nevada now mirrors that, to an extent. The Equal Pay Act is essentially equal pay for the same work as it relates to women employees. It is specific to sex in that if you are a woman and you do the same work and have the same credentials as your male counterpart, you should be paid the same wage.

Those are all the federal laws that protect workers. This slide [page 6] explains that *Nevada Revised Statutes* (NRS) Chapter 613 and NRS Chapter 233 mirror federal law. We are simpatico with federal legislation. We actually have more—when I say "more," I am talking about criminal background for certain employers and certain additional protections for pregnant workers in Nevada.

The next slide [page 7] lists all the federally protected categories in state laws. This is everything that is protected. We have race, color, national origin, religion, sex—which includes pregnancy—sexual harassment, disability, age, genetic information, sexual orientation, gender identity or expression, and criminal background. This page is key; it will be your go-to. When we think about NERC and all the protected categories, just know that we are in partnership and alignment with federal law and these are the protected categories.

Now that I have talked about what the law says and explained how Nevada mirrors federal law, I want to talk about NERC and how we operate. In order for us to have jurisdiction over an employer in an employment discrimination case, that employer must have 15 or more

employees. If there are fewer, even if he is being discriminatory, we do not have jurisdiction [page 8, [Exhibit D](#)]. Employment and temporary agencies are covered, so even if you are a temp agency preparing an individual for an actual position by temping her out, if she experiences discrimination on the job, you will be named as well. Labor organizations and unions are covered as well.

In terms of the individual's rights—or the Nevadan's—you cannot stew over discrimination for over a year [page 9]. You have to have experienced, in your mind, the alleged discrimination within 300 days of filing with NERC or the EEOC; that is law, the statute of limitations. Let me pivot and talk about NERC's relationship with EEOC and filings. Because we are partners with the EEOC, we have a workshare agreement, which means that whoever takes the case first owns it, tries to settle it, and investigates it. When the Nevada Equal Rights Commission does this, we report to the EEOC on how we did. They do what is called a substantial weight review to make sure that we have crossed every "t" and dotted every "i," and so NERC and the EEOC do not get the same person filing in both agencies. We work in partnership with the EEOC to make sure that whoever takes the case first handles it. We will sometimes transfer cases over to the EEOC if there could be any thoughts or appearances of conflict of interest. We are so screened off in regard to our confidentiality that DETR does not even know the complaints, charges, or names of the people involved. Sophia Long, legal counsel over at the Office of the Attorney General, is awesome with that. We run very confidentially with our relationship to the EEOC on these charges. Nevada employers appreciate that because until we find probable cause or elements of discrimination that we need to settle out, they would like to keep it private.

Back to the presentation: The business has to be located or licensed in Nevada. It cannot be in, for example, California's section of Lake Tahoe. We cannot take in complaints for California; that would be the California Department of Fair Employment and Housing. There also has to be an employer/employee relationship in order to file with NERC. The employee has to be on the payroll.

Sometimes, we get interesting situations in which people are designated as independent contractors, and we get position statements back from the employer saying that the individual was not his employee; therefore, NERC does not have jurisdiction over the case. What we do in that situation is look into the relationship—does the employer control the individual's breaks? Does she have to report to the employer? Does the employer supply the individual's tools or equipment? We make sure that the relationship is, in fact, an independent contractor relationship, wherein the individual is her own boss, working for the employer as a vendor or contractor. If this is not the case, and we see evidence that it is actually a masked employer/employee relationship, we will take the charge.

Employment is one area of jurisdiction we have when we look into complaints of discrimination. Remember, we base these on those protected categories: race, age, color, religion, gender identity and expression, sexual harassment, and genetic information. Now we will look at another pocket of jurisdiction: access to equal enjoyment in public spaces [page 10]. These are the state public accommodation discrimination laws; these are in

NRS Chapter 651 and NRS Chapter 233. They are not tied to any federal laws like employment is. This is state-level, so at NERC, we say this is a state-owned case. There is no protection for age. Say someone goes to a park and people try to run them off because of their age—I do not even know a hypothetical for that. There is also no protection for genetic information discrimination in a public place; I do not have a hypothetical for that either. We do, however, get complaints about access to bathrooms based on gender identity. That would be a great example: Say a Nevada citizen who is transgender wants to use the bathroom of her gender identity, not her biological sex, which she is allowed to do but may be being denied the opportunity.

This next slide [page 11, [Exhibit D](#)] has other examples of what places of public accommodation may look like, with the key here being, again, equal enjoyment. That means that, no matter who you are, we should all enjoy public spaces equally. Sometimes, we get honest questions during our trainings. To use the bathroom situation again, folks will sometimes ask questions about their right to have the bathroom be for women only. What Ms. Vizcarra and I have to say respectfully to those people is that they can use the bathroom of their choice; no one is telling them not to, so they are not being denied equal enjoyment. It is actually the folks who are told they cannot use the bathroom who are being denied. There are some cases we use as examples during our trainings. Ms. Vizcarra and I love the dialogue we can have with folks, so they can really understand what the law is and how to apply it, so that they can be up on it.

Let me read what our places of public accommodations are. These include any establishment or place to which the public is invited, or which is intended for public use, such as schools. We also have jurisdiction over hotels, restaurants, retail stores, doctors' offices, parks, and educational institutions. This does not include any private club or any other establishment not open to the public. When you think about public spaces, think about Las Vegas in the '40s and '50s, where the African-American entertainment only had access to the kitchen and could not enjoy the casino. Think about the Woolworth lunch counters in the South during the Civil Rights Movement in the '60s. Other examples are water fountain use and access to public transportation—buses were a big deal, if you recall—this is that law. We actually had a case in Las Vegas that I can speak on, since it was litigated. It was Ms. Vizcarra's case, and we found probable cause. There were two young boys in school who were regarded as gay. I do not know if they were or not, and it does not matter. They were bullied and harassed based on the designation others had given them. They were stabbed with pencils in the genitals, called names, and were not backed by the teachers. The parents pulled the kids out of school and filed complaints with NERC—though they were separate complaints, they were companion pieces, if you will. They said their children could not enjoy equal access to school because they were bullied so much based on the perception that they were gay, and they were being denied equal enjoyment of learning—they could not learn. The Nevada Equal Rights Commission filed a charge of discrimination. We tried to settle it out and could not; it went to litigation. These boys' parents were successful. One of the things they asked in terms of damage compensation was that the school pay for private school, since their kids still had to learn. We try to avoid that in the state, but it is really important that we give these

examples to folks when we train them so that they know what the law is, and that when we talk about public places, we are also talking about schools.

On this slide [page 12, [Exhibit D](#)], we talk about what public accommodation discrimination is. It is refusal to serve: I will not serve you because you are African American; you cannot get in because of this. It is also unequal employment and refusal to permit service animals or service animals in training. The latter could be someone with a disability wanting to go to a diner, but not being let in because he has his service animal with him. The law sees that animal as an extension of the person because it assists him with his disability. I am not talking about emotional support animals: that is totally different. The last point, which we have talked about, is the refusal to allow an individual's use of a bathroom or other gender-specific facility which coincides with the person's gender identity or expression.

There are some exemptions to public accommodation discrimination [page 13]. Sometimes a person can be discriminated against based on a protected category in a public place. For this example, I will go to the second point on this page. An exemption might include going to a bar where ladies get in free. In this case, there is a business-related reason unrelated to gender-based discrimination: it is economically motivated. Differential pricing is included in that, such as when you see businesses with something like "ladies get in free before 10." We have had folks file against that; they have lost with NERC and in court. It is not discrimination based on any animosity toward a particular gender, just economic motives.

When we talk about filing with NERC based on public accommodation discrimination, again, the individual has 300 days from the date of harm to file a complaint, or he will get time-barred out [page 14]. The business has to be a Nevada business and the harm had to have occurred within the state.

Now we will talk about housing [page 15]. Housing is huge—it is a big deal in light of COVID-19. You do not know how much you need a home until you experience the pandemic and have to be quarantined in one. State housing laws protect Nevadans against discrimination in housing, and as I mentioned, the federal HUD also does this. A lot of our constituents file with HUD because they get more services than NERC can provide at the moment. But this is still the law, NERC still has jurisdiction, and we do take these cases. Under NRS Chapter 118, there is no protection for age or genetic information; there is added protection for familial status. It is public policy to make sure that folks can own a home here, try to get one, or rent one without being refused based on race, color, or gender. That leads right into the next slide [page 16].

What is housing discrimination? It is refusal to sell or rent because someone is in one or more of the protected categories—besides the exclusions noted above. It is refusal to permit an emotional support animal, service animal, or service animal in training. There might be someone who needs a service or emotional support animal in their apartment, but their landlord refuses. We get complaints like that, too. It is also a refusal to allow reasonable modifications to a dwelling. This ties in with the ADA. For example, someone might need a ramp built; the law says that person can build it at their own cost. If renting or selling the

dwelling, that person might have to remove it at their own cost. However, he should be able to enjoy and access his home, regardless of disability, and not be denied a mortgage or financing for a home. Housing cases are amazing and I have dug deep into reading about them, especially since NERC is dying to establish a relationship with HUD. I have read about ways that landlords, homeowners, and developers try to keep people from buying in their community because they worry about property values dropping. That is a whole different training we can do another day, but folks in Nevada should enjoy living where they want to live, based on nothing but their ability to pay their mortgage or rent.

On this slide [page 17, [Exhibit D](#)], we talk about the types of housing charges we get. When you want to file a complaint with us—which is rare, since people mostly go through HUD in San Francisco—you have a year to file. Most housing cases are more immediate, like when the eviction notice is on the door. Those have to be processed a lot more quickly, but you still have a year. The landlord or entity has to own more than three single-family homes. If, for example, you are just renting from a friend with fewer than three single-family homes, that friend is not bound to housing laws. It is almost like how a place of employment must have at least 15 employees to be brought into prelitigation. The landlord has to have at least three managed properties and the complainant has to be renting from one of them; otherwise, NERC does not have jurisdiction over it, and you are left to go to court on your own. Homeowners' associations (HOAs) and property management companies are included in our jurisdiction. We see a lot of issues with modifications in HOAs. We work with the Real Estate Division of the Department of Business and Industry on that, and we will refer folks back and forth. A homeowners' association should allow residents to make modifications, even if it does not go with the covenants, conditions and restrictions, per se. However, the resident may have to bear the cost of implementing or removing something.

Those are our three areas of jurisdiction: employment, public places, and housing. Now we will talk about the complaint process [page 18]. Folks will ask something like, I feel like I have been discriminated against. How do I get started? What do I do? We have a website right now, and because of COVID-19 we have a skeleton crew: me, administration, and Ms. Vizcarra. Everyone is remoteing to work, and everyone is safe. However, someone can access us by going online and filing a complaint; that is how it starts. Usually, it starts with a phone call; people like the fact that we still have live people to talk to. Our administration staff are amazing, and they will talk through some of the things I have mentioned to constituents concerning whether they should file a complaint with us or with someone else. For example, an individual might file with the Office of Labor Commissioner in the Department of Business and Industry if he has a labor issue, or maybe he has a prevailing wage issue that is not discrimination based on a protected category. Or maybe the complaint is over 300 days past the date of harm, and the staff can refer him to the State Bar of Nevada for legal aid and other resources, though we cannot help him. It starts with the phone call, and we tell the person that he needs to file a complaint and get it into our office. At that point, he is just a complainant in the sense that he is a Nevadan concerned about an allegation of discrimination, which we cannot verify yet. We do not have what is called "legal probable cause." When the complaint is filed, it is assigned to one of our investigators who reviews it with the complainant in a wide intake interview. The intake interview is a bit

time-consuming because folks like to talk about what they are going through, and we have to narrow the scope. The interview can go up to 90 minutes, depending on how egregious the claim is.

I will say this: We have our investigators trained every year. It is almost like continuing legal education, but it is continuing investigator education. This is especially important given the Governor's interest in ensuring a sexual harassment-free workplace. We had to train our investigators on trauma and how to have conversations with folks who might have experienced it because those people may not answer questions in a way that seems credible. We do training here at NERC centered around victims of sexual harassment—or any kind of trauma since if someone experiences discrimination based on race, sex, or disability, he is going to have some. Our investigators need to be sensitive to that and not make judgments based on how people respond, especially now that the conversation happens over the phone.

To go back to the complaint process, we have the intake interview and establish what is called prima facie evidence; either we think there is something here, or we think no, this is not our jurisdiction, this is not discrimination, this is a dismissal. However, if the complainant proceeds past the intake, the complaint then gets stamped as a charge. To ensure due process, our chief reviews the intakes. These are reviewed by management—either Ms. Vizcarra and me, Sophia Long, or our interns from the William S. Boyd School of Law at the University of Nevada, Las Vegas. We are blessed to have young lawyers wanting to get in on equal rights, so we partner with Boyd and sometimes those young lawyers help us out with cases. We have a lot of eyes looking at the intakes because we do not want to miss an opportunity to correct wrongful discrimination or train against it.

Once a case becomes a charge, assuming this is an employment case, it gets a NERC number and an EEOC number because of the workshare agreement I mentioned earlier. Once the charge gets both numbers, we alert EEOC through our shared system that we at NERC have this charge handled, so they can step back. It also alerts EEOC in the event that the individual decides he wants to file with them as well. Then EEOC can look him up in the system and say, Okay, you are with NERC, just hang tight and we will see how your process goes. Once that case becomes a charge, we offer an opportunity to settle it without the state doing a full investigation. We like this because we get a lot of cases and we are a small, though mighty, group. To the extent that we can have the employer and employee work it out, we will facilitate a mediation. If it settles, great. If that does not work, we will turn the charge into an investigation and file and assign it to the next available investigator. If we are then able to find that there is probable cause evidence of discrimination, we will attempt again to settle, this time with the strength of an investigation behind it, as well as legal review from the Attorney General's Office through Sophia Long's team, some of our Boyd Law School interns, and myself.

At this point, we are pretty successful with conciliations and mediation. Last year alone, we settled over \$2.2 million in cases at no cost to Nevadans who needed settlement for actual cases. Through conciliation, we are able to show the employer the evidence and let him know that all of this is confidential. However, we are also able to give training, so the

employer does not think we are just attacking him. Usually, the people we get online for the conciliations are the CEOs, human resources and legal teams, and other higher-ups. It is usually a lower-level manager who was a bad actor and made someone feel uncomfortable by presenting a noose in the office or giving preferential treatment to people who are not of color—these are both true stories. It is usually not the people we have conciliating who are responsible for the discrimination, but they have a duty to their organization to train down because they are vicariously liable.

We have a conciliation and it settles quietly. We tell EEOC that the case is closed, the case goes to the archives, and it stays confidential. No one is aware of it other than the parties that we bring together in settlement. We take no fee for that.

On the other side of the page, we have our process for when we do an investigation and we cannot get the evidence we need to proceed. Sometimes, we might believe that the discrimination happened, but we cannot get the evidence which we have to base the case on. When we have no probable cause, we let the charging party know that the evidence was not enough to substantiate a claim of discrimination under state law and what his other options are. For example, he can litigate on his own. We do not just leave the parties out in the lurch; we do give them some next steps. We also notify the EEOC that we have closed and settled the case. However, the individual can still appeal the case to me, so even when we dismiss it, he can still provide additional evidence, something he did not have before but does now, and we will reopen the case. We try to leave no stone unturned to see if we can find evidence to substantiate discrimination. If we still cannot find that evidence, we close the case and tell the party that he may need to take his own case to court.

In the rare occasion that we have egregious acts and we cannot get folks together on a conciliation, we will have a public hearing. The charging party has to agree to it because it is public. All of the complaint process is confidential, but if it is so egregious that it offends the conscience of NERC or the five appointed commissioners, the commissioners serve as a tribunal, I bring it publicly, and Sophia Long prosecutes. The state then takes an aggressive position to say that the behavior violates equal protection laws in the state and needs to stop. We have had two such cases in the last several years. Our deputy attorney general is so good that at the eleventh hour, we get them to settle because they do not want the heat of publicity.

That is our process. We are here at the Committee's disposal, here if you need us, and we will entertain any questions at this time.

Chair Flores:

You are often stretched thin, so thank you for your work. Are there any questions?

Assemblywoman Torres:

I appreciate the good work that NERC does to ensure that every Nevadan has equal rights and that those rights are protected. The first question I have regards the workshare agreement with the EEOC you talked about earlier. Can you talk about the issue with

employers claiming that the state law charges have not been exhausted while only filing with the EEOC? I have heard a number of complaints about that.

Kara Jenkins:

Our relationship with the EEOC is a mutual one. The workshare agreement is essentially a contract which we agree to close X number of cases of employment discrimination in Nevada for a federal fiscal year. We do that every year. The EEOC's federal fiscal year starts, I think, October 1 and ends September 30. The Nevada Equal Rights Commission's fiscal year starts in the summer months. We get those cases to them in their time. As far as any employer saying that going to NERC does not exhaust any administrative remedies, that is not truly accurate. Because we workshare with the EEOC, it is a dual-filing system. If an individual goes to us, it is essentially the same as going to EEOC. Sometimes we transfer cases to EEOC because, for example, there is a perceived conflict. We do not want folks to think that we have any conflicts of interest. Maybe the case is an Equal Pay Act case: Those have a tight statute of limitations and we need to get the individual relief as soon as possible. In general, though, if you file with one commission, it is like filing with the other. We may need to add that to our training.

Assemblywoman Torres:

Thank you. I just wanted to get that clarification. I know that there has been some misunderstanding mostly, I think, from employees who need to know that filing with NERC or EEOC is acceptable in that type of case.

Assemblywoman Duran:

My question concerns COVID-19 and the vaccine. I am a representative for members in the hotel industry. This is probably protected under the ADA, but how are we going to handle that if it is mandatory to have the vaccine? How do we advise people to proceed if the company mandates that employees have to receive the vaccine in order to work?

Kara Jenkins:

That is an excellent question, one we have been asking since COVID-19 hit. At this point in time, an employer cannot force an individual to take a vaccine. There are a couple of reasons for that: The individual could have a preexisting condition that conflicts with the vaccine so that it hurts more than it helps, or he may have a religious reason for not taking the vaccine. Right now, we are giving this guidance: An employer may strongly encourage the use of a vaccine, especially if the employee comes into contact with members of the public and he does not see it interfering with any preexisting conditions he may have. We are working to get guidance right now, and when we can, we will make that information available and post it on our website. Right now, there is no requirement to take a vaccine in order to work. However, if you do not take a vaccine and you do get sick, is it a workers' compensation issue? We do not know; there are a lot of questions there. How do you mitigate your own risk for getting sick, and what is your responsibility in ensuring that you are not a carrier or do not make others around you sick because you do not want to take the vaccine? I know that the CDC has recommended that you should definitely wash your hands, maintain social

distance, wear a mask, and practice good hygiene, and that is where we are taking our guidance from.

One of the issues we are thinking about, which we will be partnering with the EEOC on, is this: If you decide not to take the vaccine and you do not have a religious or ADA accommodation for it and you do get sick, is the employer responsible, especially when the vaccine is available to you? Right now, it is hard to get it, but when it becomes available and you do not take it, is that an undue hardship for the employer? We look at the employer's perspective: Now there is someone who could be a carrier or potentially exposing his other staff to a virus. There are a lot of questions. We will dig deep and try to get them answered for you. I will also make a point to have my team circle back with your office to get you that training. We are happy to do that. Right now, all we know from our guidance with EEOC is that you cannot require someone to take a vaccine, though you can strongly encourage it.

Assemblywoman Duran:

Is there training for employers to let them know that there is an issue? You said you were training with the employers on some ADA accommodations. If the employee says he has a medical or religious reason for not doing this, he will have to prove that, correct? In terms of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) laws, is it not discriminatory in that case?

Kara Jenkins:

All of this is private. That would be a conversation the employee would have with human resources about why he needs an accommodation. As you mentioned, because of HIPAA, medical conditions are not broadcast at the workplace. As far as accommodation goes, we did do a training on COVID-19 and the workplace. We noticed that when you look at the preexisting conditions listed by the CDC and some of the conditions that are substantially life-limiting under the ADA, these lists merge. We did a Venn diagram to show where. For example, those with cancer, HIV, diabetes, and asthma are at a greater risk of having a strong reaction to a COVID-19 infection. In addition, obesity is not covered under the ADA, but it is a preexisting condition for COVID-19. There are some things we wanted to make sure employers were aware of and knew what to do about them; NERC had to do this in real time. That was hard, as the state's trainer, and last March, we wanted to make sure we were up on it. The EEOC has some awesome pandemic guidance they had posted, so we went right there. We took the guidance given in their FAQs and turned it into a presentation. We also trained with some other law groups on how we should give guidance to employers. We did the training internally for DETR, and then did a huge virtual training. We did this just to say to employers that we know this is crazy and we are in real time with this. Everybody has to be socially distant, so can you accommodate these people? Are you equipped for remote work, and if you have to be in-person, what are the guidelines? How will you enforce it? For example, some people were not buying the whole mask thing. That got to be tricky. Then there were fake cards stating that wearing a mask violates individual rights under the ADA. There is no such thing as these cards, so we had to give information that referred people to the U.S. Department of Justice's website. There was so much going on, not only in terms of those issues, but also in keeping my team safe, that I do not know how we did it.

But NERC is very resilient, and we got through. We will give the COVID-19 training to any members of the Committee who want it, as well as the vaccine one, which is coming in the future. I know DETR wants us to distribute that by March, so we will be working for that.

Assemblywoman Duran:

I would appreciate a copy of that once it comes through to distribute to my colleagues or my union. I think it is great.

Assemblywoman Torres:

I just have a follow-up to my earlier question. Would there be any issue with the Notice of Right to Sue if the complaint is filed with the EEOC? What would that look like?

Kara Jenkins:

The state can give a Notice of Right to Sue. When we have exhausted all attempts to settle the complaint and the individual wants to go to court, NERC can give the Notice of Right to Sue to parties. If it is an employment case, the individual will get a NERC Notice of Right to Sue and more likely than not, once EEOC does a substantial weight review of our investigation, they will give a Notice of Right to Sue as well. For the EEOC's Notice of Right to Sue, the individual has 90 days from the date of that letter to get her case into federal court, or it is dismissed. Ms. Vizcarra, is it 180 days for NERC?

Lila Vizcarra, Chief Compliance Investigator and Outreach Specialist, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation:

For NERC's Notice of Right to Sue, the state's right to sue, parties also have 90 days to file in court.

Kara Jenkins:

That is why I need her.

Assemblywoman Torres:

I do have a couple of other questions, but we can continue this conversation off-line as well. I am very interested in the work you are doing. I know your office is doing all it can to protect our civil rights; I just want to make sure that our policy and our statute are doing the same.

Chair Flores:

Are there any more questions? [There were none.] Ms. Jenkins, thank you for the presentation and thank you for the work you are doing. Members, as always, I encourage you to reach out. They have an abundance of information that they can always share and work with you on. With that, we will close the presentation from NERC and open it up for public comment.

**Tony Yarbrough, representing Veterans of Foreign Wars, Department of Nevada; and
United Veterans Legislative Council:**

I represent nearly 90,000 members of the Veterans of Foreign Wars in the Department of Nevada. I also represent close to 500,000 members of the United Veterans Legislative Council (UVLC) as the current secretary. The United Veterans Legislative Council is an organization of all veterans organizations throughout the state of Nevada. That includes all veterans, active duty military, National Guard, families and advocates, and those who have been on this call as well. I am sure that many of you have veterans in your family history and have direct experience of active duty military service. As we move forward, please remember them, family sacrifices, their commitment to serve our country, and how proudly you support them. All we want to do is the best for them. Chair Flores, I really appreciate the opportunity to work with you once again. We have accomplished an awful lot in years past, and I know we are going to continue doing so. I just want to say, on behalf of the NDVS presentation, that the NDVS is actually a foundation—the bedrock, if you will—of all veterans activities that take place in the state of Nevada. It works with all organizations and works very well with us. We partner directly with them and we certainly appreciate the leadership of Colonel Miller. One of the things that I would like to do, as well, is follow up with an email to the committee manager, to explain who the UVLC is so that in our future endeavors, you will know who we are and what we stand for. With that, I appreciate your time. God bless you.

Chair Flores:

Likewise, sir. Thank you for your commitment to our veterans community. I know in the past, we have had the pleasure of working alongside you. We intend to continue to do the same. Is there any further public comment? [There was none.] This meeting is adjourned [at 10:56 a.m.].

RESPECTFULLY SUBMITTED:

Lindsey Howell
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a PowerPoint presentation titled "State of Nevada Department of Veterans Services Overview Presentation," dated February 5, 2021, presented by Katherine Miller, U.S. Army Colonel (Ret.), Director, Department of Veterans Services.

[Exhibit D](#) is a copy of a PowerPoint presentation titled "Nevada Equal Rights Commission," presented by Kara Jenkins, Administrator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation.