

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

**Eighty-first Session
April 7, 2021**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 8:03 a.m. on Wednesday, April 7, 2021, Online. [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:

Senator Nicole Cannizzaro, Senatorial District No. 6

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Wil Keane, Counsel
Barbara Williams, Committee Secretary

OTHERS PRESENT:

Jason Mills, Nevada Justice Association
Sondra Cosgrove, Executive Director, Vote Nevada
Jeri Burton, President, Nevada National Organization for Women
Rebecca Gipson, City of North Las Vegas
Janine Hansen, Nevada Families for Freedom
Melissa Clement, Nevada Right to Life
Tess Opferman, Nevada Women's Lobby
Bob Russo
D. Taylor, UNITE HERE

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Paul More, Culinary and Bartenders Union
Christina Lopez
Alexander Marks, Nevada State Education Association
Michael Gittings, United Food and Commercial Workers Union
Rusty McAllister, Nevada State AFL-CIO
James Kemp, Nevada Justice Association
Randy Soltero
Mario Sandoval
Phil Jaynes, International Alliance of Theatrical Stage Employees Local 720
Haley Box, Culinary and Bartenders Union
Brandon Geyer
Fran Almarez, International Brotherhood of Teamsters Local 986
Edward Goodrich
Ann Silver, Reno Sparks Chamber of Commerce
Amber Stidham, Henderson Chamber of Commerce
Barry Lieberman, South Point Hotel and Casino
Gina Bongiovi, Vegas Chamber
Chris Brown, National Air Carrier Association
Andrew Diss, Meruelo Gaming
Keith Lee, Southwest Airlines
Erin Midby, Boyd Gaming Corporation
Michael Alonso, Caesars Entertainment Inc.
Marlene Lockard, Service Employees International Union 1107
Warren Hardy, Associated Builders and Contractors Nevada Chapter
Alexis Motarex, Nevada Chapter Associated General Contractors
Misty Grimmer, Nevada State Contractors Board

CHAIR SPEARMAN:

We will begin the meeting with a work session on Senate Bill (S.B.) 44.

SENATE BILL 44: Revises provisions governing behavioral health professionals.
(BDR 54-428)

CESAR MELGAREJO (Policy Analyst):

Senate Bill 44 was heard on March 8 and was sponsored by this Committee on behalf of the Rural Regional Behavioral Health Policy Board. An overview is provided in the work session document ([Exhibit B](#)). We reviewed the amendments in a hearing on April 2. There are two changes from the work session document provided in that meeting. The provisions in amendment

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item 1, proposing a discount for licensure fees for those who specialized in Black, Indigenous and People of Color (BIPOC) and LGBTQ communities, were removed.

Amendment item 10 in [Exhibit B](#) proposes to add new sections to various chapters of *Nevada Revised Statutes* (NRS) to require applicable boards to adopt regulation to reduce the total costs for renewing a license for providers who submit documentation demonstrating that the provider meets the delineated qualifications.

SENATOR NEAL:

In amendment item 10.a., it appears a Nevada resident would receive a lower fee for licensure than an out-of-state applicant. Is this a violation of the Privileges and Immunities (P&I) Clause in the U.S. Constitution? Are we discriminating against out-of-state citizens?

WIL KEANE (Counsel):

As I read amendment item 10.a., it is not Nevada residents who get the lower fee, but who the licensee is serving. The P&I Clause would apply to people trying to secure employment in Nevada.

SENATOR PICKARD:

I checked with a constitutional lawyer. The two pieces were the potential protectionism fall afoul of U.S. Supreme Court *North Carolina Board of Dental Examiners v. Federal Trade Commission* and the possible rejection due to an "as applied" standard. The race conscious portion may sink this bill. Would the "as applied" provision affect this bill? We can write criteria that seems neutral as to residents, but if there are no applicants outside the State, could it still be considered to run afoul of P&I?

MR. KEANE:

North Carolina Board of Dental Examiners v. Federal Trade Commission does not apply here since S.B. 44 contains nothing regarding nonlicensed people from engaging in a particular practice. The North Carolina case involved the Board of Dental Examiners preventing people who were not licensed dentists from performing teeth whitening.

As to the "as applied" standard and P&I concern, it could conceivably apply if no nonresidents qualify, but it seems unlikely. In Nevada, we have many Utah,

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Arizona or California residents who live near the border and meet this standard. Since the law has not been passed yet, we have no statistics for an "as applied" analysis.

SENATOR PICKARD:

I had concerns given the narrative that is now part of the legislative history of S.B. 44. I will vote no, but reserve the right to vote differently on the Senate Floor.

CHAIR SPEARMAN:

The Legal Division of the Legislative Counsel Bureau is the final arbiter of the legality of proposed legislation.

SENATOR LANGE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 44.

SENATOR SCHEIBLE SECONDED THE MOTION.

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

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MR. MELGAREJO:

Senate Bill 289 was heard by the Committee on April 2, and revises various provisions concerning workers' compensation. The Nevada Justice Association proposes several amendments, as detailed in the work session document ([Exhibit C](#)).

SENATE BILL 289: Revises provisions relating to workers' compensation.
(BDR 53-713)

Amendment item 2 in [Exhibit C](#) adds a new subsection to section 1 to authorize the rating doctor to apportion the rating under certain conditions, provided the doctor can meet the requirements of subsection 2.

JASON MILLS (Nevada Justice Association):

Section 1, subsection 4 was arrived at by agreement with stakeholders. The subsection provides for the instance in which there is no documentation but

there is physical evidence of prior surgery to the affected body part. Notwithstanding the lack of documentation, the measure provides that the rating doctor may apportion the rating provided the doctor meets the requirements of subsection 2.

SENATOR SETTELMAYER:

On page 30 of the amendment, language in section 9 is changed to "the insurer must include at least three vocational rehabilitation counselors who are employed by separate organizations or entities". Do we have enough vocational rehabilitation counselors in Nevada to fulfill this requirement?

MR. MILLS:

That provision was inserted to encourage competition. We noted the frequency with which three counselors from one company were being offered to the claimant. The counselors must be licensed in Nevada.

SENATOR SETTELMAYER:

Do we have enough licensed counselors in Nevada to meet this requirement?

MR. MILLS:

There are more than three employed by separate companies. I have worked with at least a dozen in the State.

SENATOR NEAL:

Looking at section 1, subsection 4, does a patient have a process by which to appeal a rating?

MR. MILLS:

Assume a person had prior spinal fusion surgery. Perhaps it was decades ago in another state or country. An x-ray clearly shows the hardware in this individual's back. Lack of documentation should not be the basis for disallowing apportionment when there is clear, objective proof of a prior surgery. Through a preponderance of the evidence, a rating doctor can use the guidelines to apply an apportionment. This is current practice—the bill clarifies it.

SENATOR NEAL:

Is the bill retroactive? Can a processed claim be reviewed with the new guidelines in place?

MR. MILLS:

It only applies to open claims. However, claims can be reopened under existing law.

MR. KEANE:

Based on what Mr. Mills said, the amended language in section 1, subsection 4, should have the added clause "other than any requirement to have medical records or to base a rating upon medical records". Could he confirm that for me?

MR. MILLS:

That is the intent.

SENATOR PICKARD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 289.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MR. MELGAREJO:

Senate Bill 290 enacts provisions relating to prescription drugs for the treatment of cancer and was heard by the Committee on April 1. Senator Lange has proposed several amendments which are detailed in the work session document ([Exhibit D](#)).

SENATE BILL 290: Enacts provisions relating to prescription drugs for the treatment of cancer. (BDR 57-973)

SENATOR PICKARD:

The bill seems to exempt a health insurer from the requirement if they use a formulary. Nearly every insurer uses a pharmacy benefit manager (PBM) and a formulary. Why do we exempt the majority of insurers? Is there a legal reason?

MR. KEANE:

There is no legal requirement. The provision would seem to dramatically reduce the applicability of the bill.

SENATOR LANGE:

The language was inserted on the request of the Clark County government, who already provides this benefit.

SENATOR PICKARD:

If Clark County is already doing this, it does not need to be exempted. My experience in dealing with PBMs has taught me they can exert a fair amount of pressure.

SENATOR LANGE:

Mr. Keane, could we remove that language? Would Clark County be exempt because it already provides the benefit?

MR. KEANE:

It is not the fact that it is already providing the service that would make Clark County exempt. What makes the County have to comply with the bill is section 12. Section 12 uses the standard language to make the bill applicable to local government employees. Removing section 12 and limiting some language in section 13 would enable Clark County to be exempt.

SENATOR LANGE:

What is the best way for us to proceed?

CHAIR SPEARMAN:

That is the decision of the sponsor. One option would be to leave as is and do a floor amendment.

SENATOR LANGE:

Let us get it out of Committee and I will work with Mr. Keane on a floor amendment.

SENATOR SETTELMAYER:

If Clark County is already doing it, why do they need to be exempted?

MR. KEANE:

It is a policy decision. This would not be the first mandated benefit that would be applied to various private insurers but not to local or State government employees. There is no legal reason to apply the provision of the bill to local governments or omit them.

SENATOR SCHEIBLE MOVED TO AMEND WITH THE LANGUAGE CURRENTLY IN THE WORK SESSION DOCUMENT AND DO PASS AS AMENDED S.B. 290.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SPEARMAN:
That concludes our work session.

VICE CHAIR NEAL:
I will open the hearing on Senate Joint Resolution (S.J.R.) 11.

SENATE JOINT RESOLUTION 11: Urges Congress to ratify the Convention on the Elimination of all Forms of Discrimination Against Women. (BDR R-969)

SENATOR PATRICIA SPEARMAN (Senatorial District No. 1):
I am pleased to come before you this morning to strongly support S.J.R. 11, which urges the United States Congress to ratify the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

This convention is an international human rights treaty that promotes gender equity. It was adopted by the United Nations (UN) General Assembly in 1979 and formally instituted in 1981. That was 40 years ago. As noted in S.J.R. 11 and by the United Nations Entity for Gender Equality and the Empowerment of Women, CEDAW requires the elimination of discrimination against women in all forms, including in the areas of economic development, health, safety and education. Within its first 10 years, CEDAW was ratified by nearly 100 countries, and today 189 countries have ratified CEDAW. Six countries, including Iran, Sudan and Somalia have taken no action to ratify or sign the CEDAW, and two countries, Palau—a small island nation in the western Pacific—and the United States have only signed the Convention. So, this begs the question, how is it that over 97 percent of the countries in the world have ratified CEDAW and the United States has not? After all, the tenets of CEDAW

are based on the very issues for which we have been fighting for decades in this country.

The United States was one of the first signatories of CEDAW when it was adopted by the UN in 1979. A year later, President Jimmy Carter signed the treaty and sent it to the Senate for ratification. Unfortunately, Carter did not have the political leverage to get senators to act on the measure. The Senate Foreign Relations Committee, which is charged with ratifying treaties and international agreements, has debated CEDAW five times since 1980. In 1994, for instance, the Senate Foreign Relations Committee held hearings on CEDAW and recommended it be ratified, but efforts to block its ratification were successful. Similar debates in 2002 and 2010 also failed to advance the treaty.

We have a persistent and egregious wage gap in this country. Overall, women are paid 82 cents for every dollar paid to men, which amounts to an annual gender wage gap of \$10,157. It is even worse for African-American women who typically earn 63 cents, Native American women who are paid 60 cents, and Latina women who earn just 55 cents for every dollar paid to white, non-Hispanic men. This amounts to thousands of dollars less per year in income compared to men. It affects women's retirement and explains why more women than men retire in poverty.

These facts and figures represent the consequences of sexism and the consistent devaluing of women, and particularly women who are BIPOC. We know for a fact that the gender wage gap persists regardless of industry, occupation, and education level—and there are numerous causes, including discrimination and bias. Article 3 of CEDAW addresses gender equality directly by imploring ratified parties to take:

All appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Senate Joint Resolution 11 addresses other critical concerns, including violence against women, gross inequities in health care services and outcomes, and notable challenges when it comes to educational pursuits. Even during the current Covid-19 pandemic, we have seen firsthand that women, gender minorities, the BIPOC community and other marginalized groups have borne the

brunt of the pandemic's worst impacts. Since the start of the pandemic, women have lost more jobs than men, which are eliminating recent gains made by women in the workplace. Moreover, according to a UN policy brief on the impact of Covid-19 on women, "across every sphere, from health to the economy, security to social protection, the impacts of Covid-19 are exacerbated for women and girls simply by virtue of their sex." The brief notes that the pandemic has disproportionately impacted women economically, worsened health care outcomes, and led to increased gender-based violence.

As I have said before, we all must persist for equality; we must persist in improving human dignity and human rights; and we must persist against systematic racism and racial discrimination that has perpetuated generational poverty, educational and economic hardships, health adversities and environmental deterioration. These problems go beyond the borders of our Country, and nearly all countries have ratified CEDAW in their efforts to address these ongoing concerns. Frankly, I am baffled and a bit stunned that the United States has not taken the very simple step to ratify CEDAW.

I urge your support and approval of S.J.R. 11. Let us take this fight to the United States Senate where they have the power and ability to, once and for all, ratify the UN's Convention on the Elimination of all Forms of Discrimination Against Women.

It is appropriate that Nevada, the first State to have a female majority Legislature, be resolved in this matter.

SONDRA COSGROVE (Executive Director, Vote Nevada):

I am asking for an affirmative vote on S.J.R. 11 because I regularly apply for workforce development grants to help women access good-paying jobs. These grant applications often ask how my proposal aligns with federal, State or local laws and policy. Having as many points of reference that clearly show government intent to assist women in becoming financially independent will help people like me help more women in Nevada.

JERI BURTON (President, Nevada National Organization for Women):

The National Organization for Women has been working to achieve equal rights for women for over 50 years and urge you to join us in our support of S.J.R. 11 and the ratification of CEDAW, which affirms principles of fundamental human rights and equality for all women.

This would send a message to the rest of the world that the United States stands behind its commitment to provide equal opportunity for all. With the global pandemic crisis, the time is now to ratify CEDAW to help women and girls.

SENATOR SPEARMAN:

Change in this country and the world is rapid. The way the world looked ten years ago is not consistent with the reality of today. For some people, change is difficult to accept. But change has already happened. The resolution simply says the U.S. should ratify CEDAW and acknowledge that everyone is created equal.

VICE CHAIR NEAL:

What do you anticipate will occur if S.J.R. 11 carries?

SENATOR SPEARMAN:

If the resolution is passed in both houses, the Secretary of the Senate transmits a copy to Nevada's federal delegation, to the Vice President of the United States and to the Speaker of the House. This personifies our commitment to equality and to lifting women out of the pervasive poverty and degradation we have endured for years. It is noteworthy that for the first time in our history, the Vice President is a woman of African and East Asian descent. It is my expectation our federal delegation would join us in encouraging the entire Congress to ratify CEDAW.

For Nevada, it is another step to show we lead on matters of equality and equity.

REBECCA GIPSON (City of North Las Vegas):

We support S.J.R. 11. I have submitted a letter of support ([Exhibit E](#)).

JANINE HANSEN (Nevada Families for Freedom):

We oppose S.J.R. 11. I have submitted a letter of opposition ([Exhibit F](#)).

MELISSA CLEMENT (Nevada Right to Life):

Nevada Right to Life, as the Statewide affiliate of National Right to Life Committee, opposes S.J.R. 11. While the CEDAW Committee has admirable goals like eliminating sex trafficking, article 12 of the document has been used to intimidate nations to change or eliminate their abortion laws. For the

sovereignty of our Nation, our State, and respect for other nations, we urge a strong no.

I would now like to provide my personal position on this resolution. I am a Nevadan and a woman and I agree with many of the points made in this resolution. My question is, why are you wasting valuable time in the Committee to vote on this worthless piece of legislation? Instead of writing resolutions, move valuable legislation that will save women's jobs and women-owned businesses. Fulfill your legislative role. End the emergency orders, open the economy, put our kids back in school playing sports, and provide a safe environment by allowing women to protect themselves and police officers to do their jobs. The past year has done more than anything else to damage the status of women, yet you continue to ignore it. Vote no on this ridiculous resolution, let it die and get back to work.

TESS OPFERMAN (Nevada Women's Lobby):

Day in and day out at the Nevada Legislature, we hear bills about sexual assault, domestic violence, human trafficking, hate crimes and pay inequality. Our legislators are working hard to pass policy to help address these inequalities—inequality for women of color, inequality for women addressing their gender identity and sexual orientation, inequality for women in the workplace. We must not be complacent.

It is time we pass a declarative measure to urge Congress to ratify CEDAW. Please take this measure by supporting S.J.R. 11 and supporting women in our State.

BOB RUSSO:

I oppose S.J.R. 11 and have submitted my letter of opposition ([Exhibit G](#)).

SENATOR SPEARMAN:

Someone commented that we are wasting our time. Let me be clear. I am Black. I am a woman. I am a member of the LGBTQ community, and I did not grow up with privilege. Anytime I am fighting for equality and equity, it is well worth my time.

There is an inconsistency between insisting the government can control our reproductive rights while objecting when the government tells us we have to wear a mask in order to reopen our economy. There is an inconsistency in

saying some women are too immature to understand abortion, but they are mature enough to carry a firearm. I am fine with people advocating for a child in the womb, but I have to assume the same people must oppose the death penalty. If there is a right to life for someone in the womb, certainly there is a right to life for someone who has exited the womb.

Some callers objected to foreign entities guiding our decisions, but we live in a global economy. Everything bought and sold between countries is the result of treaties governing the transactions.

I appreciate the opinions of the callers in opposition, but I will always fight for equality and equity. It is never a waste of my time. Civil rights activist Fannie Lou Hamer said "I am sick and tired of being sick and tired." I am appalled we are still having to fight these battles in the twenty-first century, but fight I will. I will persist.

To paraphrase the late Supreme Court Justice Ruth Bader Ginsberg, we are not asking for special rights, we are asking everyone, especially men, to take your foot off of our neck. The only thing S.J.R. 11 does is promote equality.

VICE CHAIR NEAL:

I will close the hearing on S.J.R. 11.

CHAIR SPEARMAN:

I will open the hearing on S.B. 386.

SENATE BILL 386: Revises provisions relating to certain businesses.
(BDR 53-1010)

SENATOR NICOLE CANNIZZARO (Senatorial District No. 6):

This morning I present S.B. 386, which creates the Nevada Hospitality and Travel Workers Right to Return Act.

Nevada has never confronted a crisis on the scale of Covid-19. Before I discuss the economic impacts of the pandemic on our State's economy and workforce, I want to take a moment to acknowledge the thousands of Nevadans who lost their lives to Covid-19. Thousands more have lost family members, loved ones and friends. Hundreds of thousands have fallen sick with this virus and some

are still feeling the effects. The pandemic sent shockwaves through all facets of our society.

The past year has been devastating for Nevada's families, students, businesses and workers. The hospitality industry, the lifeblood of Nevada, has been hit particularly hard and many families who rely on their paycheck for necessities have had an incredibly challenging time. The costs of Covid-19 are evident in the devastating effects on the physical and mental well-being of Nevadans—lost jobs, compromised schooling and shuttered restaurants.

Last March, during the early outbreak of the virus, Governor Steve Sisolak took bold and necessary action in shutting down the State and closing nonessential businesses. We knew saving lives would require economic sacrifices, but Nevadans pulled together to slow the spread of the virus. As a result of these emergency precautions, however, we experienced the severe downturn in employment in the spring of 2020. The disproportionate burden was borne by workers in the gaming and hospitality industries, workers of color and workers unable to do their jobs remotely.

The pandemic has continued to rage on for more than a year. There have been more than 878,000 new claims for unemployment benefits between March 2020 and March 2021. The pandemic forced casino and hospitality employers to discharge, furlough and lay-off workers on a massive scale. These are job sectors central to Nevada's economy and to the well being of this State as a whole.

Growing up, I was the proud daughter of a waitress and a bartender, both members of Culinary Union Local 226. Because I grew up in a family who relied on exactly the type of jobs that have been so hard hit by this pandemic, I can only imagine what these workers and their families have been through over the past year. I know my parents relied on every paycheck to put food on the table and keep a roof over our heads.

From that experience, what these workers need most is the promise of a return to their previous jobs as the pandemic recedes and business returns. Families like the one I grew up in just want to go back to work. There is hope ahead for our State and our Country. Every day, more and more vaccines become available. Our economy continues to rebound, and more and more people are

interested in putting the past year behind us and coming back to Nevada like they once did.

We are coming out on the other side of this truly terrible time. But as we do so, we have to make sure our workers, who have shouldered so much of the fallout from this pandemic, are not left behind. Unfortunately, job recovery has lagged and those in BIPOC communities have had even slower employment recoveries than their White counterparts. If we want Nevada's economy to come back stronger than ever, it is critical we make sure our workers are a key piece of that comeback.

That is why I am bringing forward S.B. 386, which provides that it is in the public interest to ensure that the State's casino, hospitality, stadium and travel-related employers honor their former employees' right to return to their former positions. Doing so will speed the transition back to a functioning labor market and will lessen the damage to the State's economy. Recalling workers instead of searching for new employees would minimize the time necessary to match employees with jobs and reduce the unemployment rate more quickly. The bill provides these workers with the economic security of knowing they will have an opportunity to return to their jobs when business returns.

D. TAYLOR (UNITE HERE):

We need to support the workers in the hospitality industry. No one has been a bigger booster for our hospitality industry than the Culinary Workers and Bartenders Union. We have vigorously lobbied for expanded gaming. Our union has defended the gaming and hospitality industry when attacked by Congress, other state capitals or here in Nevada.

It has been hard for us to defend the gaming industry, particularly on the tax rate. Here in Nevada it is 6.75 percent. In other states it is much higher—12 percent in Mississippi, 21.5 percent in Louisiana, 43.5 percent in Indiana, 45 percent in New York, 50 percent in Illinois, 55 percent in Pennsylvania and 61 percent in Maryland. The gaming and hospitality industry has generally provided stable, well-paying jobs that help us all.

The industry has often uplifted us with better jobs in convention centers, hotels and airports than many states. As Senator Cannizzaro said, our world turned upside-down in March 2020. The pandemic has devastated our workforce. Hospitality workers are more likely to get sick and more likely to die. The

outdated unemployment compensation system was difficult to navigate. These employees do not have the luxury of working from home.

Often these workers are single parents and the sole breadwinners in their family. They are proud, hardworking individuals not looking for handouts. They are dedicated to their jobs and their family. We saw mass unemployment and the proliferation of food banks across the State.

Even with the June reopening of casinos, the number of tourists coming to Nevada is considerably below prepandemic levels. Airports and hotels are seeing far less use. Conventions centers are dormant.

Every company represented by the Nevada Resort Association or the American Hotel and Lodging Association says their most important asset are their employees. Today, these companies are claiming S.B. 386 is unnecessary and too complicated. Meanwhile, their loyal and dedicated employees are being fired. Employers have used the pandemic as cover for firing employees. The same employers that asked the union to go to Congress to request special funding for the hospitality industry to absorb the disastrous impact of the pandemic are turning their backs on their employees.

The employees who were fired were 58 percent female, 45 percent Latinx, 18 percent White, 15 percent Asian, 12 percent Black and 1 percent Indigenous. As you can tell, they are predominantly women of color, the same communities most affected by Covid-19 deaths. Without this legislation, they will be permanently harmed, as will the communities where they live.

Jobs should not be a partisan issue. Senate Bill 386 is good for the business community. This legislation provides for an already-trained, experienced staff—a staff that was praised a year ago by the very same companies. These people can come back to work and be ready on day one. No training cost or investment needed. These are long-term workers, dedicated to the community. They will pump their earnings back into the local economy. Statistically, displaced older workers typically see a 35 percent decline in wages if they have to start over.

You will hear all kinds of reasons not to support this bill that do not get to the fundamental question. Why are workers who, through no fault of their own, getting tossed away as the casinos and hotels reopen?

Two casinos, the Horseshoe Casino and the Four Queens Casino, used the pandemic to lay off large numbers of employees. Just in our union employee layoffs, those casinos laid off over 1,000 years of experience. The Station Casinos laid off 20,000 years of experienced workforce union members.

You may hear many properties have openings they cannot fill. The lack of child care and in-person school is part of the reason. The industry may tell you they paid workers during furloughs and layoffs. We applaud that. We applaud Congress for providing the stimulus money in the Coronavirus Aid, Relief and Security Act that helped provide those wages.

This bill is not complicated. The right to return is good for the economy, for the State, for the workers who live here who are your constituents. You have the opportunity to make a profound difference to hard-working residents who clean rooms, mix drinks, set stage lights, park cars and serve food in the hardest hit industry in the Country. These people are your neighbors, their kids play with yours on the soccer field and they go to your church.

Senate Bill 386 will bring hope to your fellow Nevadans in these dark times.

SENATOR CANNIZZARO:

Section 4 of S.B. 386 provides that the provisions of sections 2 to 28, inclusive, establish minimum labor standards and do not preempt or prevent employment standards that are more protective and beneficial for employees.

Sections 6 through 19 define certain terms applicable to the provisions of the bill. Section 11 defines covered enterprise as an airport hospitality operation, an airport service provider, a casino, an event center, or a hotel that is in a county whose population is 100,000 or more. Section 16 defines a laid-off employee as an employee who was employed by an employer for not less than 6 months during the 12 months immediately preceding March 12, 2020, and whose most recent separation from the employer occurred after March 12, 2020, and which was due to a governmental order, lack of business, reduction in force or another economic, nondisciplinary reason.

Section 20 requires an employer, in the event of a layoff, to provide an employee who is to be laid off a written notice of the layoff, which must include the effective date of such layoff and a summary of the right to reemployment pursuant to sections 2 through 28, inclusive of this act. The notice must be

provided at the time of the layoff. If the layoff took place before the effective date of this act, the employer must provide such notice within 20 days after the effective date of this act.

Section 21 requires employers to retain certain information regarding an employee, including the notice regarding the layoff, for at least two years after an employee is laid off. The two years begins on the date of the written notice.

Section 22 requires an employer to offer a laid-off employee each job position which becomes available after the effective date of this act and for which the laid-off employee is qualified. "Qualified" includes the same or similar position that the employee filled at the covered enterprise at the time of layoff or a position that the employee can be qualified for with training that would be provided to a new employee.

Section 22 requires employers to offer job positions in an order of preference, beginning with the same or similar position that the employee filled at the covered enterprise at the time of layoff. Next would be a position that the employee can be qualified for with training that would be provided to a new employee. If more than one laid-off employee is entitled to a particular position, preference goes to the laid-off employee with the greatest length of service for the covered enterprise. The employer is also required to afford a laid-off employee who is offered a position at least ten days to accept or decline the offer.

An employer who declines to recall a laid-off employee because the employee lacks qualification and hires another person, must, no later than 30 days after making the decision, provide the laid-off employee with a written notice of the decision identifying all the reasons for the decision.

Section 23 prohibits an employer from terminating, reducing compensation, refusing to employ, or otherwise taking any adverse action against a person who takes certain actions in relation to the provisions of this act.

Section 24 authorizes the enforcement of the provisions of this act in a civil action in any court of competent jurisdiction brought by one or more employees, or the employees may designate an agent or representative to maintain an action for and on behalf of all employees. This section sets forth certain standards for establishing and rebutting certain presumptions concerning

violations of the provisions of this act and authorizes the imposition of an injunction against violations and the issuance of orders or other appropriate affirmative action and certain awards to a prevailing plaintiff.

Section 25 imposes the requirements and duties of the provisions of sections 2 through 28, inclusive, to certain employers who purchase or otherwise acquire another employer that owns or operates a covered enterprise, and extends the rights afforded by sections 2 through 28 to a laid-off employees of such employers.

Section 26 provides that the provisions of sections 2 through 28, inclusive, apply to all employees, regardless of whether the employees are represented by a collective bargaining agreement. Section 27 prohibits the provisions of sections 2 through 28, inclusive, of this act from being construed to invalidate or limit certain other rights, remedies, or procedures available to an employee.

Finally, section 28 provides for the severability of provisions of this act by a court under certain circumstances.

I know there are businesses who plan to oppose S.B. 386. We are working with them and are in the midst of ongoing conversations to work out issues. I urge you to give so many of Nevada's working families peace of mind that they will get their jobs back when this crisis is behind us. I urge you to support this important legislation to ensure the recovery from the Covid-19 pandemic does not leave behind workers disadvantaged by race, ethnicity and economic status.

SENATOR NEAL:

Section 9 of the bill lists a very broad description of "business entity". What is captured by this broad definition?

SENATOR CANNIZZARO:

The broad definition in section 9 is meant to capture the multiple ways in which properties in the tourism and hospitality industries are owned and operated.

PAUL MORE (Culinary and Bartenders Union):

We have been working in cities and states across the Country on similar measures. The language before you is similar to language in laws that have passed in Los Angeles, San Diego, Philadelphia, Baltimore and Washington, D.C. The broad definition of a business entity in section 9 ensures we capture any

form of employer. In state law, the foreign designation refers to businesses incorporated in a state other than Nevada.

SENATOR NEAL:

Section 24 includes a private right of action and class action language. Are we engaging in long-arm statutes with that language?

MR. MORE:

Like many other workplace laws in Nevada, section 24 allows for a right of action. This could be enforced through civil action brought by a single employee or by a class action. By doing business in Nevada, a company submits to the jurisdiction of Nevada's courts for purposes of Nevada's labor standards.

By describing the different forms of entities that act as employers in Nevada, the law does not need to raise a long-arm statute.

SENATOR PICKARD:

The language and definitions in this bill are very similar to what we would see in a collective bargaining agreement (CBA). The businesses in section 9 include anyone who hires anyone. It would appear we are subjecting every employer in the State to a CBA.

We know the vast majority of layoffs were due to the pandemic and the shuttering of all the resorts. They happened in a very short period of time. The comeback of the hospitality industry will certainly be uneven and slow. My concern is that an employer is unlikely to hire back on the same day every single person they laid off. Now the employer will have to go to court to justify why they laid off a particular employee and why they did not hire that employee back within the 30-day window they are afforded in the bill.

What prevents an employee with sub-par performance from filing a suit against the employer while the bill includes a rebuttable presumption against that employer that they violated the law?

SENATOR CANNIZZARO:

This bill tries to ensure that workers who are the heart and soul of Nevada's economy are protected and given some assurance they will be able to go back to work. To do so, we have put together language that says you have the right to return to your employment and here is how that is delineated. There are

many instances in State law where legislation mimics CBA language—among them various health care provisions, minimum wage requirements and paid leave standards.

Just because an agreement somewhere contains language guaranteeing certain things, does not preclude this Legislative body from writing policy designed to help our constituents.

The shuttering of the resort corridor in Las Vegas was extremely disheartening but also necessary to keep people safe and save lives. As things reopen, this bill simply states that former employees must be afforded opportunities for jobs which they are qualified for. This does not pertain to bad employees who had disciplinary actions and were fired for cause. This pertains to employees who were furloughed or laid off because of the pandemic.

MR. MORE:

Senate Bill 386 does not apply to every employer in Nevada. It applies to covered enterprises in specified industries, which are travel and hospitality industries. It applies to licensed gaming facilities, resort hotels, other hotels with more than 200 guest rooms, large event centers and to certain airport employers.

The provision of rebuttable presumption prohibits retaliation against employees for seeking to exercise their rights. Most employment laws have similar protections. It is nearly identical to an existing antiretaliation provision in NRS 449.207, which protects nurses in medical facilities who raise claims and concerns.

SENATOR PICKARD:

Although I do not see a floor on the size of the employer, I assume we are only talking about resorts and hotels and those industries that are large and related to tourism. I would like to see some language actually saying that.

The rebuttable presumption shifts the burden of proof to the employer who then must show by clear and convincing evidence they did not violate the bill. Section 25 is written broadly and brings me back to the inelastic nature of the recovery. Employers will not be able to bring back everybody at the same time.

I did not refer to employees who were subject to disciplinary actions. But we all know not everyone is equally excellent at their job. An employer should be able to seek the preferred employees they would choose to bring back first. Does this bill authorize the person who was not brought back to file a complaint? What guidance are we giving employers to enable them to bring employees back at a slower rate than they were laid off?

MR. TAYLOR:

We are aware business is uneven. Business travel has not resumed and may not come back until 2022. This is not a union issue—it is a hospitality industry issue. These employees are the lifeblood of our economy, and they want to go back to work when there is work to be done.

We do not know when business will be back to prepandemic levels. One year ago however, these employees were praised as the backbone of the economy by the very businesses that are going to speak against this bill today.

MR. MORE:

Section 22 is the main substantive provision of S.B. 386. There is only a requirement for notice and preferential hiring right for those who worked a particular position when there is a job opening. There is no obligation on the part of any employer to create a position that does not exist. This is designed to say that if there is an open position, notice of that position be given to those who held the same or similar position prior to the pandemic for a minimum amount of time prior to the pandemic. The bill creates a mechanism to provide notice of job openings as they become available to those who were laid off as a result of the pandemic.

I would expect as vaccination rates continue upward and the pandemic recedes, whatever bottlenecks there are in having people come back to their jobs will be much reduced. Nothing in S.B. 386 prevents an employer from holding a job fair and hiring new individuals as long as they first made the offer to the employees they laid off.

The bill was designed to make this process as expeditious as possible. Employers can make simultaneous offers to groups of employees contingent on a determination of whether someone who was a laid off employee of that employer wants the job.

The definition in the bill of a laid off employee is someone who was not laid off for a disciplinary reason. It refers to those who were laid off, through no fault of their own, after Governor Sisolak issued a Declaration of Emergency on March 12, 2020.

SENATOR PICKARD:

Where is the language providing guidance to the employers? The bill appears to require the employer to make individualized offers.

SENATOR SCHEIBLE:

This is an important piece of legislation. Section 22 seems to provide some necessary flexibility for employers. Do I understand that an employer may make offers of housekeeping jobs, for instance, to all previous housekeepers and hire back based on the guidance in section 22?

MR. MORE:

Yes, the language reads the employee "held the same or a similar position at the covered enterprise".

SENATOR SCHEIBLE:

That would seem to provide employers with flexibility in the ways the work may have changed since the pandemic. I assume in the hospitality industry there will be an increased need for sanitation and compliance. There could even be new jobs that did not exist before the pandemic, such as guest education.

MR. TAYLOR:

That is correct. An example is someone whose previous job was to sweep the floor. They were a porter, and now they are called a Covid-19 cleaning specialist and are responsible for a myriad of additional cleaning requirements. They would get the same amount of training as a new hire off the street if they needed it, but they would have the first shot at taking the job.

SENATOR SCHEIBLE:

That would seem to prevent penalizing people who are in higher positions that may no longer exist. There may be fewer team leads and more porters in the future. Someone who was a team lead could be brought back as a porter, as opposed to not being hired back at all.

MR. TAYLOR:

That is the intent. If we could rely on companies to do the right thing, we would not be here today.

SENATOR SCHEIBLE:

Does the legislation say anything about an employee being required to accept a position they are offered? If I am a single mother caring for someone sick with Covid-19, I may not be able to come back to work tomorrow. Does that mean I would not be included in the next group of offers my employer made? If an employee is unable to accept an offer, does that negate their eligibility?

MR. MORE:

We have designed this so it is not an open offer—there is a ten day period in which the laid-off employee has to respond. Some employees may have moved, found other employment, or have a childcare situation they cannot resolve in ten days. If there were another round of job openings, they would receive another notice and perhaps at that time could accept.

The bill includes language saying an employer may extend simultaneous conditional offers of employment to laid-off employees with employment conditioned on responses and seniority of respondents.

SENATOR SCHEIBLE:

That makes a lot of sense. This legislation speaks to the reality of Nevadans who want to get back to work. It recognizes that if the circumstances are such that they cannot go back to work today or tomorrow, we will not penalize them for that.

SENATOR SETTELMAYER:

How does this legislation mirror legislation in other states? The Governor of California vetoed it, saying it was too proscriptive and threatened to hurt the already devastated hospitality industry. I am concerned it will hurt our hospitality industry which is still reeling from a government-imposed economic crisis.

MR. TAYLOR:

The Governor of California did veto a bill last summer based on certain provisions. That bill has been rewritten to be very similar to S.B. 386 and I am

confident will be passed very soon. A similar bill will pass very soon in Minnesota.

SENATOR CANNIZZARO:

What is unique is Nevada's reliance on tourism and the hospitality industry. In Nevada, in the Country and across the world there were precautions that had to be taken to ensure the safety of our communities. This is a global pandemic that threatens people's lives. Our task, the Committee's task and the Legislature's task is determining what is best for Nevada.

Nowhere in the bill are we asking for employers to take on enormous responsibility. They know who they have laid off. We are requiring them to assure those workers that, as business comes back, they will look to their trained, experienced employees first.

SENATOR SETTELMAYER:

Does section 22, subsection 3, require the employer's decision be made on seniority of the employee?

SENATOR CANNIZZARO:

The section allows employers to extend offers to a pool of qualified employees. It requires the job be similar to the one the employee held before or that the employee can be trained for with the same amount of training as a new employee. If more than one laid-off employee is entitled a position, the employer must first offer it to the employee with the greatest length of service for the covered enterprise.

SENATOR HARDY:

If an employer holds a job fair that a laid-off employee is not able to attend and subsequently hires another individual for the job, can the employee who did not get hired file a complaint? Is there any protection for the employer?

SENATOR CANNIZZARO:

The employee must show they complied with all the sections of the bill—that they responded within the ten days of notification. After the employee has exercised their rights under the provisions of this bill, the employer must provide the laid-off employee with a written notice of decision, per section 22, subsection 5. Section 24, subsection 3, allows an employer to rebut a presumption by proving the action was taken for legitimate business reasons.

SENATOR HARDY:

It sounds like the employer would be potentially liable if the result is laid-off employees who are not happy with its decisions.

SENATOR CANNIZZARO:

I understand the employers would not want to open themselves to frivolous complaints. Keep in mind that these are employees who were working up until the date the business had to shut its doors.

Citing your example of the employee who could not make it to the job fair, absent proof that he or she responded to the employer within ten days, he or she would not have a prima facie case under the provisions of this bill.

MR. TAYLOR:

We are not talking about new workers. We are talking about the exact same employees who were doing the job right up until the time the business had to shut down. In many cases, the employees have 20, 30 or 40 years of service.

If this bill is enacted, laid-off employees would not have to attend a job fair. They would receive a letter informing them of open positions for which they qualify, and they would have ten days to respond.

If S.B. 386 is not enacted, many of the experienced, older laid-off employees are going to be displaced in favor of younger, cheaper employees. I know a 62-year-old who worked as a housekeeper for 18 years and was laid off. Who will hire her? If she does get hired, what earnings can she expect?

CHRISTINA LOPEZ:

I worked for Station Casinos for ten years. I have submitted a letter of support ([Exhibit H](#)) for S.B. 386.

ALEXANDER MARKS (Nevada State Education Association):

We support S.B. 386 and submit our letter of support ([Exhibit I](#)).

MICHAEL GITTINGS (United Food and Commercial Workers Union):

We have submitted our letter of support ([Exhibit J](#)) for S.B. 386.

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RUSTY McALLISTER (Nevada State AFL-CIO):

Senate Bill 386 is a commonsense measure and we have submitted our letter of support ([Exhibit K](#)). Let us put people back to work and save our State.

JAMES KEMP (Nevada Justice Association):

We support S.B. 386 and the protections it will provide to Nevada employees who have suffered layoffs during the pandemic.

RANDY SOLTERO:

Unemployment has been just one of the many bad things that have happened to many families during the pandemic. I support S.B. 386.

MARIO SANDOVAL:

I have been a member of the Culinary Union for 39 years. I have submitted a letter of support ([Exhibit L](#)). I believe without this legislation I will not be allowed to return to my job of 36 years.

PHIL JAYNES (International Alliance of Theatrical Stage Employees Local 720):

Senate Bill 386 is simple—if you lost your job because of Covid-19, you will get your job back when it comes back. I have submitted our letter of support ([Exhibit M](#)).

HALEY BOX (Culinary and Bartenders Union):

We support S.B. 386. I represent the more than 60,000 thousand Culinary and Bartenders Union members and their families who are the heart of the Nevada hospitality industry. After the shut down in March of 2020, 98 percent of these workers became unemployed overnight through no fault of their own. Today, 50 percent to 60 percent of these employees remain either fully or partially unemployed. Most of these employees have never been out of work before and have 10, 20, 30 or even 40 years of experience in the hospitality industry. Now they are faced with uncertainty of whether they will be given the opportunity to return to their jobs.

Unemployment is the root cause of many other issues that have a negative effect on our local economy. I have been assisting laid off hospitality employees in navigating a vastly inadequate unemployment compensation system. These people deal with the resulting housing crises of evictions, foreclosures, car repossessions, debt collection and bankruptcy. The uncertainty and fear of not being able to return to work, potentially losing the homes they have worked so

hard for, and worrying about how they will put food on the table for their families, has had an extremely negative impact on their mental health and overall wellbeing.

Senate Bill 386 will ensure that these experienced employees, who are well established within the community, have the opportunity to return to their jobs. This will help Nevada's economy recover more quickly. We must protect our service employees as they are the steam engine of our community and economy. Getting our hospitality workers back into their jobs and ensuring that they are not terminated in exchange for less experienced, cheaper labor will be the driving force behind the faster recovery of our State. If enacted, this bill will help alleviate our housing crisis that is only going to worsen with the looming end of the Statewide eviction moratorium on May 1. We need to boost Nevada's economy, helping us all get back to where we were before the pandemic.

BRANDON GEYER:

I was a bartender at Main Street Station for 25 years. I have submitted a letter of support ([Exhibit N](#)) for S.B. 386. Please support our right to return to our jobs.

FRAN ALMAREZ (International Brotherhood of Teamsters Local 986):

On behalf of approximately 3,000 Teamsters in the hospitality industry in Las Vegas, we support S.B. 386. They have been out of work for over a year. Some of the positions have been outsourced, without the laid-off employee being given any notice or being called back to work. This bill will provide a path back to employment.

EDWARD GOODRICH:

I have read the opposition letters on this legislation and must commend Station Casinos on the extraordinary effort they are taking in using their positive cash position to support their employees in these trying times. Unfortunately this is not the case Statewide.

There is a great deal of uncertainty regarding re-employment when we come out of this pandemic. In its broadest strokes, this legislation offers the right of first refusal to those laid off through no fault of their own.

As stewards of the State, I see it as necessary for this Committee to support this legislation, in order to support the dual yet conflicting goals of taking every step possible to reduce the hemorrhage of money on the State coffers via unemployment benefits while maintaining the social safety net.

Remove the uncertainty in re-employment, especially for the more senior workers who are justifiably worried whether their company will bring them back or look for a younger, cheaper person instead. They wonder if their company is run by people who will increase the burden on the State in order to maximize their own bottom line. I urge the committee to support S.B. 386.

ANN SILVER (Reno Sparks Chamber of Commerce):

As an employee, a former human resources professional and the CEO of the Reno Sparks Chamber of Commerce representing more than 2,000 businesses, it was painful to read S.B. 386.

Is the intent of this bill to regulate an employer's rehiring process and mandate how thousands of tourism-related businesses must operate during and immediately after the pandemic?

No employer likes to do layoffs, but this bill attempts to guarantee rights typically seen only in CBAs that cover layoffs, recall and seniority. Who in small tourism-related businesses will write all the required notification letters, confirm addresses, monitor the ten-day response time, and pay for the stamps, the use of the fax machine or the labor involved in compliance with this bill?

Why are we all working so hard to restart our economy, refill jobs and restore the dignity of work while handcuffing the businesses that will create the economic rebound? Why diminish the entrepreneurial spirit and fail to recognize the courage it has taken to weather this pandemic? There are federal and State laws to protect against discrimination and unfair labor practices and there is enough work for lawyers. Let us not create new legislation that begs for litigation and class action lawsuits.

AMBER STIDHAM (Henderson Chamber of Commerce):

Our Chamber recognizes the issue this proposal seeks to fix. However, tying provisions to Nevada's state of emergency only creates confusion and a patchwork of requirements that are too proscriptive and hurt our already devastated hospitality industry.

Our businesses continue to struggle to keep their doors open. Many of them had made the tough and terrible decision to lay off their valued, hardworking team members as a result. Now we are nearly 13 months into State-mandated closures and business restrictions of varying degrees, it is important to remember that some businesses continue to be required to operate at challenging capacities. Some remain closed altogether.

We understand the emergency directives and legislation in 2020 was needed to protect the health of Nevadans. As written, S.B. 386 is overly burdensome and creates more barriers for businesses who are still operating in an unclear environment and with uncertainty as to what strategy is best for business in the future to ensure its continued survival.

It will be particularly challenging for these employers to discern which jobs are "similar", as outlined in section 22, and how to adhere to the notification regulations vaguely laid out within the bill. Most employers already choose to rehire laid-off employees because they have the experience and can transition their skill set to meet these newly imagined jobs.

This bill could force businesses to defend themselves from major lawsuits, as this proposal creates a retroactive right that is contrary to business' foundational understanding of existing employment law in Nevada. Passage of S.B. 386 would result in substantial litigation. Of paramount concern is the private right of action provisions within section 24, subsection 7, which outlines punitive measures including treble damages payable to a former employee.

Our Chamber desperately wants us all to be in a place where we can look forward. Given the devastation Nevada has experienced, we have a long road to recovery. We want employers focused on building back business.

BARRY LIEBERMAN (South Point Hotel and Casino):
We oppose S.B. 386. The South Point is a family owned and run business and has been successfully operated for many years.

This bill, like many other bills introduced in this Legislative Session, seeks to impose additional costs on businesses and micromanage how private businesses in Nevada operate. This is a dangerous trend.

The South Point kept almost all its employees on the payroll for more than a month after the state-mandated shutdown of casinos. When the South Point was finally financially forced to furlough some employees, it continued to pay costly health insurance premiums so the furloughed employees could continue to be covered. We are making it easy and free for our employees to get Covid-19 vaccinations. These decisions were made by a man concerned for the welfare of his employees, while trying to balance the tremendous financial hardship the South Point had to endure.

Senate Bill 386 now seeks to tell us how we should manage the recall of employees as business gets better. The provisions of the bill create burdensome, time consuming and counter-productive requirements which will significantly impede rehiring of employees. The bill is unnecessary and has burdensome and costly provisions that only will delay our recovery.

Our business is recovering and we are rehiring employees. We do not need the State of Nevada telling us how to rehire our employees and which employees to rehire. The provisions of S.B. 386 are unnecessary and should not be enacted.

GINA BONGIOVI (Vegas Chamber):

I would like to thank the sponsor for meeting with members of the business community about S.B. 386, so we could share our concerns with some of the provisions of the bill and how it would impact Nevada's employers, especially as we work together to bring more Nevadans back to work.

Those concerns include the proposed legal remedies about "rebuttable presumptions", damages, several definitions including that of "employer", the notification process and the overall impact it could have on the larger business community.

As the Board Chair for the Vegas Chamber, I recognize and appreciate how our members have stepped up to help their fellow Nevadans during the pandemic, even though their own operations were in jeopardy.

We had employers provide salaries, healthcare benefits, grants and financial assistance to employees even when the businesses were closed. They provided time off to employees to get tested, take care of loved ones, homeschool their children and be there for their families.

The private sector donated food and supplies to nonprofits to support their fellow Nevadans. Even though they had no legal obligation to do so, they did it because it was the right thing. They did it because they care about their employees, they care about our community and they care about our State.

And now, as we are working to get Nevadans vaccinated quickly, employers are supporting these efforts and working with health officials to have onsite vaccine centers for employees, provide time off to get vaccinated, and debunk antivaccine myths. They are doing all this even while many businesses are still operating at 50 percent capacity per State directives in efforts to slow the spread of Covid-19.

This has not been easy on our employers, as there has been some sort of restrictions or closures on businesses since March 2020. It is for these reasons the Chamber cannot support S.B. 386 today.

CHRIS BROWN (National Air Carrier Association):

The National Air Carrier Association is a trade association that represents four passenger airlines serving McCarran International Airport.

The pandemic has devastated many businesses across the Country, and airlines and their airport partners are no exception. National airlines have lost over \$50 billion, our airport partners have lost more than \$40 billion, and the aviation industry has lost over 100,000 full-time jobs.

We recognize and are extremely grateful for the hard work of our airport service providers, working above and below wing every day helping you and your families get to the places you need to be. Our airlines depend greatly upon their airport partners and we respect and understand their interests in being in control of their properties. Efficient operation of our airports and service providers keeps the costs to the flying public low which, in turn, opens up air travel to more people and increases travel to world-class leisure destinations like Las Vegas and Reno.

If the costs of doing business at airports increase, air fares will inevitably rise. Higher fares will reduce passenger demand at McCarran, which will undermine the travel and tourism recovery in Nevada. We respectfully oppose S.B. 386.

ANDREW DISS (Meruelo Gaming):

We oppose S.B. 386. Some of our specific concerns stem from the lack of clarity on if and when the recall provisions in our CBAs will govern. We have recall provisions in place, we are following the contract language, and the system is working. This bill should clarify it does not apply to team members covered by a CBA, or if it does, then it should clarify what happens if the CBA provisions conflict with what is in the bill.

The requirements under section 22 will create an extraordinary burden to our human resource departments and could create a big area of litigation. A court might potentially have to step in and determine whether it was proper to hire one employee over another because of differences in experience and seniority. This is an inappropriate judicial determination that will add to our already overburdened courts.

We disagree with Mr. Taylor's assertion that resort operators treat team members poorly. Our most valuable asset as a company is our people. The reason we are successful is because of our team members and we have done everything we can to support them during the course of the pandemic, including maintaining all of our team members' health insurance so nobody lost coverage during the shutdown. By working with the local health district, we have hosted on-site at-work vaccinations for our team members and their families.

It has been a difficult year for all of us, but we must not mistakenly direct our frustration at one another. We all need to work together to stay safe, get vaccinated and defeat this virus.

KEITH LEE (Southwest Airlines):

Like every other business, commercial air carriers and their valued employees have felt the impact of Covid-19. Across every sector, we recognize the sacrifices our employees have made and the hardships they have endured during this unprecedented pandemic. We want them to be able to come back to work as soon as possible.

Commercial air carriers depend on our airport allies and we respect their interest in being in control of their properties. Efficient operation at our airports keeps down costs to our flying public. We support the autonomy of our airport partners in dealing with their vendors. McCarran International Airport has

concerns, particularly with section 7 and 8 of S.B. 386. We echo their concerns.

ERIN MIDBY (Boyd Gaming Corporation):

We oppose S.B. 386. Although we had to make some very difficult decisions during the closures, Boyd Gaming was committed—and remains committed—to helping our team members throughout the crisis. Our team members are critical to our success. Without them, we cannot welcome guests and provide the level of service that makes Las Vegas a world-class tourism destination.

During the height of the pandemic we initially continued full pay for all team members, including tip income, for the greater portion of the time our properties were closed. We then continued to pay 100 percent of health insurance premiums for furloughed team members through July 31, 2020.

Although we had to temporarily suspend pay increases during the closure, we gave raises to all eligible hourly team members in October. To provide some stability, we froze our 2021 health premiums at 2020 levels and suspended hours-worked eligibility so our team members were able to keep their insurance benefits despite furloughs. We supported S.B. No. 4 of the 32nd Special Session, as the health and safety of our team members is of utmost importance.

We recently implemented a vaccine policy to encourage all of our team members to get vaccinated. This includes relaxed attendance policy and flexible work hours to make it as convenient for team members as possible. Team members can also get paid time off reimbursement once completing the vaccine.

Since the shutdown, Boyd Gaming has brought more than 6,000 team members back to work, and is continually bringing more back as business gradually ramps up. We currently have over 300 job openings across multiple functions, including food and beverage, security, hotel and administrative. We expect many more to open up as we continue through recovery.

Despite our efforts to do everything possible to get people back to work, we are still struggling to fill our open positions. Senate Bill 386 will not help us get people back to work, it will simply create one more barrier in getting people back to work quickly.

This bill is unnecessary at this time. Team members are being brought back and we are hiring. At a time when we are working toward recovery, this bill creates burdensome, time consuming and counter-productive requirements which will delay our efforts to rehire team members in a timely manner.

MICHAEL ALONSO (Caesars Entertainment Inc.):

We understand the importance of bringing back employees in the leisure and hospitality sectors in Nevada in this postpandemic recovery period. The bill is unnecessary and we are opposed to S.B. 386. Caesars Entertainment cares deeply for its team members and has always made their well-being its highest priority.

Caesars Entertainment and its Nevada properties supported team members during the pandemic and continues to support them in many important ways. For team members impacted by closures, the company provided closure pay, at a level of no less than two weeks of straight time pay in addition to providing pay during subsequent temporary closures here and in various states.

In Nevada, Caesars has paid out over \$30 million to team members as part of closure pay. Upon reopening, Caesars provided ten Covid-19 sick days for those testing positive or in contact with Covid-19 at work or in their household. That was in addition to the company's usual and customary paid time off policies. In Nevada, Caesars paid out just under \$9 million to team members as part of the Covid-19 sick pay policy.

For those team members on the company sponsored benefit plan, Caesars continued to provide and pay for benefits coverage for our team members and their covered dependents throughout the entire period, including those who remain on furlough today. Those continued benefits include mental health support and resources to team members through Employee Assistance Programs and insurance programs.

Unfortunately, during the pandemic and on the heels of the integration of a very large merger, Caesars had to eliminate some positions in Nevada. In these situations, Caesars provided severance pay and benefit continuation under the Consolidated Omnibus Budget Reconciliation Act with a subsidy. The company paid the individuals who were impacted in 2020 approximately \$35 million in severance pay and in 2021 has paid over \$4.5 million year to date.

MARLENE LOCKARD (Service Employees International Union 1106):

We support S.B. 386. While this pandemic has affected everyone, it is the workers who have borne the brunt of the crisis. They have lost their jobs and in many cases have been unable to get unemployment benefits. Most service workers do not have a nest egg to sustain them through an unanticipated crisis. Now that the State is moving to reopen, it is unconscionable to block their return to work.

SENATOR CANNIZZARO:

Senate Bill 386 gives assurances to the employees who keep this State running. The pandemic has devastated Nevada's economy. Bringing back Nevada's hospitality workers is a critical piece of the recovery.

My parents, a waitress and a bartender, moved to Nevada and found a place to raise their family. Las Vegas is my hometown. I remain committed to working with those that oppose this bill to find a path forward.

CHAIR SPEARMAN:

I will close the hearing on S.B. 386. We are going to reschedule the hearing on S.B. 186 for tomorrow.

SENATE BILL 186: Revises provisions relating to collection agencies.
(BDR 54-582)

I will open the hearing on S.B. 252.

SENATE BILL 252: Extends the period during which certain complaints may be filed with the State Contractors' Board under certain circumstances.
(BDR 54-961)

SENATOR KEITH F. PICKARD (Senatorial District No. 20):

Senate Bill 252 was requested by several families in my district that have struggled with having warranties abandoned by contractors. The warranties were offered in order to land the project. Most licensed contractors honor their contracts, including their warranties, without hesitation. Many go beyond the terms of their warranty to fix problems that arise.

A few, typically smaller, less ethical operators will offer a long warranty with the hope of securing the work, only to abandon that agreement after a few years.

The Nevada Contractors Board was established in 1931 for the sole purpose of protecting consumers from unscrupulous contractors. In 1989, language was added stating:

The Legislature declares that the provisions of this chapter relating to the discipline of licensees are intended to promote public confidence and trust in the competence and integrity of licensees and to protect the health, safety and welfare of the public.

Among many things, the Board is required to investigate consumer complaints and enforce both the standards of the industry as it pertains to the quality of construction and the agreements entered into by the contractor. If the investigation results in a finding that the contractor has failed to live up to the promises they made in their contract, the Board is required to enforce the contract or otherwise provide that the consumer be made whole. Statute specifies that the complaint must be filed in writing with the Board within four years after the act or omission. Therein lies the issue.

Assembly Bill No. 440 of the 80th Session clarified and strengthened the law pertaining to residential builders. The bill instituted a requirement for a builder's warranty. The legislation mandates that the warranties be written, that they run for at least one year from completion of the work and that they be transferable to a subsequent purchaser of the residence. But that legislation did not address the other end of the warranty and did not mandate that the contractor be held to honor the warranty for the entirety of its stated life.

The majority of contractors uphold their warranty, and the occasional consumer may stretch the truth regarding a defect. But that is the purpose of an investigation. If the Board finds for the contractor, that is the end of it. However, the Board turns a blind eye after just four years. Unscrupulous contractors offer a long warranty, knowing that after four years they can walk away with little or no consequences.

The families that brought this to my attention found themselves in this situation. Two had contracts for pool solar heating and the rest were remodeling projects.

Each were sold on warranties ranging from 6 to 11 years and in each instance, they had consistent problems with their projects only to have the contractors refuse to honor the warranty after 4 years. The Contractors Board dismissed the cases for want of jurisdiction. This is grossly unfair and violates the Legislative declaration of 1989.

Failure to provide a warranty or respond reasonably to a claim made under a warranty is grounds for disciplinary action by the Board per NRS 624.3016, subsection 12. But NRS 624.331 curtails the Board's ability to enforce section 3016 of chapter 624 of NRS after just four years.

Senate Bill 252 simply mandates the Board's enforcement of the warranties imposed by A.B. No. 440 of the 80th Session and those offered by remodel and pool contractors that exceed four years. We provided a conceptual amendment ([Exhibit O](#)) requested by a member of the Southern Nevada Home Builders Association that reduces the burden on the Contractors Board and on the contractors themselves by providing limitations on the scope of the investigation to the terms of the warranties or contracts.

The Nevada State Contractors Board requested a conceptual amendment ([Exhibit P](#)) clarifying that in section 1, subsection 2, the citation on line 8 should be to NRS 624.301(5), to clarify that the bill only applies to warranties offered.

In working with the various stakeholders, we heard some contractors and their representatives express concern that extending the Contractors Board enforcement requirement to the length of the stated warranty will cost their businesses significant money. Others expressed concern that the Board will require contractors to address concerns beyond the scope of their agreements. The amendments address these concerns.

Another issue was that of false warranty claims. In my decades of construction development and in conversations with stakeholders, it is generally acknowledged false warranty claims were the exception rather than the rule. Most home buyers are happy with their homes, especially those built by contractors vying for the coveted J.D. Power award. They bend over backwards to please their buyers.

Contractors that honor their warranties for the promised length will not be affected by this legislation. Those contractors who feel they cannot afford to

honor a long warranty should not offer them. Although the Contractors Board does not know how many cases this might bring before them, it would not appear at the outset to significantly impact the Board or the contractors. Senate Bill 252 simply addresses the small number of unethical contractors who wish to bait the consumer into buying the warranty and then refusing to honor it when the Board stops looking over their shoulder.

The limitations on the Contractors Board ability to enforce contractor warranties violates the very purpose of the Board itself.

WARREN HARDY (Associated Builders and Contractors Nevada Chapter):
Our members know the issue that S.B. 252 addresses is a problem. Reputable companies honor their warranties. They offer warranties based on their ability to honor them. It is despicable there are contractors out there who offer long warranties for the sole purpose of getting the job. Unsuspecting buyers may make a decision based on the length of the warranty.

I represent the good actors in the industry who know warranties should be taken seriously. To the extent that we do not have provisions in the law to help enforce that, we need this legislation.

SENATOR PICKARD:

The bulk of the contractors operating in this space are reputable and stand behind their warranties. The limitation in NRS 624.331 provides a perverse incentive to those that do not intend to honor their warranty to offer a long one to take advantage of the tendency of consumers to decide in favor of longer warranties. We should disincentivize those actors who do not honor their warranties.

SENATOR LANGE:

How will consumers be informed that they can take this action?

SENATOR PICKARD:

Most people do not know the opportunity exists for recovery through the Contractors Board until they have a problem.

It is not unusual for an unethical contractor to address a problem brought to them by the buyer, but not really fix it. They do quick fixes until the four-year clock runs out. At that point, the Contractors Board is robbed of jurisdiction.

The consumer can try to take it to court, but often the court will dismiss it after seeing that the Contractors Board took no action. The bill allows the contractors Board to enforce the contractor's warranty, whenever it ends.

The reality is, this does not happen a lot. But it happens enough to warrant a change in the law. The intent is the unscrupulous contractor will not offer a long warranty they have no intention of meeting—they will now know the Board is looking over their shoulder. Most contractors are more afraid of the Contractors Board than of a lawsuit. A lawsuit may cost them a few thousand dollars, but the Board can take away their license.

SENATOR LANGE:

Could we include a notice with a contractor's warranty informing the consumer of their rights?

SENATOR PICKARD:

The Contractors Board regulations spell out what a contractor is required to provide to the consumer. The Board could put that language in their regulations. It is not necessary to insert it into the bill.

ALEXIS MOTAREX (Nevada Chapter Associated General Contractors):

We were opposed to the bill as drafted, but with the conceptual amendment by the State Contractors Board, we support S.B. 252.

MISTY GRIMMER (Nevada State Contractors Board):

We appreciate the goal of S.B. 252 to eliminate the opportunity for bad actors to ignore the agreements they signed. Warranties can cover workmanship and/or the materials and equipment. The role of the Contractors Board is specific to workmanship. Sometimes the distinction of whether the failure is caused by workmanship versus materials or equipment is not easy to determine. We will continue working with the sponsor to clarify the role of the Board with respect to when a contractor is not meeting their workmanship obligation set forth in the warranty.

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I will close the hearing on S.B. 252. Seeing no public comment, this meeting is adjourned at 11:59 a.m.

RESPECTFULLY SUBMITTED:

Barbara Williams,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 44	B	1	Cesar Melgarejo	Work Session Document
S.B. 289	C	1	Cesar Melgarejo	Work Session Document
S.B. 290	D	1	Cesar Melgarejo	Work Session Document
S.J.R. 11	E	1	Rebecca Gipson / City of North Las Vegas	Letter of Support
S.J.R. 11	F	1	Janine Hansen / Nevada Families for Freedom	Letter of Opposition
S.J.R. 11	G	1	Bob Russo	Letter of Opposition
S.B. 386	H	1	Cristina Lopez	Letter of Support
S.B. 386	I	1	Alexander Marks / Nevada State Education Association	Letter of Support
S.B. 386	J	1	Michael Gittings / United Food and Commercial Workers Union	Letter of Support
S.B. 386	K	1	Rusty McAllister / Nevada State AFL-CIO	Letter of Support
S.B. 386	L	1	Mario Sandoval	Letter of Support
S.B. 386	M	1	Phil Jaynes / International Alliance of Theatrical Stage Employees	Letter of Support
S.B. 386	N	1	Brandon Geyer	Letter of Support
S.B. 252	O	1	Senator Keith F. Pickard	Conceptual Amendment
S.B. 252	P	1	Senator Keith F. Pickard	Conceptual Amendment from Nevada State Contractors Board