

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

**Eighty-first Session
May 12, 2021**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 9:08 a.m. on Wednesday, May 12, 2021, Online and in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Dina Neal, Vice Chair
Senator Melanie Scheible
Senator Roberta Lange
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Assemblywoman Bea Duran, Assembly District No. 11
Assemblywoman Selena Torres, Assembly District No. 3

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Wil Keane, Counsel
Kim Cadra-Nixon, Committee Secretary

OTHERS PRESENT:

Graham Galloway, Nevada Justice Association
Jesse Wadhams, Nevada Insurance Council
Alisa Nave-Worth, Nevada Veterinary Medical Association
K. Neena Laxalt, Board of Psychological Examiners
Whitney Owens, Psy.D., President, Board of Psychological Examiners

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CHAIR SPEARMAN:

We will open the work session with Assembly Bill (A.B.) 308.

ASSEMBLY BILL 308: Revises provisions relating to landlords and tenants.
(BDR 10-880)

CESAR MELGAREJO (Policy Analyst):

Assembly Bill 308 revises provisions relating to landlords and tenants. This bill was heard on April 23. There are no amendments for this measure ([Exhibit B](#)).

SENATOR PICKARD:

I will vote no on this bill but reserve my right to change my vote on the Floor.

SENATOR LANGE MOVED TO DO PASS A.B. 308.

SENATOR SCHEIBLE SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR PICKARD VOTED NO.)

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CHAIR SPEARMAN:

We will continue the work session with Assembly Joint Resolution (A.J.R.) 10 of the 80th Session.

ASSEMBLY JOINT RESOLUTION 10 of the 80th Session: Proposes to amend the Nevada Constitution to prospectively increase the required minimum wage paid to employees. (BDR C-1273)

MR. MELGAREJO:

I have a work session document ([Exhibit C](#)) which explains A.J.R. 10 of the 80th Session. There are no amendments for this measure.

SENATOR SETTELMAYER:

I was the first person in this building to find out the Legislature had the ability to raise the minimum wage. As the Legislative Body, we should make that decision rather than take it to the vote of the people. This will take another two years to implement. This measure is not as important in northern Nevada because few people are available for a job that pays less than \$12 per hour.

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I will vote no on this measure because the resolution requires a vote of the people. Our job is to take care of the people in this State, and therefore we should handle this measure as a bill, not a vote to the people.

CHAIR SPEARMAN:

We first started this conversation in 2013. At that time, the people wanted a vote on the measure to raise the minimum wage. Senator Settelmeyer, you can report that we gave the people a voice on this issue.

SENATOR NEAL MOVED TO DO PASS A.J.R. 10 OF THE 80TH SESSION.

SENATOR PICKARD SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HARDY AND SETTELMAYER VOTED NO.)

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CHAIR SPEARMAN:

We will continue the work session with A.B. 45.

ASSEMBLY BILL 45 (1st Reprint): Revises provisions relating to insurance.
(BDR 57-316)

MR. MELGAREJO:

I have a work session document ([Exhibit D](#)) which explains A.B. 45. There is an amendment for this bill.

SENATOR SETTELMAYER:

Chair Spearman, I appreciate the work you did on this bill to make both sides a bit unhappy. That means it is good statute.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 45.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

We will continue the work session with A.B. 47.

ASSEMBLY BILL 47 (1st Reprint): Revises provisions relating to unfair trade practices. (BDR 52-425)

MR. MELGAREJO:

I have a work session document ([Exhibit E](#)) which explains A.B. 47. There are no amendments for this bill.

SENATOR NEAL MOVED TO DO PASS A.B. 47.

SENATOR LANGE SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HARDY, PICKARD AND SETTELMAYER VOTED NO.)

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CHAIR SPEARMAN:

We will continue the work session with A.B. 73.

ASSEMBLY BILL 73 (1st Reprint): Revises provisions relating to the licensure of dietitians. (BDR 54-259)

MR. MELGAREJO:

I have a work session document ([Exhibit F](#)) which explains A.B. 73. There are no amendments for this bill.

SENATOR HARDY MOVED TO DO PASS A.B. 73.

SENATOR SCHEIBLE SECONDED THE MOTION.

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THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

We will continue the work session with A.B. 173.

ASSEMBLY BILL 173: Revises provisions relating to professional engineers and land surveyors. (BDR 54-798)

MR. MELGAREJO:

I have a work session document ([Exhibit G](#)) which explains A.B. 173. There are no amendments for this bill.

SENATOR SCHEIBLE MOVED TO DO PASS A.B. 173.

SENATOR LANGE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

We will open the hearing on A.B. 277.

ASSEMBLY BILL 277 (1st Reprint): Revises provisions governing insurance. (BDR 57-984)

ASSEMBLYWOMAN BEA DURAN (Assembly District No. 11):

Assembly Bill 277 streamlines personal injury claims after a motor vehicle accident. An amendment ([Exhibit H](#)) reflects the needs for obtaining justice for injured parties and provides clarity to the bill.

GRAHAM GALLOWAY (Nevada Justice Association):

I will present A.B. 277 and the proposed amendment [Exhibit H](#). The amendment clarifies the bill. The amendment deletes section 1, which pertains to automobile medical coverage which will be deferred until another time.

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Section 2 simplifies the obligations between personal injury claimants and insurance carriers. Historically, *Nevada Revised Statutes* (NRS) 690B.024 required the insurance agency and the claimants to exchange information prior to litigation. This statute was rescinded in the Seventy-eighth Legislative Session. This amendment will once again allow insurance companies to provide policy limits to claimants and claimants to provide medical records, reports and bills prior to litigation.

JESSE WADHAMS (Nevada Insurance Council):

The intent of A.B. 277 is to create a simplified process for insurers and claimants.

SENATOR PICKARD:

I agree this bill simplifies the process for insurers and claimants.

SENATOR NEAL:

What information would be redacted in section 2 of the amendment?

MR. WADHAMS:

The language referring to personal and private information may be redundant. I will leave this decision up to Legal Counsel.

CHAIR SPEARMAN:

We will close the hearing on A.B. 277 and open the work session on A.B. 200.

ASSEMBLY BILL 200 (1st Reprint): Revises provisions governing veterinary medicine. (BDR 54-168)

MR. MELGAREJO:

I have a work session document ([Exhibit I](#)) which explains A.B. 200. There is an amendment for this bill.

SENATOR HARDY:

Does the amendment to NRS 638.134 refer to vaccinations for people or animals?

ALISA NAVE-WORTH (Nevada Veterinary Medical Association):

The amendment in [Exhibit I](#) refers to vaccinations for animals.

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CHAIR SPEARMAN:

I was asked to look at additional information concerning A.B. 200 and have done so. I do not see anything in this bill which will prevent new veterinarians from coming into the State. It is not too onerous to require a veterinarian to first visit the patient in person. I will vote yes on this bill.

SENATOR LANGE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 200.

SENATOR PICKARD SECONDED THE MOTION.

SENATOR SETTELMAYER:

Veterinarians are not always available in rural areas; in an emergency a phone call with a veterinarian is better than nothing. I will vote yes on this bill with reservations.

MS. NAVE-WORTH:

Section 3, paragraph 2 of the bill addresses that concern by creating an exception for emergencies. I will meet with you on this issue, Senator Settelmeyer.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

We will continue the work session with A.B. 327.

ASSEMBLY BILL 327 (1st Reprint): Requires certain mental health professionals to complete continuing education relating to cultural competency.
(BDR 54-175)

MR. MELGAREJO:

I have a work session document ([Exhibit J](#)) which explains A.B. 327. There is an amendment for this bill.

SENATOR HARDY:

Will cultural competency training qualify as ethics training? I asked this question during the hearing of this bill and still need clarification. We may be infringing on the competency of care given to patients. If cultural competency training is not

combined with the ethics requirement, we are putting in another course that takes away from equally important courses. My question during the hearing was not answered sufficiently enough to vote yes on this bill.

CHAIR SPEARMAN:
Is this a question for the sponsor of the bill?

SENATOR HARDY:
I will vote no and reserve my right to change my vote on the Floor.

ASSEMBLYWOMAN SELENA TORRES (Assembly District No. 3):
Senator Hardy, could you repeat the question?

SENATOR HARDY:
My question concerns continuing medical education that may replace other important courses. Could cultural competency training count for the ethics requirement in continuing medical education?

ASSEMBLYWOMAN TORRES:
This legislation does not specify that cultural competency training would count toward ethics training. This decision would be up to the individual boards. My conversations with the boards do not indicate that this is their plan. This can be discussed with the boards. The board requires 20 continuing education units, and 2 of these credits would be required in cultural competency training.

CHAIR SPEARMAN:
Covid-19 highlighted the failures in health care of Black, Indigenous and People of Color (BIPOC) communities. If caregivers are not culturally aware of the needs of disabled and BIPOC communities, we cannot become a better society.

We must seek to understand different cultures. When I was in the military, I once saw a soldier who would not look his commanding officer in the eye. In that soldier's culture, this was a sign of respect. The officer did not understand this. If I had not explained this to the officer, the soldier's career may have been over early. I saw the soldier years later, and he had advanced to a rank of master sergeant. We must ensure cultural sensitivity goes across all professions.

SENATOR SCHEIBLE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 327.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HARDY, PICKARD AND
SETTELMAYER VOTED NO.)

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CHAIR SPEARMAN:
Our next bill in the work session is A.B. 366.

ASSEMBLY BILL 366: Revises provisions governing mental health records.
(BDR 54-456)

MR. MELGAREJO:
The work session document ([Exhibit K](#)) explains A.B. 366. There is an
amendment for this bill.

SENATOR LANGE:
The amendment addresses the concerns I had during the hearing of this bill.

SENATOR SETTELMAYER:
Will this amendment create a situation where the family of a deceased person
will be able to get their medical records?

K. NEENA LAXALT (Board of Psychological Examiners):
A family member would not have access to a deceased relative's mental health
records.

SENATOR SETTELMAYER:
I am concerned that recordings for training purposes may be widely shared
creating the possibility of family members finding out about the session. This
could create harm to the memories of family members.

MS. LAXALT:
That situation cannot and will not happen. Mental health professionals are also
bound by HIPAA regulations. If confidences are shared, mental health

professionals are breaking the law. We are doing everything possible to protect the recordings.

SENATOR HARDY:

I like the concept in the proposed amendment. If a physician makes a recording of a patient session and the physician destroys the recording, is the physician liable for the destruction of a medical record?

MS. LAXALT:

Nothing can be done to a medical record without the consent of the person being recorded. The person being recorded has complete control of the recording.

SENATOR HARDY:

Can recordings made for training purposes be used as evidence in legal actions? Doctors are concerned with two issues. Can the recordings be used against the doctor in legal actions, and can the recordings be used against the doctor if the doctor destroyed evidence?

MS. LAXALT:

How would the recordings be used against the doctor?

SENATOR HARDY:

A doctor records a session with a patient for training purposes. With permission of the patient, the doctor shows the recording to students. Two days after the session, the patient commits suicide. The doctor destroys the recording.

MS. LAXALT:

A minimum and maximum amount of time to retain the recording is outlined in the bill. If, as in your example, someone commits suicide, the time the recording can be kept is still in statute.

WHITNEY OWENS, PSY.D. (President, Board of Psychological Examiners):

Patients sign an informed consent document that states the recording is never part of the patient's medical record. The informed consent clearly defines what is and what is not part of the patient's medical record. The recording made specifically for student training is never part of the patient's medical record.

Even if the recording was done on a Wednesday, the patient committed suicide on a Thursday and the records were requested on Thursday, that recording would never be part of the medical record that could be released to anyone.

SENATOR HARDY:

Did attorneys agree that recordings done for training purposes are not part of a patient's medical record?

WIL KEANE (Counsel):

State statutes cannot conflict with HIPAA. If HIPAA does not allow information to be released, this bill cannot change that policy. Assembly Bill 366 does not specifically address what would happen in a court of law. It is my opinion that if a doctor is following the law in destroying documents, there would be no malintent attributed to the doctor.

SENATOR HARDY:

I am concerned this bill does not directly address what would happen in a court of law.

SENATOR NEAL:

Would the medical student be liable if the patient stated they would harm themselves or someone else?

DR. OWENS:

Doctors have a duty to warn, whether the session is recorded or not. If someone states in a session they have intent to harm someone, the student immediately gets their supervisor. We do not rely on a recording in this situation. We problem-solve with the patient to keep themselves or others safe. If the patient is unwilling to contract for safety, we consider psychiatric hospitalization.

A situation such as this is documented in the written medical record. If there is a criminal investigation, the written medical record is available. The video recording is for training only. We follow the same procedures if there is a recording or not a recording of the session.

SENATOR PICKARD:

What if a psychologist does not ask the proper questions of a patient and the patient later commits suicide? Would this not be important evidence in a legal case?

DR. OWENS:

The intention of the recording is for training purposes. This training will ensure students are asking the right questions. We could have students in training without recordings. If we do not have recordings, one of two things happen. Either we trust that our trainees are accurate in their reports, or we cut the Nevada workforce by 50 percent and require the supervisor to be in the training session with the student.

The recordings are made to ensure we have high quality training. It is part of the informed consent that the recordings are not part of the medical record. We will not record sessions without confirmed consent.

SENATOR PICKARD:

I want to ensure the recording is made only for the purpose of training and that this is clearly documented before the session is recorded.

DR. OWENS:

We will not record sessions without confirmed consent.

CHAIR SPEARMAN:

We are having another hearing on this bill, and we are in a work session. I will have our Legal Counsel offer advice on this question.

MR. KEANE:

This bill does not change the rules of evidence or disclosure requirements under HIPAA. Assembly Bill 366 simply allows these very specific mental health professionals to make recordings under very specific circumstances. The bill also requires the recordings will be destroyed in a certain period of time and only used for training purposes.

In 1976, the California Supreme Court case of *Tarasoff v. Regents of University of California*, 17 Cal.3d 425 (1976) ruled that mental health professionals have a duty to protect individuals who are being threatened with bodily harm by a patient. Nevada statute codifies this ruling in NRS 49.213, subsection 6

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requiring that this information is not confidential and a mental health professional has an obligation to report the patient who is going to harm himself, herself or others.

Rules of privilege for evidence are handled under NRS 49. All the same rules apply; this recording would not be made available.

CHAIR SPEARMAN:

The purpose of the recording is clearly defined in the amendment to this bill. Mr. Keane, is this correct?

MR. KEANE:

Yes. The bill simply allows, with written approval in advance, that a recording can be made and used for training purposes. The amendment adds clear definitions in all aspects of the recordings.

SENATOR SCHEIBLE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 366.

SENATOR LANGE SECONDED THE MOTION.

SENATOR HARDY:

I will vote no and reserve my right to change my vote on the Floor.

SENATOR SETTELMAYER:

I will vote no and reserve my right to change my vote on the Floor.

THE MOTION PASSED. (SENATORS HARDY, PICKARD AND
SETTELMAYER VOTED NO.)

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CHAIR SPEARMAN:

Our next bill in the work session is A.B. 442.

ASSEMBLY BILL 442 (1st Reprint): Revises requirements concerning training of certain providers of health care. (BDR 54-450)

MR. MELGAREJO:

I have a work session document ([Exhibit L](#)) which explains A.B. 442. There are no amendments for this measure.

SENATOR HARDY MOVED TO DO PASS A.B. 442.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

We will now open the work session on A.B. 277.

MR. MELGAREJO:

Chair Spearman has chosen to open the work session on A.B. 277, which was heard earlier this morning. There is an amendment to this bill, [Exhibit H](#).

SENATOR LANGE MOVED TO AMEND AND DO PASS AS AMENDED A.B. 277.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:
The meeting is adjourned at 10:31 a.m.

RESPECTFULLY SUBMITTED:

Kim Cadra-Nixon,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
A.B. 308	B	1	Cesar Melgarejo	Work Session Document
A.J.R. 10	C	1	Cesar Melgarejo	Work Session Document
A.B. 45	D	1	Cesar Melgarejo	Work Session Document
A.B. 47	E	1	Cesar Melgarejo	Work Session Document
A.B. 73	F	1	Cesar Melgarejo	Work Session Document
A.B. 173	G	1	Cesar Melgarejo	Work Session Document
A.B. 277	H	1	Assemblywoman Bea Duran	Proposed Amendment by Nevada Justice Association and Nevada Insurance Council
A.B. 277	H	1	Graham Galloway / Nevada Justice Association	Proposed Amendment by Nevada Justice Association and Nevada Insurance Council
A.B. 277	H	1	Cesar Melgarejo	Proposed Amendment by Nevada Justice Association and Nevada Insurance Council
A.B. 200	I	1	Cesar Melgarejo	Work Session Document
A.B. 200	I	1	Alisa Nave-Worth / Nevada Veterinary Medical Association	Work Session Document
A.B. 327	J	1	Cesar Melgarejo	Work Session Document
A.B. 366	K	1	Cesar Melgarejo	Work Session Document
A.B. 442	L	1	Cesar Melgarejo	Work Session Document