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EXHIBIT 1

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

**Eightieth Session
April 1, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 9:05 a.m. on Monday, April 1, 2019, in Room 3143 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.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblyman William McCurdy II, Vice Chair
Assemblyman Alex Assefa
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Richard Carrillo
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblywoman Susie Martinez
Assemblywoman Connie Munk
Assemblyman Greg Smith

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Brittney Miller, Assembly District No. 5
Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27
Assemblywoman Dina Neal, Assembly District No. 7



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Asher Killian, Committee Counsel
Kirsten Oleson, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Barbara A. Rodgick, Private Citizen, Las Vegas, Nevada
Mitchell "Mitch" Roach, representing American Legion; and United Veterans
Legislative Council
Tony Yarbrough, Nevada State Senior Vice Commander, Veterans of Foreign Wars
Gabrielle d'Ayr, Private Citizen, Las Vegas, Nevada
Octavio Posada, Executive Director, Nevada Minority Health and Equity Coalition
Mike Dyer, Director, Nevada Catholic Conference
Catherine M. O'Mara, Executive Director, Nevada State Medical Association
Richard P. McCann, Executive Director, Nevada Association of Public Safety
Officers
Katherine Miller, U.S. Army Colonel (Ret.), Director, Department of Veterans
Services
Marlene Lockard, representing Nevada Women's Lobby
Jamie Rodriguez, Government Affairs Manager, Office of the County Manager,
Washoe County
Pamela Roberts, Private Citizen, Reno, Nevada
Cecilia Colling, Co-Chair, Nevada Women's Lobby
Bonnie Barber, Chair, Nevada Coalition for Women's Equity
Wendy Boszak, Private Citizen, Reno, Nevada
Danny L. Thompson, Private Citizen, Las Vegas, Nevada
Kara M. Jenkins, Administrator, Nevada Equal Rights Commission, Department of
Employment, Training and Rehabilitation
Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce
Peter Guzman, President, Latin Chamber of Commerce
Mariana Kihuen, Interim Director of Government Affairs, College of Southern
Nevada
Evan Louie, Chair, One APIA Nevada
Vida Chan Lin, President and Founder, Asian Community Development Council
Kimberly Perondi, Deputy Secretary for Commercial Recordings, Office of the
Secretary of State

Chair Flores:

[The roll was called. Committee rules and protocols were explained.] We will start with the hearing on Assembly Bill 300.

Chair Flores:

With that we will close the hearing on A.B. 300. I see our majority leader, so we will proceed with Assembly Bill 397.

Assembly Bill 397: Revises provisions governing misconduct by certain public officials.
(BDR 18-1038)

Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27:

For too long we have allowed discrimination and abuse to occur in the workplace. As a nation we made a public policy declaration on July 2, 1964—when President Johnson signed the Civil Rights Act into law. Title VII of the Civil Rights Act prevented public policy from tolerating discrimination, harassment, racism, discrimination, sexism, or harassment.

We citizens need a clear path in Nevada by which public officials can be held to a higher standard. The people who are elected are not above the law. We will no longer tolerate harassment in the workplace by elected officials. Public figures are expected to be worthy of public trust, and when this trust is violated by acts of sexual harassment and discrimination, the level of accountability has to be equally higher.

I believe we, as elected officials in Nevada, are falling desperately short of this expectation, because there is not a way for required accountability to happen. Think about it, when a complaint is made against a local elected official such as a county commissioner, city council person or a sheriff, the local entities' human resources department is conflicted because that elected person is essentially their boss. A county manager or city manager serves as an at-will subordinate of the elected person. There can never be a remedy for the employee because there is no way to remove that elected person from office. The public and the employee must wait for an election cycle—which may be years away.

What is the status quo? We know an elected official can have findings against them of sexual harassment or discrimination, but nothing happens because there are too many conflicts within that local government to allow for sufficient remedy. There is no "boss," if you will, in that workplace to reprimand the elected official. There is no immediate workplace remedy for the person who filed the complaint. Oftentimes the only option that is left to a city, county, or entity is to move that employee—which is retaliation. Even if the public retains this bad actor through reelection, that vote should not mean that employees in the workplace should have to labor under a bad actor, nor work in an environment where the elected official continues in his or her bad behavior.

Article 7 of the *Nevada Constitution* grants to the Assembly the sole authority to impeach. Presently, the ability to recommend impeachment lies with the Nevada Commission on Ethics. If an elected official has three or more willful ethics violations, *Nevada Revised Statutes* (NRS) compels the Nevada Commission on Ethics to seek expulsion through the courts. Up until the third violation, they may seek it. Now think about this: Where is justice when an elected official can be removed for using a government copier to make copies of

campaign material, but cannot be removed if they are found to have sexually harassed a person?

This bill seeks to establish accountability for elected officials by giving the Nevada Equal Rights Commission the ability to make a recommendation to impeach an elected official when he or she has demonstrated egregious behavior. Also, this bill establishes a requirement that the elected person must pay the fines that are levied out of their personal accounts—it cannot come from a campaign account or a local entity that is using taxpayer dollars to pay for this person's bad behavior.

I will walk you through the bill so you understand the mechanics. Section 1, subsection 1, is where we are giving the commission the ability to make a recommendation to the Assembly. Section 1, subsection 2, says that the commission may present the accusation to a grand jury of a county pursuant to NRS Chapter 283. If the commission determines that the hearing will meet the requirement of the next subsection—which is district, county, township, or municipal officer—what we are looking at is that the Assembly has a way to expel a member, but local governments and elected positions do not. We are looking for an expulsion method by those other local governments that are listed. Subsection 3 is where the damages assessed must be paid by the person—the money cannot come from campaign funds or tax dollars. We just want to make sure that the individual responsible pays for their own behavior. This is a relatively short bill, but it holds a lot of weight. If I may, I would like Marlene Lockard to give a short testimony.

Marlene Lockard, representing Nevada Women's Lobby:

We are in strong support of A.B. 397. Unfortunately we have been made aware that, despite normal safeguards and processes in place to remove an elected official for egregious violations of his or her oath of office, there are still opportunities for bad actors to escape the consequences of their actions. To add insult to injury, as has been demonstrated in some very high profile cases, the perpetrators are allowed to fight removal from office and their victims by using taxpayer dollars to defend themselves from repeated acts of sexual harassment and vile behavior in office. All too often we find that a harasser's life carries on and is even elevated. Meanwhile, his victim's life is forever shattered. Their professional reputation is ruined and stunted. This is not acceptable. The public must have a way to remove an individual who has violated and abused his office. This is especially the case when an elected official holds a position of trust—such as a chief law enforcement official. Allowing such an individual to remain in the position that has enormous power over our citizenry and our visiting, unsuspecting tourists is unconscionable. This bill is a bill of last resort. It allows our objective regulatory agencies and the courts to protect the citizens of this state from predatory individuals who have been able to successfully manipulate the system. We urge a favorable consideration of this bill.

Chair Flores:

We will now proceed with questions.

Assemblyman Carrillo:

My question is in section 1 and section 2 regarding the wording "sufficiently severe." Could you explain what actions would be sufficiently severe?

Assemblywoman Benitez-Thompson

The Nevada Equal Rights Commission (NERC) has a fact-finding process in place. The standard that NERC has is probable cause. In discussions with NERC, my intent is not to disrupt the current process they have in place. Rather, the intent is to allow local elected officials to flow through into this process in addition to the other remedies they have—especially for local elected officials—to have the recommendation of impeachment.

Sufficiently severe would be that, with the standard of probable cause, NERC would have the discretion to consider the facts. If something were a lighter offense, but an offense, they could levy a \$500 civil fine.

The elected official would still pay that, but it might not rise to the level of impeachment. If it did, and their commissioners thought that it would, there would be a public hearing where those commissioners would vote to decide whether or not to move forward in the impeachment process.

We are looking at people with multiple violations; people whose behavior is especially egregious, people who might have long-standing violations as a public elected official.

Assemblyman Hafen:

In section 1, subsection 1, why are we limiting the ability to prosecute to the Assembly? Why is the Senate not included? Personally, I think that if there is sexual harassment, it is egregious and both bodies should be included.

Assemblywoman Benitez-Thompson:

Article 7 of the *Constitution of the State of Nevada*, section 1 says that the Assembly shall have the sole power of impeaching. We have written this to remain in compliance with the *Constitution of Nevada*. In order to add the Senate we would have to go into the *Constitution of Nevada*. As it stands right now it is just the Assembly—"the People's House"—upon which this power is conferred.

Assemblyman Leavitt:

Is there a statute of limitations on harassment? Does the claim have to be filed in the office they currently hold or does it transfer as the individual transfers positions? If they remove themselves from one office and then are reelected to another office, does that omit them from investigation from the commission? Does the investigation and the possibility of removal from office continue?

Assemblywoman Benitez-Thompson:

We are not changing the process that is now in place with NERC—which is largely dictated by the federal Equal Employment Opportunity Act. Right now with status quo, a person has 300 days to bring the complaint.

Assemblywoman Assefa:

I know this is a constitutional issue that this bill does not cover the Senate, but is there a mechanism for the Senate to handle sexual harassment claims?

Assemblywoman Benitez-Thompson:

During the last session at the Nevada State Legislature we did a lot of good work to put a process in place by which we could create a safe place at the Legislature. It has been a long time coming. I really believe that the trend of having more women elected and the fact we are the first female majority gives us a certain comfort level to talk about this stuff. I honestly do not know if I previously would have had a comfort level in bringing this kind of legislation forward, but I feel like I am in a workplace where I can have this conversation. It is a hard conversation to have. We have had bad behavior in politics for a long time and we know that the State of Nevada did not invent bad behavior in politics. I think it is on us to say that it is a new era, it is time for a change, and all elected officials have to be held to a higher state of accountability.

In the Nevada State Legislature we have the ability to remove members—both the Assembly and Senate have that power. We have the ability to expel a member—it has only been used once. I was a member when that happened, and it was a hard and emotional process. This is not easy, just like how we have seen resignations this session. We did not come here to do easy things. We came here to have hard conversations. My goal in this is to take away the discretionary ability to make a decision about a complaint. We have handed it over to a third party. In this same way, I want to take a third party—which would be NERC—and give them the ability to hear what is happening at local levels and then make a decision from there.

Chair Flores:

Would those wishing to speak in support of A.B. 397 please come forward.

**Jamie Rodriguez, Government Affairs Manager, Office of the County Manager,
Washoe County:**

Most of the bill follows what our current policy is in Washoe County. Bringing the investigation authority to the Ethics Commission is important. We understand the importance of having a third party do that, which would take us out of the equation. It is difficult for our employees to have to investigate their bosses. We are in support of this legislation.

Pamela Roberts, Private Citizen, Reno, Nevada:

I am a member of Nevada Women's Lobby. I am testifying because I was an at-will employee at the Attorney General's office for ten years. I was also an at-will employee for

the Reno City Attorney's Office for 12 years before I retired. This bill is really important because, even though none of my bosses would fall into this category, I know that there is a risk that a future or current boss will commit egregious behavior. I know what it is like to be employed by someone who has the ability to terminate me at any time because I was an at-will employee. The boss expects a certain amount of loyalty. Working in the criminal division of both the previously mentioned agencies, I had a lot of opportunity to work with law enforcement officers at all levels. To have a law enforcement officer who is the boss—has a badge, carries a gun, and is able to commit sexual harassment in the workplace—is a danger, not only to the people who work there, but it sends a message to the residents and community. There needs to be accountability. The Assembly and Senate can remove a member even if they are elected by their local constituents. Even if a sheriff or district attorney was elected by their local constituents, there needs to be accountability. There needs to be an objective body who can review this type of egregious behavior and decide on behalf of the residents of the community, and even the ones who do not live there—like the tourists. For example, my son worked in one of the locations where there was a high profile case. I love to go to the city in that county. I am concerned about the welfare of our tourists and people who want to go into that location. I want to make sure they feel safe.

Cecilia Colling, Co-Chair, Nevada Women's Lobby:

I think it is not acceptable for an individual to abuse their power and sexually harass people that are under their supervision. When that happens it is not only terribly unfair for the victim, but it is unfair for the community as a whole. This bill gives us a method to address this. It has a clear process and will give due process to both sides of the investigation.

Bonnie Barber, Chair, Nevada Coalition for Women's Equity:

We feel very strongly that this legislation is needed, and we urge you to support this bill.

Wendy Boszak, Private Citizen, Reno, Nevada:

My understanding of your role as a Committee is that you solve problems—problems that affect citizenry. This bill solves a problem, and if the problem does not occur, it does not affect anybody. We hope that this will help prevent the problem from occurring.

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

We are here in support of A.B. 397. I represent law enforcement officers around this state. I also deal with a lot of elected officials—most of them are sheriffs. Who am I kidding? I deal with one elected official up north that is a problem. We all know about it and we all know what we are here to talk about. I have had a problem for two years with an elected official who was able to "middle finger" the system. When elected officials get elected, the county or city pays. There is no personal exposure of the elected official. We have seen a lot of that in this building over the last six years, but it happens to some of the counties too. It affects my law enforcement and it is going to stop. The cities and counties cry out about how he is an elected official so they cannot do anything about it. With this bill, NERC, and this body we can start to do something about it. Let us do it. On behalf of my constituency, I encourage you to support the bill.

Danny L. Thompson, Private Citizen, Las Vegas, Nevada:

I am speaking as a private citizen. I would urge you to pass this bill. In some of these high profile cases—one in particular—an elected official is literally on the job today; meanwhile, the victim lost her job and is basically through in the career she chose. There needs to be a mechanism to solve these kinds of problems. This bill provides one way we can solve some of those problems.

Chair Flores:

Is there anyone wishing to speak in opposition of A.B. 397? [There was no one.] Is there anyone wishing to speak in the neutral position?

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

Nevada Equal Rights Commission is neutral. Assemblywoman Benitez-Thompson reached out to the commission prior. I just wanted to clarify some of the previous questions about "sufficiently severe." I would only make the strong, friendly amendment to put "severe or pervasive"—which is the standard for sexual harassment as issued by the Ninth Circuit Court of Appeals. Having also heard a question about statute of limitations, the sponsor is correct. It is 300 days from the date of harm. Nevada Equal Rights Commission has public hearings for particular egregious behaviors. The most recent one, you can look up online. It was against Fat Tuesday. It resulted in a settlement pertaining to sexual harassment. We had video surveillance of such harassment, so it was fairly easy to move on that. That is an example of what we are talking about when we say severe. We are in neutral. There is no fiscal note.

Assemblyman Ellison:

In section 2 does it eliminate due process for trials?

Kara Jenkins:

I do not see a due process denial here, although I would want my deputy attorney general to look at it. There would be a public hearing with the five members appointed by the Governor. When we talk about the NERC commission, there is the Equal Rights Commission, which is the agency that I oversee, and we process cases to close. But we also have five members that are appointed as a commission. We would present, for example, an egregious case to the five members, then they would make a decision in the public hearing as to whether it constituted an egregious act that was a severe or pervasive violation of someone's sexual harassment rights under Title VII. We would then have our attorney general present options to the five members about what we could do with this finding. If they find there was sexual harassment, one of the options is impeachment. It would not be a decision from the administrator; rather, it would be a decision from the five members. They would probably take a vote in which the majority would rule. The decision would then be on the record; however, it would probably be appealed by the defendant and the process would move on. The commission or my deputy attorney general might present the finding to a jury, county, or take a legal route. You might want to ask the sponsor on her intent, but

I do not, on its face, see a due process violation. I would be happy to have my deputy attorney general take a look at it.

Assemblyman Ellison:

Is this regarding any elected office?

Kara Jenkins:

I would invite the sponsor to respond to that. It looks like it is local, elected officials. In section 1, subsection 4(b), it clarifies that an elected official is a person who was elected to an office which is pursuant to section 2 of Article 7 which relates to local elected officials.

Chair Flores:

I would like to acknowledge a special member who is in the audience—Assemblywoman Bilbray-Axelrod's mother. We will continue with closing remarks from Assemblywoman Benitez-Thompson.

Assemblywoman Benitez-Thompson:

The intent is for local, elected officials so we have both state and local officials covered. The intent is that it is nonlegislative and local. The amendment presented by NERC to add the "or pervasive" language is absolutely friendly. The other thing we had discussed is amending to add all of Title VII—which would include sexual harassment and discrimination. The intent of the legislation, Assemblyman Ellison, is to allow NERC to flow through their normal process: bring in the elected official and, as she said, give them an additional tool of recommendation up to impeachment. I know that you, as elected officials, are kind, thoughtful, and you deliberate a lot. When you have opposition, it is always presented in a nice manner. I know that there are members of the public who might hear this bill and think that the Legislature will act too fast and have knee-jerk reactions. My intent is not that. As you listen to NERC's process, it is still arduous. There is fact finding and conversation involved in the process. The point of this would be to have a more durable process to be able to sort these things out and to have a process that is indeed resilient and fair. That is the goal.

Thank you, members, for hearing this bill. I know that some of the testimony you heard today was fairly strong, but I think, overall, the premise is fairness. It is about holding elected positions to higher accountability.

Chair Flores:

There is one more point of clarification.

Assemblyman Leavitt:

In the scenario where someone is being investigated by NERC and is currently in office, but then resigns from office, does that end the investigation seeing that there will be no impeachment if they resign? At what point does the investigation stop?

Assemblywoman Benitez-Thompson:

This was a topic of conversation in order to make sure that I had my process and thinking clear in how NERC proceeds. If the person resigns, the impeachment option would come off the table, but the rest of the process still moves forward—including that person having to pay a personal fine.

Chair Flores:

We are going to close the hearing on A.B. 397 and open the hearing on Assembly Bill 347.

Assembly Bill 347: Revises provisions governing business associations. (BDR 7-554)

Assemblywoman Dina Neal, Assembly District No. 7:

I hope you have the amendment ([Exhibit D](#)) in front of you because it will be the bill. I am here to present Assembly Bill 347. I want to give you some statistics around small businesses and why this bill even came forward. According to the U.S. Bureau of Labor Statistics, 75 percent of new businesses survive the first year. Sixty-nine percent survive the first two years. Fifty percent make it to five years. Typically, owners continue working so they have the stability of a paycheck, while also trying to be an entrepreneur. Those start-up costs can be overwhelming. Sometimes in the process of being a dreamer and wanting to get your business organized, you run into falling behind on your renewal and late fees.

The reason why this came up is because I had a constituent that contacted me during the interim. They were an entity that filed in May of 2016 and then had a renewal due in June of 2017. They were not able to pay and they ended up with a reinstatement fee of \$1,350 in July. When I talked to the individual, I asked what the deal was. He was trying to get a patent, trademarks, and some other things that cost money. The lawyer costs money. If you have ever tried to do a patent, it is not cheap. You typically need a patent attorney to go along with you for the process and the paperwork. As much as he wanted and believed in his business, he fell behind. The \$1,350 kept building and he was not able to pay. This is not one person, but it is potentially several individuals who fall into this situation.

I brought this bill because I wanted to figure out how to help start-up businesses—under five years in business—that could benefit from a payment plan. I worked with the Secretary of State—which is why you have the conceptual amendment. I am very grateful they came to the table, and we were able to work out a solution. The original bill did not meet my needs and it did not meet the Secretary of State's needs. If you read the original bill, I was giving payment plans to foreign trust companies—which was not my intent.

The conceptual amendment now allows for the local, small, emerging business as defined in statute, who is in a revoked status for five years or less, to petition the Secretary of State for reinstatement. The emerging small business pays the Secretary of State at least 25 percent of the total amount due and can enter into a one-time payment plan option for the remaining balance during a period of not more than 12 months. The filing requirement, fees, and penalties shall be consistent with those established in *Nevada Revised Statutes* Chapter 76. I want to make note that there will not be any interest charged during those 12 months. The