

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eighty-first Session  
April 30, 2021**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:00 p.m. on Friday, April 30, 2021, Online and in Room 2135 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 Melanie Scheible, Chair  
Senator Nicole J. Cannizzaro, Vice Chair  
Senator James Ohrenschall  
Senator Dallas Harris  
Senator James A. Settelmeyer

**COMMITTEE MEMBERS ABSENT:**

Senator Ira Hansen (Excused)  
Senator Keith F. Pickard (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Howard Watts, Assembly District No. 15

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nicolas Anthony, Counsel  
Pam King, Committee Secretary

**OTHERS PRESENT:**

Bailey Bortolin, Nevada Coalition of Legal Service Providers  
Annette Magnus, Executive Director, Battle Born Progress  
Tiffany Tyler-Garner, M.D., Children's Advocacy Alliance  
Tiara Moore, Housing Justice Organizer, Progressive Leadership Alliance of Nevada

Senate Committee on Judiciary  
April 30, 2021  
Page 2

Benjamin Challinor Mendez, Faith in Action Nevada  
Elizabeth Davenport, American Civil Liberties Union of Nevada  
Mary Janet Ramos, Culinary Workers Union Local 226  
Barbara Paulsen, Nevadans for the Common Good  
Thaddeus Bennett, Make it Work Nevada  
Vichelle Sanders  
Serena Evans, Nevada Coalition to End Domestic and Sexual Violence  
Tess Opferman, Nevada Women's Lobby  
Ethan Cullings  
Lalo Montoya, Housing Justice Organizer, Make the Road Nevada  
Tamara Favors, Make it Work Nevada  
Donovan Childress, Make it Work Nevada  
Chris Hardin  
Susy Vasquez, Executive Director, Nevada State Apartment Association  
Jessica Adair, Chief of Staff, Office of the Attorney General  
Hillary Bunker, Supervising Senior Deputy Attorney General, Office of the Attorney General  
Peter Krueger, Cigar Association of America  
Randi Thompson, Nevada Vaping Association  
Elliot Malin, Nevada Petroleum Marketers and Convenience Store Association  
Lesley Pittman, Juul Labs, Inc.  
Bradley Mayer, Southern Nevada Health District  
Joelle Gutman Dotson, Washoe County Health District  
Aschelle Morgan, Preventing Tobacco Addiction Foundation  
Tom McCoy, Boardmember, Nevada Tobacco Prevention Coalition  
Kyle George, First Assistant Attorney General, Office of the Attorney General  
Jennifer Noble, Nevada District Attorneys Association  
Chuck Callaway, Las Vegas Metropolitan Police Department

CHAIR SCHEIBLE:

I will now open up the hearing on Assembly Bill (A.B.) 141.

**ASSEMBLY BILL 141 (1st Reprint)**: Revises provisions relating to the sealing of records for summary evictions. (BDR 3-569)

ASSEMBLYMAN HOWARD WATTS (Assembly District No. 15):

Thank you for the opportunity to present A.B. 141. With me, are Bailey Bortolin and Jim Berchtold with Nevada Coalition of Legal Service Providers.

It is no surprise that our State is in the midst of a housing crisis. Affordability and other barriers are putting a financial strain on families. People are being pushed into homelessness and once there, finding it even harder to get out. Assembly Bill 141 in its first reprint would remove one of those barriers to housing for Nevadans affected by the pandemic by automatically sealing evictions from their records for failure to pay rent that occurred during our state of emergency.

A Guinn Center study done during the pandemic found that over half a million Nevadans were at risk of eviction as a result of Covid-19 and its economic impacts. While federal relief and economic recovery are bringing that figure down, it is likely that once current protections fully expire in June, thousands of people in our State will be facing eviction.

We all know the stories of people who have struggled to access their unemployment benefits or rent relief. Unemployment reached historic highs over the last year and at one point, Nevada briefly had the highest unemployment rate since the U.S. Bureau of Labor and Statistics started tracking these figures in 1976.

Folks who work in the tourism and hospitality industries, the backbone of our economy, were hit the hardest with a nearly 41 percent year-on-year loss of jobs at hotels, casinos and restaurants. Many of these workers' jobs are still gone almost 14 months into this emergency. Communities of color have also been hit hardest by the health and economic impacts of Covid-19. They are disproportionately cost-burdened and have had home ownership pushed out of reach. These same communities will also be hit the hardest by evictions, making up two-thirds of Nevada's renters according to the Guinn Center.

While we have gotten better at addressing the housing subcrisis within the Covid pandemic crisis over the last year, changing dates and requirements have left people confused about how best to protect themselves. Some families already have and will continue to fall through the cracks, ending up with an eviction that takes many housing options off the table even after they have recovered and have the ability to pay rent.

Evictions are often the result of poverty, but they are also a cause of poverty. People who have an eviction on their record experience greater financial insecurity and housing insecurity. People want to get back to work and move

forward with their lives. It is critical to ensure that they do not have a permanent mark on their records that prevents them from accessing new housing as we look to come out of this crisis.

This bill does not remove any obligation for a renter to pay; it does not change the existing summary eviction process that we have under law or prevent it in any way. All this does is ensure that during the State's declaration of emergency, if someone is evicted specifically for the failure to pay rent—and people can be evicted for other reasons we acknowledge the unprecedented economic hardship that so many people in our community have faced. In acknowledging that, allow people to move on and move forward as we come out of this, so they can gain access to one of the most basic needs that all of us have, which is the need to put a roof over our heads.

Stable housing has a range of positive benefits. Studies have found that stable housing reduces Medicaid spending, increases the use of primary care and drops the use of emergency room visits among other things.

Passing this bill helps promote economic recovery for our State and, in particular, for hard-working families who have been hit hard by this crisis. It is a good public health measure at a time when we need to continue to be vigilant as we hope to finally defeat this pandemic.

I urge the Senate Committee on Judiciary to support A.B. 141.

BAILEY BORTOLIN (Nevada Coalition of Legal Service Providers):

I will walk through the technical part of how this bill will work if enacted. Not to belabor the point that Assemblyman Watts has made, but it has been a very long year in the world of housing. Eviction protections have ebbed and flowed, been lifted and put back on. The protection has come from the State, which started in the Judicial Branch, and we currently have some from the federal government. It has been confusing to navigate as a housing attorney, and it has been much more confusing to navigate as a renter in this State.

While I applaud Governor Steve Sisolak taking action and leadership in this area of protections, this is a critical measure to move forward. It strikes an important balance of not excusing arrearages or letting renters remain on a property, but it ensures that if people are temporarily affected by the pandemic through no fault of their own, it does not become a further obstacle to securing housing going

forward. In this affordable housing crisis, there are many more applicants for each housing opening than available units. Not having the pandemic count against them is important.

When we think about why eviction records exist, it is to inform the likelihood that this would happen again. That does not make sense in the context of the pandemic and what we are going through because, hopefully, this will not happen again. That should be taken into account as not having a punitive mark makes it difficult for people to secure new housing.

With this bill, if you are evicted during the Governor's Declaration of Emergency Directive 044 for nonpayment of rent, which is one type of eviction proceeding, the courts would press a button and automatically seal all of those eviction records at once. It is important to note that not everyone was evicted for nonpayment of rent, even if they were pandemic-affected and behind on their rent because that is often where our eviction protections have existed. We are seeing lease violations while still in the eviction protection stages of people evicted for letting a relative move in with them who was in need during the pandemic because he or she could not be evicted through the nonpayment route. We are seeing a new shrub added to the backyard is a lease violation, and the renter is being evicted for that. Those people are not captured in this process, which is important, but they can still apply to have their records sealed on an individual basis. By getting the bulk of the people who are evicted for nonpayment of rent, we also reduce the burden on the court system. When evictions start again, the courts will need their resources to work through a volume of cases never seen before. It does not make sense to process these cases one at a time due to resource issues.

The people evicted for nonpayment of rent are those the protections intended to cover, and they fell through the cracks by not understanding the process. People who did not qualify for eviction protections because they may not have been affected by the pandemic are not covered by the eviction protection. If renters can afford to pay, they can be evicted. The landlord has access to go challenge that in court.

The complicated part is when people heard about a moratorium, they thought they did not have to do anything. But because the policies have been narrowed to only protect people who truly qualify, it requires affirmative action by the tenant. A lot of families heard on the news of an eviction moratorium if you

cannot pay rent, so they have not responded to that eviction notice. Those people who then have eviction records for nonpayment of rent even though the protections applied to them; they just did not understand that a declaration needed to be filed with the court, and affirmative actions were needed to protect and avail oneself of those protections. Those people are carved out to be protected in this bill by simply ensuring they do not have an eviction record carrying forward.

The eviction process places the burden on the tenant to initiate the court case by filing the answer to the landlord's summary eviction notice. Someone who did not qualify or may be gaming the system does not have eviction records because when the landlord issues the summary eviction notice, one has seven days to leave or become current on rent before the court case proceeds. In that case, no eviction record is issued. This is narrowly targeted at the people who qualify but did not understand how to avail themselves to the protections.

SENATOR SETTELMAYER:

I was specifically wondering about section 2, subsection 6, paragraph (2), "Ending on the date on which the Governor terminates the emergency described in the Declaration." Considering the Legislature will be open 100 percent, potentially on June 1, would you entertain the concept of putting an end date on this bill? There is no reason why the emergency could continue, so why not set a date when it should end, at least in relation to laws we are passing at the Legislature? In essence, the only reason I can see to continue the emergency is for economic reasons because we are able to access additional funds, whether it be on health care from Federal Emergency Management Agency and other organizations. There only seems to be an economic incentive to continue the state of emergency.

ASSEMBLYMAN WATTS:

I would disagree. The state of emergency still is a matter of public health. We have the Nevada National Guard assisting us in deploying vaccinations. It is critical we continue to do that to ensure this public health crisis does not flare up, and we can put it to a prompt end.

In relation to your question about the language of the bill, the end date is the end of the Declaration of Emergency, which is appropriate because we are seeing the light at the end of the tunnel, but the last 14 months have been quite a rollercoaster. I did not foresee how this last year was going to play out. We

need to ensure that things recover—we still have people waiting to get their unemployment benefits sorted out and people waiting to get their jobs back. I have a neighbor who is now looking at a June 1 date to return to his job. We want to ensure the protections under this bill cover people because on June 1, the eviction moratorium is set to expire; that is when we are likely to see a large waive of action in terms of evictions in the courts.

Until we have reached both the public health and economic point where the Declaration of Emergency is over, we need to have this opportunity so that anyone who is impacted as a result of the pandemic can avail themselves of these protections.

SENATOR SETTELMAYER:

We can agree to disagree on some of that information, but we can all agree that the Department of Employment, Training and Rehabilitation (DETR) needs to be fixed.

SENATOR OHRENSCHALL:

I appreciate the bill and in some ways wish it would be broader, looking at credit bureaus and people who have had their credit damaged, impacting their ability to rent an apartment or buy a car, get into a house and provide for their family.

I like A.B. 141, and it is headed in the right direction. If it passes, it will help many of our constituents.

ASSEMBLYMAN WATTS:

Thank you for the comment. I appreciate that and understand other measures have been considered related to housing and removing barriers to that within the Legislature. As a result of the pandemic, many consequences need to be addressed. This is a smart approach, particularly on this issue to ensure people can get back on their feet.

ANNETTE MAGNUS (Executive Director, Battle Born Progress):

We support A.B. 141 to give those experiencing housing insecurity in Nevada hope for securing new, stable housing and prevent landlords from abusing no-cause evictions to swiftly kick people out of their homes.

During this pandemic, thousands of Nevadans have lost their jobs and income due to no fault of their own. Governor Steve Sisolak and the Centers for Disease Control and Prevention eviction moratoriums have been vital in keeping families in their homes for this past year.

However, these are not a permanent solution, and Nevadans need protection. Sealing eviction records for those who are evicted during the state of emergency will avoid ruining that person's rental history or credit. Having an eviction on record makes it far more difficult for that person to find new housing or ever own a home.

Extending the notice timeline for no-cause evictions, which can be initiated by a landlord at no fault of the tenant, will give those families time to pack, sort out their affairs and secure new housing before they are removed from the property.

We should not let unscrupulous landlords rely on the loophole to kick people out on the streets during this pandemic. We should let renters who are already economically vulnerable move forward with their lives without a storm cloud of eviction hanging over them forever.

I worked personally with many people during this pandemic to help them deal with their rental issues. One person special to me is named Eric. He lives in Siegel Suites and has been struggling to make ends meet, dealing with both a disability and struggling to access his unemployment, which has been a huge hurdle.

If we did not have the moratorium in place, he would have been evicted earlier this month. Because of all of these struggles, he once again attempted suicide in early April because of the stress of being threatened with eviction and homelessness. If this bill were in place, I could have worked with Eric so that his record did not impact him going forward.

So many people like Eric were evicted and need this bill in place. Please support A.B. 141.

TIFFANY TYLER-GARNER, M.D. (Children's Advocacy Alliance):

We are a nonpartisan, Statewide child policy advocacy organization where one of our key areas of focus is the economic well-being of children. In that vein, I implore you to consider supporting this important legislation, recognizing



that housing insecurity can be a significant trajectory-changing event for children. For a number of individuals who found themselves in situational poverty, the impact of our policies and processes can become generational. We ask that you give strong consideration to supporting this legislation. Whether ensuring that children have the stability they need to learn and grow or the ways in which our recovery will be contingent upon individuals having stable housing for maintaining employment or supporting education, this legislation can play a key role as we truly recover together.

I thank you for your leadership on these types of issues and underscore the importance of leveraging policy to mitigate the effects of this pandemic.

TIARA MOORE (Housing Justice Organizer, Progressive Leadership Alliance of Nevada):

I am here in support of A.B. 141. You will hear stories of hundreds of thousands of Nevadans who face unemployment and housing instabilities because of the Covid-19 pandemic. I was one of those people who was evicted from my home while being eight-months pregnant and being forced to live at the Regency Hotel with my three daughters until I found housing.

Forty-three percent of families in Nevada are renters who are unable to pay rent due to the loss of income, death and illness during this pandemic. Many of the tenants lack the knowledge and resources to protect themselves from eviction. Assembly Bill 141 is a commonsense solution to ensure that Nevadans secure future housing and their families come out of this pandemic whole and able to thrive in dignity. We urge you to support this legislation.

BENJAMIN CHALLINOR MENDEZ (Faith in Action Nevada):

I am here in support of A.B. 141 with its first reprint. This bill looks to protect those most affected by the Covid-19 pandemic. We have seen that Covid-19 has hit communities of color the hardest in many ways. Of the thousands of Nevadans who have experienced unemployment, Covid-19 has hit those communities of color the highest in unemployment. We have seen a fair number of those people under lists for public assistance such as unemployment insurance as well as rental assistance. The timeline to receive that assistance has far exceeded the timeline of both the eviction process and the eviction moratoriums. This bill looks to help not only those who fell through the cracks but those left behind in their time of need. An eviction on one's record makes it extremely difficult to find a new home and often leads to housing insecurity.

We urge your support for this bill as it looks to help those who have been hit the hardest and left behind, experiencing difficulty with nowhere else to go.

ELIZABETH DAVENPORT (American Civil Liberties Union of Nevada):

We are in support of A.B. 141. The eviction crisis happening in this State is a racial, social and economic issue. Of half a million Nevadans at risk for eviction, two-thirds of renters are people of color. These communities experience systemic, economic and social burdens that have pushed home ownership out of reach for decades. The United States Census Bureau data shows that Black Americans represent 13 percent of the population and make up 21 percent of all renters. Evictions disproportionately affect Black Americans, making up 36 percent of all evictions. Black renters have evictions filed against them at two times the rate of White renters.

Prior to the Covid-19 pandemic, Nevada's communities of color had yet to recover to the same level as White communities from the 2008 economic crisis. Poverty in communities of color has continued to increase through the years 2007 up to 2018, with 2018 rates higher than the Great Recession. While poverty in White communities has severely decreased, Black communities maintain poverty rates greater than 20 percent. Already at an economic deficit, faced with higher Covid-19 mortality rates and now experiencing a risk for eviction that will tarnish every opportunity for housing for the rest of their lives, communities of color are facing further oppression.

Assembly Bill 141 does the bare minimum for these vulnerable populations. As Nevada takes steps to emerge from the Covid pandemic, we urge you to also take steps to protect this community's right to shelter.

The American Civil Liberties Union supports tenant rights and urges you to support A.B. 141.

MARY JANET RAMOS (Culinary Workers Union Local 226):

This pandemic has hit Culinary Workers Union Local 226 members and their families incredibly hard. While hospitality workers are slowly returning to work, tens of thousands of workers are still unemployed and struggling with housing insecurity.

Since March 2020, the Culinary Workers Union has worked through housing funds and other organizations to keep workers in their homes. Unfortunately,

many people have lost their homes during this pandemic. Sealing eviction records created during the pandemic and enacting an Assembly bill timeline for no-cause evictions based on rental longevity, these measures will prevent further housing insecurity.

In the middle of the pandemic, lots of families and people of color have been disproportionately impacted by housing insecurity, and A.B. 141 is a step in the right direction toward rectification.

The Culinary Workers Union believes that everyone deserves to be treated with dignity and that housing is a human right. The Culinary Workers Union fully supports A.B. 141 and urges the Nevada Legislature to support it as well.

BARBARA PAULSEN (Nevadans for the Common Good):

I have provided written testimony ([Exhibit B](#)). We look for a considerable delay between the end of the moratorium and the time that Governor Steve Sisolak ends the emergency because as soon as the moratorium is lifted, a huge number would benefit by this legislation. We hope as many people as possible obtain this protection. We support passage of Assembly Bill 141.

THADDEUS BENNETT (Make it Work Nevada):

I am an Ambassador at Make it Work Nevada, part of the Nevada Housing Justice Alliance. I personally support A.B. 141 and its current form. This bill addresses the devastation of families being displaced and removed from their homes during the Covid-19 pandemic.

Despite the interim moratorium, many families are still removed from their homes and forced to sleep in their cars. Finding places to live during the pandemic has been hard for so many families, specifically Black and Brown families who we talk to and work alongside.

When a family gets evicted, that eviction follows them and keeps them from securing a new place to stay. This is especially true for Black women, who are the most-evicted group of people in the United States.

Assembly Bill 141 is an opportunity for us to do something about that. We can seal evictions for nonpayment that happened during the Covid-19 pandemic and give our families and community members some room to breathe.

The critics of this bill will have people thinking that the sky is falling if this bill is passed. However, do not believe their doom-and-gloom narrative. This bill will help our families stay housed and safe as we navigate our lives back to some sense of normalcy.

I strongly urge bipartisan support of A.B. 141.

VICHELLE SANDERS:

I have worked with several organizations that served those without homes and are the less fortunate. I have lived in Las Vegas for ten years and have experienced many hardships. Within those years, I applied for housing assistance and was denied numerous times. I have also faced an eviction that forced me to move to a less desirable neighborhood.

Because of my personal experience, I have dedicated my time to serving communities, and I am affected by the lack of housing and necessary resources. The housing crisis in Las Vegas has increased tremendously since the pandemic has occurred. There is simply no regard for those who are impacted, and it is getting worse.

My organization in Las Vegas is The Stretch for Change Foundation. Since March 2019, we have diligently served the communities that were highly affected by Covid-19, and we have also seen a number of people living on the streets increase tremendously.

The dynamic of those on the street has also changed as well. There are much younger people, and the amount of people of color on the street has increased as a result of these evictions. I support A.B. 141 and will continue to help those in need.

SERENA EVANS (Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence):

We are in strong support of A.B. 141. Like many, victim survivors of domestic and sexual violence are experiencing housing insecurities because of the Covid-19 pandemic.

Prior to the pandemic, victim survivors noted that access to affordable and safe housing was one of the biggest barriers for leaving an abusive relationship, and

the financial abuse they endure negatively affects their ability to obtain new, safe housing options.

The pandemic has only exasperated this problem with the additional burden of now having the no-pay eviction on their record. Without obtaining safe and affordable housing, victim survivors are more likely to stay with an abuser, increasing their risk of homicide or becoming homeless which significantly increases arrests for future domestic and sexual violence victimization.

Sealing records of evictions for nonpayment during the pandemic crisis will decrease barriers for victim survivors and their families in accessing safe housing.

TESS OPFERMAN (Nevada Women's Lobby):

One of the top priorities of the Nevada Women's Lobby is housing security. We are proud to support legislation that ensures women and families are able to maintain affordable and stable housing, something made even more difficult by the current pandemic and the incredibly high rates of unemployment.

Unemployment disproportionately affects women and men of color through these unprecedented times. Sealing eviction records that took place during Covid-19 is a fair and logical way to protect those who have lost their jobs or have income insecurity. We are in full support of A.B. 141.

ETHAN CULLINGS:

Assembly Bill 141 will provide much-needed peace of mind to the thousands of Nevadans who have already faced or will soon face eviction due to nonpayment related to Covid-19. It is foolish to believe that \$7,200 provided by the federal government compacted with the problems we face with DETR will be enough to become current on 14 months of rent, let alone pay for utilities and food while being out of work for over a year.

A colleague of mine was denied housing 40 times due to having an eviction on record despite having stable employment and adequate funds. The family has lost countless hundreds of dollars in application fees, and their story is not unique. Having an eviction on one's record is a massive barrier to finding permanent housing.

If we evict folks who lost their employment through no fault of their own, the bare minimum we can do is to seal the records and not bar them from housing in the future.

I ask that the Senate Committee on Judiciary be bold, stand up for Nevadans and support A.B. 141.

LALO MONTOYA (Housing Justice Organizer, Make the Road Nevada):  
One of our leaders, Areli Sanchez, asks that I share her support statement ([Exhibit C](#)).

TAMARA FAVORS (Make it Work Nevada):  
We stand in support of A.B. 141. Passing this bill through the Senate is crucial because it helps mothers and families during a national pandemic.

You will recall during a special session of 2020, Legislators in this Body declared that racism is a public health crisis. It was a unanimous declaration. Sealing an eviction record during Covid-19 is a public health issue because without stable housing, Black mothers and their families face more barriers to having a healthy and safe environment for themselves to live a whole, free-of-anxiety life. This is a housing justice issue because without sealing Covid-related evictions, families are forced to pay for overpriced weekly properties and/or become unhoused.

You have the power to change this. Moreover, the courts should now list their evictions if the landlord forgets to send in an affidavit.

A person in shelter should not be held in limbo. Nevadans need stronger tenant's rights. We urge bipartisan support of A.B. 141.

DONOVAN CHILDRESS (Make it Work Nevada):  
This bill is important for families like mine to live. It would help ensure that Black mothers of families will not be burdened by an eviction on their record when trying to find a home. Please support A.B. 141.

CHRIS HARDIN:  
I appreciate A.B. 141 and want to help, but I oppose it. I am a landlord and I help everywhere I can. I have helped a lot of people, more than people realize.

However, what the world does not realize is how business operates. They do not realize A.B. 141 would actually harm a lot of innocent tenants.

During an emergency period, many tenants will vacate because of personal reasons. Perhaps they want a bigger house, smaller house or do not want to live in a certain part of town. Other tenants will vacate because they were evicted for nonpayment of rent. How will landlords know which are which? They will not. Landlords, being cautious business people, will simply submit everything during the emergency period which would cause an eviction and will blindly lump all tenants who vacate during an emergency period into a high-risk category. Essentially, landlords are lenders. We lend out money through long-term lease contracts, so we underwrite like banks do.

Landlords will transfer these increased cost risks to all of the tenants. For this reason, A.B. 141 will ultimately be a terrible housing policy. Lastly, your projected eviction numbers are highly exaggerated. Fluffed up is a scare tactic. I wish people would stop saying 500,000 are at risk of being evicted. This is a lie. It is not true.

The real evictions will be a small fraction of this. I manage over 600 properties and will probably evict about the same number of tenants that I did in 2018 and 2019, which is about 5 percent of the portfolio per year. Going forward, I do not see myself evicting any more than that.

Tenants evicted in prior years also had financial problems that were no fault of their own. This type of landlord-tenant business always worked. There are less harmful ways to help Spanish people than raising cause and risk for everyone involved.

SUSY VASQUEZ (Executive Director, Nevada State Apartment Association):  
The Apartment Association stands in opposition of A.B. 141. We would like to acknowledge the sponsor for spending time with us to try to reach consensus. I would also like to recognize the work on this bill. We will continue working with Assemblyman Watts to address our remaining concerns.

ASSEMBLYMAN WATTS:

You have heard firsthand accounts of why additional action is needed in this regard. I have also received additional telephone calls and emails, since this bill

was first proposed from people who have been evicted and are struggling. People are concerned about what comes next.

As we are looking to open back up and get things going again, our entire court system has a backlog of legal actions in a variety of areas that need to be addressed. Adding eviction proceedings and creating additional work for the courts to seal evictions for those economically impacted by the pandemic does not make sense when a more efficient, more compassionate option is available. That is what A.B. 141 delivers, and I urge your support of this bill.

CHAIR SCHEIBLE:

I will now close the hearing on A.B. 141 and open the hearing on A.B. 59.

**ASSEMBLY BILL 59 (2nd Reprint)**: Revises various provisions relating to tobacco. (BDR 15-420)

JESSICA ADAIR (Chief of Staff, Office of the Attorney General):

I would like to present testimony in support of A.B. 59. With me is First Assistant, Kyle George, and Supervising Senior Deputy Attorney General, Hillary Bunker, who oversees our Tobacco Enforcement Unit.

By way of brief introduction, in 1998, Nevada entered into the tobacco Master Settlement Agreement (MSA), which resulted in health-related lawsuits between the Nation's largest tobacco manufacturers and 52 U.S. states and territories.

In exchange for the receipt of annual MSA payments, Nevada must demonstrate due diligence in the regulation and enforcement of the sale of tobacco products. Assembly Bill 59 is brought for your consideration in furtherance of those diligent enforcement efforts.

HILLARY BUNKER (Supervising Senior Deputy Attorney General, Office of the Attorney General):

Our office is tasked with diligent enforcement of the MSA. Although this term is not defined within the MSA, one of the factors considered when determining diligence is whether a state enacted legislation toward strengthening enforcement efforts to include online sales, which is especially relevant to this bill.



The main focus of A.B. 59 is to amend various sections of *Nevada Revised Statutes* (NRS) 202 and NRS 370 to raise the legal sale age of tobacco to 21 years of age.

In December 2019, federal law changed to raise the legal sale age of all tobacco products to 21 years old. States have three years to enforce Tobacco 21 (T-21) as it is commonly known, or they risk losing up to 10 percent of federal block grant funding. Currently, 33 states plus numerous localities have raised their legal sales age to 21.

Section 1 of this bill relates to someone selling loose cigarettes or open tobacco products. Currently, the penalty is a criminal misdemeanor; this change will allow the penalties to be handled similar to other violations of NRS 370. Additionally, section 1 contemplates adjusting what the tobacco retailers have to disclose to account for the raising of the legal sales age.

Section 2 updates the provisions related to online or telephonic sales of tobacco products, raises the legal sales age from 18 to 21 and eliminates the criminal penalty provided for in law. Section 2 amends the online selling requirements to clarify that industry sellers must clearly label packages, confirm consumers are over 21 years of age and certify annually that they are using proper age-verification services. This section also gives the State a clear path for enforcement and penalties, including civil penalties as well as cauterization of these actions as a deceptive trade practice under NRS 598.

Section 3 is the State's enforcement authority under NRS 202.2496 to conduct undercover inspections on retailers, while section 8 represents NRS 370.521 for the enforcement of not selling tobacco products to those under 18 years of age. Both of these sections raise the legal sales age from 18 to 21 and replace references to "child" with "person" to account for the legal sales age.

Additionally, language has been amended to ensure sales of all tobacco products containing nicotine or tobacco are not sold to consumers under 21 years of age. Lastly, section 3 allows, if possible, for inspections to be conducted on each retailer once every three years while section 8 contemplates a slight change in how a clerk or licensee would contest or pay their penalty which would allow for greater flexibility in processing payments.

Sections 4 and 6 of the bill relate to delivery sales, and both broaden the definitions so all tobacco products are captured, not just cigarettes. Additionally, section 6 cross-references NRS 202 which contains the requirements for selling online or through an electronic network. It contemplates civil penalties for violations of this law.

Section 9 notes that NRS 370.323 has been repealed as it only contemplated online sales of cigarettes and was in conflict with certain provisions of NRS 202.24935. *Nevada Revised Statutes* 370.395 has been repealed as the State has other penalty provisions in statute.

SENATOR SETTELMAYER:

Are these questions specifically about the bill or the amendment as well?

CHAIR SCHEIBLE:

There is an amendment not proposed by the Office of the Attorney General, and we have the sponsor of the amendment here to answer questions about that amendment.

SENATOR SETTELMAYER:

I am more concerned with that, thank you.

PETER KRUEGER (Cigar Association of America):

We stand in support of the T-21 bill as introduced here. My thanks for the many hours of working with industry to resolve some initial issues. We have a good bill in A.B. 59 that will solve the availability of tobacco products to underage youth.

RANDI THOMPSON (Nevada Vaping Association):

We support A.B. 59. Nevada Vaping Association represents Nevada-based businesses, retailers, wholesalers and manufacturers of e-cigarettes. Our retail members are already complying with the 21-year-old age limit. We appreciate the Office of the Attorney General working on the language of this bill.

As stated, A.B. 59 brings Nevada law into line with the federal tobacco age, which was raised to aged 21 by former President Donald Trump in 2019. It will also allow Nevada to participate in the enforcement.

ELLIOT MALIN (Nevada Petroleum Marketers and Convenience Store Association):  
A large portion of our membership in Nevada is in those small, locally owned stores that aim to be productive members of our community. We are in strong support of the Tobacco 21 or T-21 bill as written with A.B. 59. We are extremely disappointed in the amendment proposed by the health districts, as it was not brought up in the Assembly. Further, we are disappointed that stakeholders were not consulted by the Washoe County Health District and Southern Nevada Health District in bringing the amendment forward, as we are willing to work to ensure this bill is combined with the T-21 laws.

We have two potential questions of concern on the amendment. Do infractions follow the employee from employer to employer? If employees leave one convenience store and start working for a competitor, do their infractions follow them? Can an employer ask potential employees if they carry any of these violations?

We support the bill as written currently and urge passage without the proposed amendment by the health districts.

LESLEY PITTMAN (Juul Labs, Inc.):

We are in support of A.B. 59. Tobacco 21 laws have proven to be an effective, evidenced-based policy to combat underage use of and access to tobacco and vapor products. We strongly support passage of this bill.

BRADLEY MAYER (Southern Nevada Health District):

We are in support of this legislation with a caveat to include the amendment ([Exhibit D](#)) to the Senate Judiciary Committee and available on the legislative website. As referenced, the amendment seeks to enhance the fine structure for retailers in the event of a failed compliance check.

We also fully support the amendment brought forward previously in the Assembly by the Office of the Attorney General to include a compliance check at least once every three years. This is extremely important to enhance our compliance, especially given that engagement money from S.B. No. 263 of the 80th Session used to educate and interact with youth on the front end as part of this youth vaping epidemic is gone. Compliance becomes even more important, and we view this as a compliance bill.

In reference to the comments from Mr. Malin, I spoke with him about this bill, and we engaged retail members and others about this amendment that we brought forward on the Assembly side.

SENATOR SETTELMAYER:

Within the bill, section 2, subsection 4, paragraph (a) talks about a civil penalty in an amount not more than \$1,000 for each violation. Of course, that goes to the individual who is doing the action of selling to an underage minor. Within this amendment, it actually then goes to the owner of the establishment. I have seen situations where sometimes an employee, for nefarious reasons, will sell to a underage friend. They rightly should be punished for that. But that is a separate action of an individual. Why are you then going to transfer that onto a business that potentially had no knowledge of it? I would have no problem fining the business, too, if it knew or should have known. Take a disgruntled employee who the employer tells at the beginning of the shift, "By the way, today will be your last day," and for the entire night, the employee sits there and sells to all of his or her friends in that by the end of the night, the business has automatically accrued tens to hundreds of thousands of dollars in fines because each violation is not based on a day but on each individual sale.

I am bothered by that concept. Could you address that?

MR. MAYER:

Yes, the fine structure for the employee remains unchanged by this bill. However, the current fine structure for the retailer has the first two violations as simply warnings, and then the penalty structure kicks in, starting at \$500 on the third violation. This essentially removes the warnings given for violations and immediately starts at a \$500 fine on the first violation of a compliance check.

SENATOR SETTELMAYER:

That is not so much my concern because it is on a solely separate criminal act. These bad actions of an employee have nothing to do with the employer, and I find the amendment problematic without any warning to go after the employer.

JOELLE GUTMAN DOTSON (Washoe County Health District):

I am in support of A.B. 59. I echo what Mr. Mayer said about our amendment. We are in full support of the bill with the amendment passed in the Assembly.

We support the amendment, [Exhibit D](#), brought forward and discussed with many stakeholders throughout the course of this Session.

We reiterate that we are looking for more enforcement with this bill.

SENATOR SETTELMAYER:

Based on the studies I looked into over time, the best thing we could do to prevent underage buying was a possessionary crime, not a fine structure of this nature to the person who sold it or to the business. What are your thoughts about the concept of possession crime? Conversely, if you do not agree with possessionary crime, why do we still have a possessionary crime on alcohol?

MS. GUTMAN DOTSON:

That is a good question, Senator. I do not have the expertise to answer that. Part of the reason we are focused on the retailer as well as the store is that we are moving from age 18 to 21, so these are people who have possibly already started smoking or using tobacco products. We are trying to deter them from using, not necessarily punish them. It is not fully understood that this law has passed, and that T-21 is a law. It is not necessarily punishment, it is more of an education. But it is more of a consequence for someone selling to a minor. I could probably get you a better answer from our health educators at the Health District.

SENATOR SETTELMAYER:

Thank you. I have not been to an establishment yet that does not have a large sign that states the age limit to buy tobacco is aged 21. When that happened almost six or eight months ago, quite a few angry people who sadly got addicted to nicotine were mad that their fix was gone.

ASCHELLE MORGAN (Preventing Tobacco Addiction Foundation):

For more than two decades, our organization has worked nationwide to turn the minimum legal sales age for all tobacco and nicotine products to 21 years old. Even before Covid-19, Nevada had a terrible record of enforcing underage tobacco sales, and those sales were much higher than the national average in surrounding states.

Our organization has also rigorously graded all state Tobacco 21 laws enacted so far as a nationally accepted standard. If this bill passes as is, even with

amendments, it would still be given a letter grade of F, as it would perpetuate these high rates of noncompliance.

Based on our experience, simply raising the age is not enough to save lives. It is for this reason that I testify in opposition to A.B. 59. As written, even with the amendments proposed, Assembly Bill 59 does not include the necessary provisions to be considered an effective policy.

For context of that statement, T-21 laws require two compliance checks per year. At a minimum, one compliance check per year is required with follow-up checks for violators. Without this frequency, bad actors are far more likely to take the gamble to break the law and continue to sell to underage youth.

We also encourage you to consider tobacco retail licensing in the future with an annual fee high enough to find adequate enforcement moving forward. While it is true that Nevada risks losing fines if it does not enforce the federal Tobacco 21 law, the deadline to comply is not until 2023. More importantly, per recent guidance at the federal level, there is also a grace period option until 2025. With this in mind, I urge the Committee to not hastily approve an ineffective policy that prioritizes resellers but work toward a policy that will truly protect youth with strong enforcement mechanisms.

TOM MCCOY (Boardmember, Nevada Tobacco Prevention Coalition):

We are a Statewide collaboration of public health department organizations. Our mission for two-plus decades has been to improve the health of Nevadans by reducing the burden of tobacco use, nicotine addiction and exposure to secondhand smoke. Nevada Tobacco Prevention Coalition opposed A.B. 59 in its Assembly Judiciary hearing. As introduced, we do not feel the bill adequately addresses today's tobacco enforcement needs. By federal laws, we have heard that sales are now prohibited for 18, 19 and 20-year-old smokers, most of whom are addicted to nicotine.

Our youth vaping epidemic in Nevada remains as well. For our organization, enhanced enforcement of retail sales is an obvious answer for these challenges. Subsequently, working with the Office of the Attorney General, an amendment developed where retail licensees would have a statutory inspection cycle for the very first time, and that became a part of A.B. 59 as passed.

Nevada Tobacco Prevention Coalition members also worked on an amendment centered on an enhanced fine structure. Retailers are allowed two warnings for underage sales before any monetary fine. We contend that the first violation should incur a fine, and there should be the potential of license suspension for multiple violations by a licensee.

Adoption of such an amendment by this Committee would bring our Coalition to fully support A.B. 59 and strengthen enforcement of the minimum legal sales age throughout Nevada.

Ms. ADAIR:

To briefly address some of the discussion regarding the amendment, S.B. No. 263 of the 80th Session changed the penalty structure for selling to minors from a criminal penalty on clerks to a civil fine. It also added penalties to the retailer, and our Office supported that change.

The [Exhibit D](#) amendment further increases penalties on retailers. There are thousands of tobacco retailers in this State. Most of them do a great job of ensuring that youth are not purchasing tobacco products, but a few need some work. So as a concept, the Office of the Attorney General supports increasing penalties on serial offenders, as well as ensuring that retailers are encouraged to appropriately train their staff.

Attorney General Aaron Ford has a process for the legislative deliberation. That process is to get all of the stakeholders to sit down at the table and not get back up until a consensus is reached.

While the sponsors of this amendment did engage with stakeholders, it is clear that they have not yet come to consensus, so we cannot support the amendment at this time.

We did work with public health stakeholders to statutorily mandate that the Office of the Attorney General conduct a certain number of enforcement checks. Amendment No. 478 is adopted in section 3 of the second reprint of Assembly Bill 59.

Regardless of statute, the Office of the Attorney General always has an incentive to diligently enforce because if we do not, the State is at risk of not

receiving its tobacco Master Settlement Agreement payments, which are incredibly important to many programs here in Nevada.

It has been brought to my attention by Senior Deputy Attorney General Hillary Bunker that for certain aspects of tobacco enforcement, the State is the floor, and it is the minimum. Localities have the authority to raise certain requirements. To the extent that some of these folks are members of their municipal leadership, we would be interested in working with them to see how localities could raise certain requirements for tobacco enforcement.

CHAIR SCHEIBLE:

We appreciate your clarifying all of that for us and following up with the Committee. That now closes our hearing on A.B. 59, and we will open the hearing on A.B. 60.

**ASSEMBLY BILL 60 (1st Reprint)**: Makes certain provisions of a contract or settlement agreement void and unenforceable. (BDR 4-422)

KYLE GEORGE (First Assistant Attorney General, Office of the Nevada Attorney General):

I have submitted written testimony (Exhibit E) in support.

CHAIR SCHEIBLE:

I will now close the hearing on A.B. 60 and open the hearing on A.B. 64.

**ASSEMBLY BILL 64 (1st Reprint)**: Revises provisions relating to certain crimes. (BDR 15-407)

MS. ADAIR:

I am here with First Assistant Kyle George to present A.B. 64. Assembly Bill 64 is a bill intended to enhance the Attorney General's ongoing enforcement efforts against sex trafficking in Nevada.

Sex traffickers frequently prey on the most vulnerable among us, including children and those who have a history of trauma or being abused. Trafficking rings can be sophisticated, organized crime operations or a single individual. Regardless of the structure, all traffickers use force or fraud to profit off of the commercial sexual exploitation of another adult or child.



Combatting sex trafficking is top priority for Attorney General Ford. Our Office coordinates with other federal, State and local law enforcement agencies to investigate and prosecute sex trafficking cases. Criminal investigators are invited to participate in task forces in both northern and southern Nevada. Our prosecution efforts are led by Senior Deputy Attorney General, Alissa Engler, who serves as the Nevada Advocate for Missing or Exploited Children.

Beyond investigations and prosecution, our Office coordinates with stakeholders across the State to improve the State's enforcement efforts and service providers. For example, our Office hosts a law enforcement summit in both northern and southern Nevada that focuses on sex trafficking with leading experts from across the Country to present cutting edge investigative techniques.

We also serve on multiple trafficking task forces and the Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children.

Assembly Bill 64 directly relates to the efforts of the Office of the Attorney General's ability to work with our law enforcement partners across the State to jointly combat this insidious criminal activity.

Section 2.5 expands the Office of the Attorney General's jurisdiction to prosecute these crimes.

Currently, our office has concurrent jurisdiction with district attorneys to prosecute "pandering and sex trafficking" as laid out in NRS 201.300; "living from the earnings of a prostitute," NRS 201.320; and "advancing prostitution," NRS 201.395. This bill proposes to add related crimes that have similar elements: *Nevada Revised Statutes* 201.301 which criminalizes "facilitating sex trafficking" and NRS 201.354 which criminalizes "engaging in prostitution or solicitation for prostitution."

Section 2.5, subsection 2 also gives the Office of the Attorney General jurisdiction over ancillary crimes committed in the course of one of the previously discussed crimes. For example, if a trafficker also commits kidnapping while facilitating sex trafficking, our Office would be able to charge kidnapping, which is not normally in our jurisdiction.

Section 3 makes a clarification to NRS 201.354. In the 2019 Legislative Session, the Office of the Attorney General sponsored—and this Legislature passed—an amendment to the statute that permitted sting operations for those soliciting children. This bill clarifies that a person who solicits a child, a peace officer posing as a child or a person who is acting on behalf of a peace officer by posing as a child is guilty of soliciting a child.

In practice, law enforcement agencies use online advertising to post fake advertisements for commercially, sexually exploited children. Solicitors often request photos of the person or child being solicited. Because of that reason, peace officers work with individuals to provide these photos for the sting operation.

Our Office, in coordination with local law enforcement agencies and the Federal Bureau of Investigation, has conducted several successful operations that have resulted in the arrest of dozens of adults who were soliciting children for commercial, sexual exploitation.

This method of investigation specifically targets those who are seeking to harm Nevada's children. It also represents an important philosophical shift for law enforcement to focus on those who solicit and the traffickers themselves, and away from focusing on the victims of sex trafficking.

JENNIFER NOBLE (Nevada District Attorneys Association):

We are in full support of A.B. 64 and the continuing efforts to combat sex trafficking in Nevada.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

We express our support for A.B. 64.

Senate Committee on Judiciary  
April 30, 2021  
Page 27

CHAIR SCHEIBLE:

This will conclude our hearing on A.B. 64. The meeting is now adjourned at 2:33 p.m.

RESPECTFULLY SUBMITTED:

---

Pam King,  
Committee Secretary

APPROVED BY:

---

Senator Melanie Scheible, Chair

DATE: \_\_\_\_\_

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
A.B. 141	B	1	Barbara Paulsen / Nevadans for the Common Good	Written testimony
A.B. 141	C	1	LaLo Montoya / Make the Road Nevada	Support Statement from Areli Sanchez
A.B. 59	D	1	Bradley Mayer / Southern Nevada Health District	Amendment Request
A.B. 60	E	1	Kyle George / Office of the Attorney General	Support Testimony