

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-sixth Session
April 1, 2011**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Michael A. Schneider at 1:34 p.m. on Friday, April 1, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Shirley A. Breeden, Vice Chair
Senator David R. Parks
Senator James A. Settelmeyer
Senator Elizabeth Halseth
Senator Michael Roberson

COMMITTEE MEMBERS ABSENT:

Senator Allison Copening, (Excused)

GUEST LEGISLATORS PRESENT:

Senator Moises (Mo) Denis, Clark County Senatorial District No. 2
Senator Sheila Leslie, Washoe County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Scott Young, Policy Analyst
Matt Nichols, Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

George E. Burns, Commissioner, Division of Financial Institutions, Department of
Business and Industry

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Jaime Serrano, Jr., William S. Boyd School of Law; Legal Extern to
Senator Denis
Robert A. Ostrovsky, Nevada Resort Association
E. Marvin Jacobson, Reno Antique Dealers
Zora Gay Elliker, Tanner's Market Place
Morgan Baumgartner, Nevada Resort Association
Lauren Scott, Equality Nevada
Elisa Cafferata, Nevada Advocates for Planned Parenthood Affiliates
Pam Roberts, Nevada Women's Lobby
Jane Heenan, Equality Nevada
Michael Ginsburg, Progressive Leadership Alliance of Nevada
Davey Harden
Theresa Lott, Equality Nevada
Aleta Joan Dupree
Dane S. Claussen, ACLU Nevada
Patrick Patin, Lesbian, Gay, Bisexual, Transgender and Questioning Leadership
Coalition

CHAIR SCHNEIDER:

We are going to pull Senate Bill (S.B.) 330 off the agenda today and move it to another more appropriate group of bills.

[SENATE BILL 330](#): Makes various changes to provisions governing real estate.
(BDR 54-532)

CHAIR SCHNEIDER:

I will open a work session on S.B. 198.

[SENATE BILL 198](#): Revises certain provisions governing financial institutions.
(BDR 55-822)

SENATOR ROBERSON:

Commissioner Burns and I have been working together on this bill to meet his concerns, and we have come to an agreement. I have a conceptual amendment to it ([Exhibit C](#)). There is also an amendment by Mr. Uffelman to section 1 ([Exhibit D](#)).

GEORGE E. BURNS (Commissioner, Division of Financial Institutions, Department of Business and Industry):

I think we have accomplished a balance of industry and regulatory concerns with these amendments. The amendments have addressed the concerns I had with this bill. The proposed amendment to section 4 clarifies for the industry as well as for the Division of Financial Institutions (FID), Department of Business and Industry, the fact that application for change of control of a trust company will take place prior to that change of control. This helps us avoid the circumstance where someone buys a trust company and then later does not meet the statutory requirements for it.

The change to section 5 preserves our relationship with other states in respecting their trust company laws. It clarifies that before a Nevada trust company can operate in another state, it must obtain a license from that state or provide satisfactory proof in writing to the commissioner that all requirements to do business have been met.

The changes to section 6 address the maintenance of capital. The previous requirement was that 50 percent of the capital of a trust company had to be maintained in cash. Since that is a nonearning asset in this current low interest rate environment, that requirement was lowered to 25 percent. We decided on a three-tier system where 25 percent of the capital must be maintained in cash. The second tier of 25 percent of the capital must be maintained in cash-equivalents, which are readily liquid items. The remaining 50 percent can stay in readily marketable securities. This compromise will work well with the industry and the FID to balance both entities' needs.

In section 7, we allow a deficient or defective applicant to amend that determination. In section 8, we clarified "interested parties" to make it more specific.

SENATOR ROBERSON:

I think we can all be satisfied with this bill. We would like it to be effective upon passage and approval.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 198.

SENATOR HALSETH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

I will open the hearing on S.B. 352.

[SENATE BILL 352](#): Revises provisions relating to employment. (BDR 53-389)

SENATOR MOISES (Mo) DENIS (Clark County Senatorial District No. 2):

This bill is designed to help workers who are not getting paid for the work they do. We based much of this bill on a recent study called "All Work and No Pay" done by Seton Hall University Law School.

JAIME SERRANO, JR. (William S. Boyd School of Law, Legal Extern to Senator Denis):

In S.B. 352, section 2 of our proposed changes, we more precisely define the term "independent contractor," mirroring the federal definition. Section 3 protects employees who make a complaint about a wage issue. Section 7 requires regular paydays for employees. Section 8 requires employers to inform their employees of relevant data pertaining to their pay, benefits, hours worked, etc. This is information usually found on a pay stub. Section 9 is the penalty clause. Section 10 would make the Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry, responsible for enforcing these stipulations. Section 12 extends the statute of limitations to match the record keeping. We are open to making wage theft a threshold issue to retaliation or discrimination.

ROBERT A. OSTROVSKY (Nevada Resort Association):

We are against this bill. We are concerned about some of the language in it. Enforcing the rights of the employee or a person acting on behalf of the employee is confusing to us. Who is that second person? As a personnel manager, I will not meet with two employees at once about a complaint. We oppose private right of action and the rebuttable presumption language in the bill. Section 4 of the bill requires handbooks and materials to be given to all new employees. Nevada is a right-to-work State; employers are not required to do this.

In section 8, the employer is required to put the hours worked per day on the pay stub. I do not know of any payroll system that does this. Pay stubs usually list how many hours have been worked in a week and how much overtime has been earned, but it is not broken down by day. I am not opposed to creating language to protect employees from retaliation. I will work with Senator Denis on this bill.

CHAIR SCHNEIDER:

Hopefully, all of you can work together on this bill and bring it back to us next week. I will close the hearing on S.B. 352 and open the hearing on S.B. 353.

SENATE BILL 353: Revises provisions governing dealers in coins and collectibles. (BDR 54-903)

SENATOR SHEILA LESLIE (Washoe County Senatorial District No. 1):

This bill is about collectibles. I have some testifiers here to tell us why the bill is needed.

E. MARVIN JACOBSON (Reno Antique Dealers):

I am in antique sales. To clarify, antiques are at least 60 years old, and collectibles can be something much newer. If someone had some antiques and wanted to sell them commercially, he or she would have to get a business license. If the items to be sold were collectibles, like old baseball cards, for example, the licensing process is much more complicated. It requires a FBI background check, possibly a weekly inventory report for the local police department, and would likely cost the applicant an estimated \$500.

In 2008, the Business License Division, Finance Department, City of Reno, found antiquated legislation that lumped antique dealers and collectible dealers with scrap metal dealers and other second-hand merchandise dealers. During the 75th Session of the Legislature, we passed a law to take the antique dealers out of that category, but a small error lead to the City of Reno not acknowledging this statute. This snafu has resulted in thwarting traveling antique dealers coming to Reno for antique shows such as the major show usually held during Hot August Nights. When many of these dealers were informed they would need a background check and the process might take three months, they dropped out of the show. These popular intermittent antique shows and swap meets have instead gone to other municipalities, including Sacramento, thereby costing Reno and the State revenue.

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The City of Reno formed a task force to examine business licensing problems. I was on that task force. We determined the background check was unnecessary, but the City only reduced the requirement from a major background check to a minor one, which did not fix the problem. The Reno City Council was supportive of our plight but said we needed to change the law. I have submitted a history of this bill ([Exhibit E](#)).

SENATOR LESLIE:

Last Session, the antique part of the bill was changed, but collectibles were somehow left out.

ZORA GAY ELLIKER (Tanner's Market Place):

It just does not make sense not to be able to sell the wonderful collectibles that are out there without getting a background check. Antiques and collectibles are almost always sold together, but collectibles are now excluded because of this law.

CHAIR SCHNEIDER:

Is there anyone opposed to this?

SENATOR LESLIE:

I have not heard from any opposition, nor has the City of Reno voiced any opposition.

SENATOR SETTELMAYER MOVED TO DO PASS S.B. 353.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

I will close the hearing on S.B. 353 and open the hearing on S.B. 331.

SENATE BILL 331: Revises provisions relating to unlawful discrimination in places of public accommodation. (BDR 54-799)

SENATOR LESLIE:

This bill is the “public accommodations” bill you may have heard about. Nevada offers no legal protection prohibiting individuals from being denied access to public accommodations solely based on their sex, gender identity or expression. Public accommodations include restaurants, hotels, stores, clinics and hospitals. Churches, synagogues, mosques and other religious places are exempt from the definition of public accommodations. Because this type of discrimination is not prohibited by Nevada law, these individuals are being legally denied access to services others take for granted. This hurts tourism and the State’s economy and is just wrong. Several states including Colorado, New Mexico, Illinois and Hawaii, plus many local governments, have passed statutes that protect gender identity from being used to discriminate in the use of public accommodations.

SENATOR PARKS:

I support this bill. We have others who want to contribute their stories today.

SENATOR LESLIE:

I have been working with the Nevada Resort Association on an amendment to this bill which addresses the ladies’ night exemption.

MORGAN BAUMGARTNER (Nevada Resort Association):

We support this bill. We have policies in place to prevent this kind of discrimination. We offer an amendment ([Exhibit F](#)) to exempt the ladies’ night promotions from S.B. 331.

LAUREN SCOTT (Equality Nevada):

We support this bill with or without the amendment. Studies have shown that transgender individuals have disproportionately low income and often depend heavily on access to public accommodations such as libraries, food banks, homeless shelters and low-cost medical facilities. Transgendered individuals are often denied access to these vital services due to their diverse expression of gender characteristics.

In 2008, Jennifer Gale, a 47-year-old transgendered person, died in Austin, Texas, from heart disease exacerbated by sleeping outside in near-freezing temperatures. She slept on the streets because the only shelter for women in Austin, run by the Salvation Army, would not house her according to her gender identity. That would have forced her to sleep and shower with men. Gale’s death prompted changes in nearby Dallas, Texas, where that city’s homeless

shelter, the Bridge, subsequently changed its policy to house people according to their gender identity. A 2008 study of 646 transgendered Californians conducted by San Francisco's Transgender Law Center found 20 percent reported having been homeless. One-third of those individuals said they had been denied access to a shelter. This bill, S.B. 331, will improve the quality of life for current and future transgender people living in Nevada. For many, it could make the difference between access to food, shelter, educational opportunities and proper medical care and living on the edge. I will work with interested parties on this bill.

ELISA CAFFERATA (Nevada Advocates for Planned Parenthood Affiliates):
We have five health centers in Nevada providing preventative and reproductive health care. We have a national priority to work with the transgendered community to provide their basic health-care needs. These individuals often have trouble getting basic health care because they face barriers or questions about their gender identity. They also have unique health-care needs that we are working to address. I am submitting some data ([Exhibit G](#)) to show our support of this bill.

PAM ROBERTS (Nevada Women's Lobby):
Our principles of unity state that we are dedicated to equity, nonviolence and reproductive choice. The lives of all people are inherently valuable and worthy of respect and dignity. We actively work to remove barriers of race, class, age, gender, religion, physical ability, sexual orientation and gender identity. To quote Martin Luther King: "Justice denied anywhere diminishes justice everywhere." Until we can include the transgendered community by passing this bill, they are being denied justice in Nevada. We support this bill.

JANE HEENAN (Equality Nevada):
I have been a licensed marriage and family therapist since 2002 and have been a professor at the College of Southern Nevada (CSN) since 2001. In the past 15 years, I have had the privilege of working with hundreds of transgendered Nevadans. I, too, have been a victim of discrimination in public accommodations in Nevada, including casinos and airports. I have heard stories of discrimination over and over with the transgendered people with whom I work. This bill will help build a better Nevada, so I support it.

MICHAEL GINSBURG (Progressive Leadership Alliance of Nevada):

The Progressive Leadership Alliance of Nevada (PLAN) conducted a three-month study of discrimination experienced by transgendered people in eight of Nevada's most populous counties ([Exhibit H](#)). The study revealed that discrimination bias based on gender identity expression was experienced universally among our transgendered citizens. I have submitted my testimony ([Exhibit I](#)). I have also included a resolution from the American Psychological Association ([Exhibit J](#)) supporting antidiscrimination legislation such as S.B. 331. We support this bill.

DAVEY HARDEN:

I am a CSN student. I recently had an experience in my anthropology class that is relevant to this conversation. My professor was teaching about gender identifiers and said the main distinction between the genders was that women wear makeup. A classmate added, "And gay men," to which I reacted, feeling the lecture was going to go off topic. I asked the professor to clarify based on anthropological fact and stay away from opinion. She told me I needed to accept the fact that gay men wear makeup and live as women. I told her I have many male gay friends who do not wear makeup. She persisted in teaching that gay men wear makeup and told me to take the issue up with the chair of my department. I did so and was told that since my professor was tenured, the chair would not be able to take action against her. I have since dropped that class. I support this bill since I could no longer learn in that environment.

THERESA LOTT (Equality Nevada):

I am a postoperative transsexual. I was born male and had sex reassignment surgery. A few years ago, I went into renal failure and am a dialysis patient. Prior to my renal failure, I was a certified nurse's assistant. In the background check for the nursing agency I worked for, they discovered that I used to be a male. I was let go with no explanation. I have also found that when I go to medical facilities as a transsexual, my privacy is not respected as much as a biological female's would be.

ALETA JOAN DUPREE:

I have experienced discrimination by having my gender questioned by security guards in a restroom in a major casino in Las Vegas. This bill will provide clarification in the law to ensure that people are not harassed by ignorant and prejudiced people. I support this bill.

SENATOR ROBERSON:

How were you discriminated against at that major casino?

MS. DUPREE:

I went to use the ladies room. I identify as female. I just wanted to be left alone to do my business. When I was done, a female security guard asked me sexually harassing questions. I should be left alone to use the facility, clean up and then go about my business, which was to eat dinner at the casino.

SENATOR ROBERSON:

So you are female?

MS. DUPREE:

I identify as female.

SENATOR ROBERSON:

What does that mean?

MS. DUPREE:

I was born male, but I present myself to the world as female in my head and heart. This is who I believe myself to be. No one has the right to question that.

DANE S. CLAUSSEN (ACLU Nevada):

Nevada is one of about 12 states without sex or gender protection laws for public accommodations. We support this bill with or without the amendment presented by the Nevada Resort Association. We would offer a small change in their wording; I will read it into the record:

“Notwithstanding any other provision of this chapter, it is not unlawful for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex designed to encourage by all [that phrase is our addition] and for purposes of promoting or marketing such places of public accommodation [and we have added] so long as no such differential pricing, discounted pricing or special offers is used as a basis to exclude or deny entry to anyone based on sex.”

CHAIR SCHNEIDER:

I have received letters of support from Erin Neff from Progressnow Nevada ([Exhibit K](#)) and Candice Nichols ([Exhibit L](#)) from The Gay and Lesbian

Community Center of Southern Nevada (The Center). Seeing no one wishing to testify against this bill, I will close the hearing on S.B. 331 and open the hearing on S.B. 368.

SENATE BILL 368: Prohibits discrimination in housing and certain other transactions involving real property on the basis of sexual orientation or gender identity or expression. (BDR 10-416)

SENATOR PARKS:

This bill prohibits discrimination in housing based on gender identity. Employment nondiscrimination was passed 12 years ago, and several other bills have been passed since. This bill will amend the Nevada Fair Housing Law to prohibit housing discrimination based on sexual orientation and/or gender identity or expression. The law prohibits discrimination based on race, religion, creed, color, national origin, disability, ancestry, familial status or sex.

At least 20 states have statutes that prohibit housing discrimination based on sexual orientation, and around 9 states include gender identity or expression in that prohibition. The U.S. Department of Housing and Urban Development in January proposed new regulations intended to ensure that its core housing programs are open to all eligible persons regardless of sexual orientation or gender identity. This bill is similar in language to other bills that have been passed. I have included the text of this document ([Exhibit M](#)).

CHAIR SCHNEIDER:

This bill falls in line with federal law, am I correct?

SENATOR PARKS:

Yes, what we presume will be federal law within 90 days.

Ms. SCOTT:

In 2005, I tried to move to the Carson City area from Florida. My roommate, Elizabeth Hill, and I met the owners of a house for rent in Carson City. The owners said the property was managed by Beverly Realty, Inc., so we contacted Beverly Johnson, a real estate broker in Gardnerville. We provided her with \$40 in cash, a copy of our credit report and a postdated check for \$1,100 for the deposit. Ms. Johnson accepted those terms. A week later, I received a letter from her with my check torn in two. She said we were denied access to renting that home because her credit reporting company eviction search had discovered

we had been evicted several times in several different states. She implied via e-mail that I knew of this history of evictions, making our application fraudulent.

The Reno company that did the search, Credit Management Association, ran a nationwide search for all eviction cases for the past five years that referenced the names Lauren Scott or Elizabeth Hill. The search yielded 45 records in eight states under the name of Elizabeth Hill, including the name Elizabeth Hilliard. Elizabeth had lived in St. Petersburg, Florida, for the past five years. She had never lived in any of the states from the credit report. There were five eviction records found under the name Lauren Scott, but I had lived in Tampa for 13 years and have never been evicted.

Ms. Johnson refused to accept our explanations that neither of us had lived in any of the cities or states the credit report indicated. We offered to send letters from our landlords and pay stubs to prove our case. She refused. She informed us a short time later that she had rented the house and that we should clean up our credit history. There was no other explanation for what happened other than the fact that we were being discriminated against. When we contacted The Rainbow Place, a woman's advocate organization, regarding this situation, we were informed that "Unfortunately, there are very few protections on the books for housing discrimination in Nevada." I support this bill.

SENATOR SETTELMAYER:

That individual you mentioned is from my area and she is a very astute property manager. She will deny anyone who has ever been evicted, period.

PATRICK PATIN (Lesbian, Gay, Bisexual, Transgender and Questioning Leadership Coalition):

There is a chapter of the *Nevada Revised Statutes* (NRS) which is not included in this bill. It is NRS 118.060, which defines a "dwelling." The statute specifies that if you want to rent or sell your own home, you can choose your buyer or renter. This statute stipulates that an owner can do this with up to three dwellings, but anything more than three dwellings would fall under this proposed bill. I support S.B. 368.

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CHAIR SCHNEIDER:

I have received a letter of support for this bill from Candice Nichols from The Center ([Exhibit N](#)). I have also received a letter in opposition from Richard Ziser of Nevada Concerned Citizens ([Exhibit O](#)). We are adjourned at 2:46 p.m.

RESPECTFULLY SUBMITTED:

Linda Hiller,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A	Agenda	
	B	Attendance Roster	
S.B. 198	C	Senator Roberson	Conceptual Amendment
S.B. 198	D	William R. Uffelman	Proposed Amendment
S.B. 353	E	E. Marvin Jacobsen	History of S.B. 353
S.B. 331	F	Morgan Baumgartner	Proposed Amendment
S.B. 331 S.B. 368	G	Elisa Cafferata	Letter of support for S.B. 331 and S.B. 368
S.B. 331	H	Michael Ginsburg	Progressive Leadership Alliance of Nevada study report
S.B. 331	I	Michael Ginsburg	Testimony
S.B. 331	J	American Psychological Association	Resolution on transgender and gender identity
S.B. 331	K	Erin Neff	Letter of support for S.B. 331
S.B. 331	L	Candice Nichols	Letter of support for S.B. 331
S.B. 368	M	Senator Parks	Federal Register for U.S. Department of Housing and Urban Development
S.B. 368	N	Candice Nichols	Letter of support for S.B. 368
S.B. 368	O	Richard Ziser	Letter of opposition to S.B. 368