

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-first Session
April 6, 2021**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:15 p.m. on Tuesday, April 6, 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 Melanie Scheible, Chair
Senator Nicole J. Cannizzaro, Vice Chair
Senator James Ohrenschall
Senator Dallas Harris
Senator James A. Settelmeyer
Senator Ira Hansen
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Senator Pat Spearman, Senatorial District No. 1

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nicolas Anthony, Counsel
Pat Devereux, Committee Secretary

OTHERS PRESENT:

Becky Harris, University of Nevada, Las Vegas, International Gaming Institute
Jan Jones Blackhurst, Chief Executive in Residence, University of Nevada,
Las Vegas, International Gaming Institute
Tiffany Tyler-Garner, Children's Advocacy Alliance
Misty Grimmer, Nevada Resort Association
Natalie Buckel, Henderson Chamber of Commerce
Brandi Hairston
Holly Welborn, American Civil Liberties Union of Nevada
John Piro, Offices of the Public Defender, Clark and Washoe Counties

Senate Committee on Judiciary
April 6, 2021
Page 2

DaShun Jackson, Director, Children's Safety and Welfare Policy
Brigid Duffy, Director, Juvenile Division, Office of the District Attorney,
Clark County
Lisa Rasmussen, Nevada Attorneys for Criminal Justice
Ross Armstrong, Administrator, Division of Child and Family Services,
Department of Health and Human Services
Alex Ortiz, Clark County

CHAIR SCHEIBLE:

Anyone intending to testify today may submit written comments. Each person will have two minutes to testify; you may also simply state you agree with a former testifier. When the hearings for the bills are concluded, there will be time for public comment. To submit written testimony during or after the meeting, the email address is SenJUD@sen.state.nv.us.

We will open the work session on Senate Bill (S.B.) 8.

SENATE BILL 8: Revises provisions governing guardianship of minors.
(BDR 13-390)

PATRICK GUINAN (Policy Analyst):

Senate Bill 8, as outlined in the work session document ([Exhibit B](#)), provides for the transfer of jurisdiction of a guardianship of a juvenile from another state to Nevada. It also provides for recognition of a guardianship order for a juvenile issued in another state. The bill authorizes a guardian appointed in Nevada to petition to transfer the guardianship to another state. It sets forth provisions regarding court orders to be issued in such matters. The bill revises the definition of "home state" and authorizes the court to appoint a guardian in Nevada for a minor whose home state is not here but who is physically present in the State.

There is an amendment, [Exhibit B](#), and a letter in answer to questions raised during discussion of the bill, [Exhibit B](#). The letter answers Senators' concerns about the means by which a State court could change jurisdiction over an initial child custody determination.

The amendment, [Exhibit B](#), adds a reference to the bill's section 7, subsection 2 to a child whose home state is not Nevada but who is physically here. Section 7, subsection 3 references guardians of the person or persons of the

estate for a minor whose appointment requires Nevada to maintain jurisdiction pursuant to *Nevada Revised Statutes* (NRS) 125.05.

SENATOR PICKARD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 8.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR SCHEIBLE:

We will close the work session on S.B. 8 and open the work session on S.B. 236.

SENATE BILL 236: Makes various changes relating to public safety.
(BDR 23-217)

MR. GUINAN:

Senate Bill 236, as outlined in the work session document ([Exhibit C](#)), would require every law enforcement agency to establish an early-warning system to identify officers who display bias indicators or other problematic behavior. The agency must increase supervision and provide training and counseling to said officers. If an officer is repeatedly identified by the system, the agency must consider imposing consequences such as duty transfer or discipline. The bill also provides for the educational requirements and/or military service of candidates for certification as a peace officer. The bill imposes liability on an officer who deprives a person of his or her constitutional rights and limits the circumstances in which qualified immunity may be used as a defense. Officers must be indemnified by their agencies for any liability or judgement incurred unless the officer's actions were malicious, wanton or willful.

Senate Bill 236 also establishes provisions relating to traffic and other stops by officers, including the recording, collection and review of information concerning the stops. The bill also establishes standardized methods for making stops, including demographic information, to be submitted to the Department of Public Safety for statistical analysis. The bill also requires an interim study of crisis call centers.

Proposed Amendment 3199 deletes language imposing liability on officers for violations of people's constitutional rights and language requiring an employer to indemnify officers, limits data-gathering stops to traffic stops only and makes such data confidential.

SENATOR HARRIS:

Proposed Amendment 3199 to S.B. 236, [Exhibit C](#), would remove provisions relating to officers' associate degree requirement and qualified immunity. It removes the provision on collecting data on stops other than traffic stops. Officers do not have handheld devices when stopping people on the streets for other reasons. The amendment is supported by the Las Vegas Metropolitan Police Department, Washoe County Sheriff's Office and the Nevada Sheriffs' and Chiefs' Association.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 236.

SENATOR CANNIZZARO SECONDED THE MOTION.

SENATOR SETTELMAYER:

Senate Bill 236 would put us in a position of micromanaging law enforcement agencies. I have not talked to representatives from smaller, rural departments, so will vote no. The discussion of problematic behavior was too open-ended. The definition of what constitutes that behavior is subjective.

SENATOR HANSEN:

I agree with Senator Settlemeyer's comments. The bill is being foisted on law enforcers on the basis of so-called "police violence." It is not the police who are the problem; it is the criminals with whom they have to deal. The bill would steer us in the wrong direction. The entire concept behind the bill is fraught, so I will vote no.

SENATOR HARRIS:

Senator Settlemeyer, in regard to the problematic behavior provisions of S.B. 236, each agency can develop standards for what they determine that constitutes. By no means would I try to proscribe the definition of that behavior.

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

* * * * *

CHAIR SCHEIBLE:

We will close the work session on S.B. 236 and open the work session on S.B. 332.

SENATE BILL 332: Revises provisions relating to structured settlements.
(BDR 3-960)

MR. GUINAN:

Senate Bill 332, as outlined in the work session document ([Exhibit D](#)), replaces NRS provisions governing structured settlements wherein a payee transfers the right to receive payments for damages from a tort claim or workers' compensation claim to a structured settlement purchase company. The bill also establishes prohibitions against certain behavior by structured settlement purchase companies and grants a right of action to payees if an employee engages in a prohibited activity. The bill provides for findings a company and the court must make before a transfer is made. A proposed amendment, [Exhibit D](#), replaces the office of the Secretary of State as the oversight body with the Consumer Affairs Unit, Department of Business and Industry.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 332.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR SCHEIBLE:

We will close the work session on S.B. 332 and open the hearing on S.B. 267.

SENATE BILL 267: Establishes provisions relating to the collection and reporting of information concerning diversity and equality in the workplace.
(BDR 7-461)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

Senate Bill 267 would shed light on the importance of workplace diversity and equity. The Legislature approved S.C.R. No. 1 of the 32nd Special Session, which addressed the global pandemics of Covid-19, racism, homophobia, sexism and xenophobia. Racism is a pandemic because of the rate of Covid-19 fatalities among Black, Indigenous and People of Color (BIPOC). Women are the largest group affected by job losses due to Covid-19, and many of those jobs will not come back. Vice President Kamala Harris wrote in an opinion piece in the February 12 edition of *The Washington Post*:

Last September, I had the chance to talk with culinary workers at a virtual town hall. One of those workers was M. Rocha, who used to work at a hotel on the Las Vegas Strip. When the pandemic hit last March, like so many in the tourism and hospitality industry, she was furloughed. She's still not back on the job today. She has a wife, son and elderly mother to take care of, and they all depend on her paycheck.

Homophobia is a pandemic because many members of the LGBTQ+ community have experienced excessive trashing. Transgender women are disproportionately excluded from the workforce. Recently, some people have erroneously blamed a particular ethnicity or cultural group for Covid-19.

Senate Concurrent Resolution No. 1 of the 32nd Special Session stated systemic racism and racial discrimination can become generational, perpetuating debilitating economic, educational and health crises. In discussions of S.C.R. No. 1 of the 32nd Special Session, I started an ongoing and productive conversation about race, racial inequality and discrimination in our State. Senate Bill 267 captures the basic tenets of S.C.R. No. 1 of the 32nd Special Session by recognizing challenges women and the BIPOC community face in the workplace.

While workplace parity has improved in recent decades, full equality among all employees is still a work in progress. Employees should be offered a safe environment free from harassment and training that includes diversity and inclusion. Workplaces should foster consultations between employees and employers. Businesses should take a larger role in relieving barriers to the poor and equal participation by women and BIPOC communities. They should promote eliminating employment discrimination.

The advancement of workplace equality and diversity helps promote productivity and competitiveness among all professions. It is important we have a framework to measure and the ability to gather information about business practices as set forth in S.B. 267. By surveying and identifying data and collecting and disseminating information about best practices, we can improve diversity and equality to benefit workers and businesses.

Senate Bill 267 would require the Department of Taxation in consultation with the Nevada Commission for Women and Nevada Commission on Minority Affairs, Department of Business and Industry, to develop a survey for State corporations employing 500 or more people. The survey shall result in data and information relating to workplace diversity and equity, including the number of women and women of color managers and who the 20 highest-paid employees are. The survey will include the corporation's hiring practices; availability of training in diversity and inclusion; the nature and level of family-friendly policies such as paid family leave, flexible work schedules for caregiving and whether the corporation has antiharrassment policies. The survey must be signed by an officer of the corporation and verify the information is correct and complete.

Senate Bill 267 offers the State opportunity to walk our talk. If we truly want to get a handle on the aforementioned pandemics, we must have some kind of measurement so we know where we are starting, can identify a goal and predict how long it will take to achieve it.

In 1978, when I got my commission, I was among the first women to be branched to a combat support unit. The Women's Army Corps had been decommissioned shortly before that. Many men did not want us there and let us know with, "This man's Army is no place for women." That was essentially true for a Black woman; I was the only one in my class.

Throughout my military career, I was discriminated against for being a woman, Black or both. Recently, Secretary of Defense Lloyd Austin III said all of that will change because our military will reflect our diverse Country. He will not tolerate sexual harassment or white supremacy and has vowed the military will reflect the community it protects.

Senate Bill 267 is not punitive. It provides an opportunity for corporations already exercising the bill's tenets to brag and for those that want to implement best practices to learn how to do so. It is an opportunity for State agencies and

the taxpayers who pay their salaries to cooperate to build a diverse, equal and equitable Nevada.

BECKY HARRIS (University of Nevada, Las Vegas, International Gaming Institute): I worked with Senator Spearman and Jan Jones Blackhurst, Chief Executive in Residence, University of Nevada, Las Vegas, International Gaming Institute, on the proposed conceptual amendment ([Exhibit E](#)) to S.B. 267. The ravages of Covid-19 have decimated Nevada's workforce; a recent study found our workforce has been the hardest hit of any other state. Nevada women are increasingly the primary household breadwinners.

As the world continues to navigate Covid-19, it is increasingly clear women are disproportionately impacted. McKinsey & Company and LeanIn.Org's *Women in the Workplace 2020* report found women—especially those of color—are more likely to have been laid off or furloughed during the Covid-19 crisis than men. Women's careers have been stalled and financial security jeopardized. *The New York Times'* May 9, 2020, article "Why Some Women Call this Recession a 'Sh recession'" outlined difficulties women face when they attempt to balance employment, working from home, caregiving and other responsibilities. Never has a need for resources for women and underrepresented populations been more significant as employers continue to downsize and entire industries are shut down.

Because many women do not have the qualities of the ideal job candidate, *Harvard Business Review* has found female immigrants, veterans and seniors have difficulty transitioning into the workforce. A research team tabulated the cost of a lack of worldwide workplace gender diversity and inclusion. It will take 257 years to close the gap at our current hiring rate; not doing so has cost \$70 trillion U.S. since 1990. Economists at Bank of America Securities found full gender equality could increase the global gross domestic product by up to \$28 trillion U.S. by 2025. The loss of human capital wealth due to gender inequality is \$150.2 trillion U.S.

Efforts to help people of diverse backgrounds gain entry into the workforce, retain employment and succeed will help reduce the need for social services and State and federal unemployment benefits. It will help provide housing and food securities for families and rebuild a stronger economy. While women have made workforce gains in representation and pay equity over the last few decades, the McKinsey & Company and LeanIn.Org study concluded, "If women remain on

the sidelines and are not part of the workforce, there will be fewer women in leadership positions or on track to become leaders, and all of the recent gains women have made will have been completely erased

In the Seventy-ninth Session, a bill similar to S.B. 267 sought to index for gender equity with a pilot program passed unanimously in the Senate. It was tasked with capturing data about how women and other underrepresented groups fare in employment. The pilot program was administered through the Secretary of State's website as a voluntary survey for businesses. It captured important data on women's employment. We learned the Office of the Secretary of State is not the most effective location for such surveys because the majority of data collected was from small businesses. It is more important to collect data from large employers on how they deal with diversity and inclusion.

The proposed amendment, [Exhibit E](#), to Senate Bill 267 would apply to public institutions and large businesses with at least 1,000 workers that are most likely already capturing data on diversity and inclusion. This is not meant to punish employers; rather, it is to celebrate efforts made by corporations. The bill is well suited to provide rich data about Nevada's workforce and work environment to enable development of best practices to be shared. It would also serve as a means to attract and retain top talent as the State continues to grow and diversify its economy.

The proposed amendment, [Exhibit E](#), would apply to all State agencies, including the Nevada System of Higher Education (NSHE), and local governments. As written, the bill requires agencies and corporations to submit survey data to Taxation. The amendment provides the reports be submitted to the Division of Human Resource Management, Department of Administration. The Division would post the annual reports on a website with redacted personally identifiable information. Taxation and the Division would each be annually required to compile the information and collate it to be submitted to the Governor and Director of the Legislative Counsel Bureau (LCB). The amendment would delete provisions imposing criminal penalties on agencies or corporations that do not complete the surveys; instead, violators would receive administrative fines established by Taxation. The amendment would delete section 6, subsection 3; section 11 and section 12 of S.B. 267.

JAN JONES BLACKHURST (Chief Executive in Residence, University of Nevada, Las Vegas International Gaming Institute):

For 30 years, I have made it my mission to build an inclusive workforce in State government and corporations. We have made remarkably little progress toward that goal of representation in our remarkably diverse State. I have learned two things: what is not measured will not matter, and if you keep doing things the same way and expect different results, that is the definition of insanity. If we are sincerely committed to how we evaluate representation, we will compile data to achieve that goal.

One of my models has been the Human Rights Committee of the United Nations, which created a survey that measures companies in a way to support—not penalize—policies of representation. This includes elements like LGBTQ+ workers, who became respected in their companies. Today, companies rush to achieve a 100 percent score in representation and inclusion because they are proud of their accomplishments. In Nevada, the area in which we have been most successful in building a diverse and inclusive workforce is the Legislature, which is now majority minority women. Voters should be commended for their foresight in electing such representatives.

If we look at S.B. 267 as a way to help, support and promote businesses and agencies, it is imperative the bill's provisions be mandatory for any State, local and county governments and NSHE—any taxpayer-funded entity—which should represent the taxpayers supporting them. Looking at how we staff those representational governments should be a mandatory requirement.

The business community is concerned about the bill, but the requirement that only those with 1,000 or more employees would be affected is appropriate. If that is a roadblock, we should look at the Human Rights Committee for how it compiled its data in a way that celebrated forward-looking companies. Compiling and using survey data for companies looking to move to Nevada would benefit our entire workforce. Nevada could become a leader in inclusion. We have always been visionaries who found a way to get things done.

SENATOR SPEARMAN:

My sister and I and 14 other teenagers were the first to integrate our Alabama high school. As tough as it was, the law required us to do it. We were verbally and physically abused, but someone had to be the first to pave the way. In

1954, when the U.S. Supreme Court ruled separate is not equal, somebody had to be the first to desegregate schools.

Senate Bill 267 is a point on the continuum for equity and equality in every way. In the Eightieth Session, Nevada became the first female majority Legislature in the Country. I have no illusions about how tough it will be to compile accurate data. It will take courageous conversations about where the State wants to be in ten years and what kind of State we want to leave to our children. The bill is not punitive; it is the best way to ensure we are using all of our resources.

SENATOR OHRENSCHALL:

In the proposed conceptual amendment, [Exhibit E](#), to S.B. 267, Taxation is required to consult with the Commission for Women and the Commission on Minority Affairs to develop the survey. Does that cooperation exist or will the bill facilitate it?

MS. HARRIS:

The proposed amendment, [Exhibit E](#), will make Taxation and the Commission for Women responsible for implementing the survey.

SENATOR PICKARD:

The Kirwan Institute for the Study of Race and Ethnicity at Ohio State University released a series of publications on the biological aspects of implicit racial bias. The Institute found we need to make sure we are walking the talk on bias. My law firm employs nine people, including six women, 60 percent of whom are minority. When hiring, we looked at qualifications, not gender or race.

When we try to establish hiring protocols, I agree data should drive everything. We have spent decades trying to remove race from the hiring equation. Most employers do not ask about the race of potential employees. Have we talked to resorts and major manufacturing employers about whether they have racial data? Will the burden of asking employees how they identify be placed on administrators? They might be open to legal liability for even asking.

MS. BLACKHURST:

Most large companies keep racial information. The survey will not go deep down into representation. It would be more like, "Of the top 20 highest-paid

people in your company, how many of them are women and people of color?" The intent is to glean some indication of whether representation is advancing to the highest level of an organization. Corporations often say 50 percent of their workforce is women, and that is exactly the truth. What they do not say is 50 percent is directly below management, and there is a slow path forward.

The Human Rights Committee brilliantly approached gathering information that rewarded companies with forward-looking policies. By rewarding companies, the Commission made companies want to be part of the study. Senate Bill 267 tries to not have the survey be about affirmative action; it is a measurement of a higher vision on the part of Nevada governments and businesses. The survey questions pertain to policies of health care, family leave and childcare. It does not attempt to punish, rather reward and provide a baseline for best practices. As a State, we can be a powerful combatant in a good way. We all like to win. If a company sees another one doing inclusion better than it is, sometimes it is incentivized to establish similar policies and practices. Almost all companies provided inclusion information to the Human Rights Committee because they wanted a 100 percent score.

SENATOR PICKARD:

In section 7 of S.B. 267, companies are given enough time each year to gather information. I do not see the survey results being reported back to the businesses that participated. Is that implied by section 9, subsection 1, paragraph (b), "Make the report available on the Internet website of the Department [of Taxation]"? Will there be a dissemination campaign to get information about the survey out to the public, or would someone have to actively look it up?

SENATOR SPEARMAN:

It is not something we would want to just put on the shelf. We want businesses to participate in order to develop best practices. It is not a requirement; it is a baseline to ascertain where we are starting from and where we want to be in five or ten years.

MS. BLACKHURST:

As we compile the data, if we make public on the Taxation website the ten highest-performing companies or organizations, that information and other information could be more for the use of government in measuring progress. We

are looking for ways to make participation an incentive that rewards, not punishes.

When we look at inclusive organizations, corporations or agencies, no one wants to change the meritocracy standard. We want the best and brightest, but our selection is not always the most inclusive and representative of our communities.

MS. HARRIS:

Section 7, subsection 2 of S.B. 267 states if a corporation has a website, it must post the annual reports submitted to Taxation. The Committee must determine whether that should be mandatory.

SENATOR PICKARD:

In larger businesses with which I have been engaged, most promotion practices involved experience within the organization. There was a natural internal bias toward in-house experience as opposed to a gender- or race-conscious criterion. When I put together my family law firm, I chose people strictly on their demeanor, skill sets, focus in litigation and team effort. I did not look at race or gender; the staff just happened to be diverse. I recognize the need for data to produce a balance, but the burden is ultimately on the businesses.

SENATOR SPEARMAN:

I do not want the Committee to think S.B. 267 establishes a quota. Diversity simply means companies will hire the best, but race and gender identity will not stand in the way. There were times in my military career when being Black was a problem and being a woman was a problem. I was better than and had more seniority than almost anyone in the battalion when a military police position came open. Everyone said I was the best choice, but I was told I would not get the job because the commander did not think troops would obey a woman and "Being Black would further complicate matters."

If, like Senator Pickard's firm, a company has a diverse staff, the bill provides an opportunity to brag about it. If someone your business has hired or promoted is the best choice and she is a woman, then give the job to her. Do not pass over the woman for an incompetent man because you do not want to see women rise to the top. Senate Bill 267 has nothing to do with the hiring process. We are asking corporations to tell us what their diversity looks like. The bottom line

of corporations with a significant number of women and amount of diversity is almost always better than those without.

SENATOR HANSEN:

Corporations do not exist to hire people; they are in the business of making money. If the bottom line improves after an expansion of women in your workplace, other businesses will copy that because you are all competing for the same dollar. The idea of quotas or a certain diversity—bypassing a qualified woman to hire an incompetent man—is self-defeating. Businesses that do that go out of business. The idea of workforce development and inclusion issues take care of themselves as part of the marketplace.

The assertion that S.B. 267 is not designed to penalize is false; the bill is about quotas and affirmative action. If a business answers the survey and does not have a certain percentage of workers of one group or another, it could possibly face discrimination lawsuits. Ultimately, that would defeat the bill's purpose. The idea that people could possibly be prosecuted because they supposedly committed perjury when answering the survey makes no sense. Businesses that are already doing best practices are in the best financial position, so what is the point of the bill? Why are we forcing something that is taking care of itself through best practices all businesses seek to follow?

MS. BLACKHURST:

Something that has changed in Fortune 500 companies is it is not the sole responsibility of CEOs to make money for shareholders. Industries have recognized that is a faulty proposition. There is also a responsibility to give back to their communities and workforce. By having that broader vision, companies are higher-performing and better community partners. The accumulated metrics of that philosophy show higher returns and performance across the board.

In 20 years, we have seen a revolution in the way the LGBTQ+ community is treated in the United States. Corporations became collaboratively competitive in ensuring their policies were welcoming to the LGBTQ+ community. They went from being a largely invisible core part of the workforce to a part with equal rights, including the opportunity to marry. Sometimes, healthy competition among corporations and seeing which best practices companies may achieve becomes a benefit for corporations and the larger community.

Ms. HARRIS:

In this hearing, Senator Pickard realized how diverse his staff is. That is the point of S.B. 267. It is not about racial quotas and other things. It is about asking businesses to pause and look at how their hiring practices are effectuating leadership opportunities for diverse populations.

The proposed conceptual amendment, [Exhibit E](#), would delete the provision imposing criminal penalties for perjury. It would be replaced with administrative fines from Taxation for willful noncompliance or misrepresentation.

SENATOR HANSEN:

I grew up in the era when we were supposed to judge people "not by the color of their skin, but by the content of their character." We are going backward with S.B. 267, eliminating meritocracy. As Senator Pickard said, without anyone identifying race, sex or sexual preferences, meritocracy is what makes employees rise. Will we ask people their race and sexual practices on job applications? We have worked hard to get rid of that so people would not use it as hiring and firing criteria. Martin Luther King, Jr.'s dream of nonjudgment is being washed away in an endless quest for quotas and diversity that is forced on everyone. It is a violation of business liberty and our Nation's concept of freedom.

SENATOR SPEARMAN:

How can a survey be interpreted as establishing quotas? Senate Bill 267 does not mean a corporation will be told, "You must do this, you must do that." It simply does not say that. A survey is not a quota.

SENATOR HANSEN:

While you say the bill may not be about quotas, when the data is gathered and certain core businesses do not meet certain numbers, it will indeed be about quotas. That is ultimately what the bill is about: determining if all State corporations meet certain criteria and penalizing those that do not in one form or another over time.

CHAIR SCHEIBLE:

Our presenters did an excellent job of explaining what S.B. 267 will and will not do. It will not require companies to fulfill quotas; it will ask them to participate in a survey to help us understand the breadth and depth of inclusion in our private sector.

SENATOR SETTELMAYER:

In the northern State, the question is more about finding employees who actually show up on time. Some businesses here require passage of certain tests—which a lot of people cannot—before hiring. Has there been any discussion of getting more information into the bill's provisions to make the survey more useful? What is the turnover of our large corporations? How many vacancies do they generally have on an ongoing basis?

As Legislators, we make decisions about policies across the board to help figure out how to get people back to work and create programs for when businesses ask, "We have a tremendous number of vacancies here. Is it because we're not paying enough or because our education system is not directing employees to our field?"

Outside of the State government, we have a limited number of businesses that employ 1,000 and even 500 people. How many employers will be affected by the bill?

MS. BLACKHURST:

Companies of that size probably have inclusion information available. I would not oppose companies being required to compile that information on a regular basis. We worked hard to not make the survey questions onerous in order to give us a picture of how inclusive Nevada employers are compared to other states. That issue is being reviewed by every major corporation. They are asking how to be inclusive in the most productive way, how to best protect meritocracy, how to ensure the best and brightest in our communities are included?

In 2017, Caesars Entertainment committed to having 50/50 percent representation of women and women of color at all levels, horizontally and vertically, of its organizations by 2025. In order to do that, we first had to understand where we were; it was a wakeup call for higher management. When we looked at female vice presidents and senior vice presidents, the numbers went from 50 percent to 25 percent to 16 percent to 3 percent. That was not due to a lack of talent; it was a deficit of knowledge. Sometimes, you do not see something unless it is right before you.

We tried to craft survey questions to allow corporations to accept and answer them without a penalty. We want them to say, "We're doing pretty good here,

but maybe we have some work to do." We want corporations that are doing really well to say, "Look at what a great job we're doing. Maybe we can share with you the policies and procedures we utilized to get here."

SENATOR SETTELMAYER:

I understand the idea of S.B. 267 is to allow companies to look inward at their policies, evaluate them and perhaps improve. How many State corporations will the bill apply to? I think we only have 1 State corporation with more than 6,000 employees.

MS. BLACKHURST:

If the cap is 1,000 workers, the bill would apply to a small number of companies; if the cap is 500 employees, the group is much broader. If the larger business community is uncomfortable with the survey and we feel a broader selection would be more representational, we could look at patterning our survey after that of the Human Rights Committee, creating incentives to respond. That would broaden the base and perhaps give us richer data.

SENATOR SETTELMAYER:

The concept of having more and more information, including turnover and vacancies, is valuable to help the unemployed. It may prompt companies to look inward and say, "Gee, our average worker stays here only five, six years. Maybe we need to take a look at that."

SENATOR CANNIZZARO:

Senate Bill 267 is a good idea that will help answer questions about whether different aspects of ensuring we do not have workplace discrimination are happening. As an example, why is equal pay for equal work something we have to address from a policy standpoint? Are women earning less and in different positions strictly because of their career choices? The survey could help answer that. We need to hold one another and the entities in our communities accountable.

There could be pushback on the additional burden the bill would place on businesses for filling out the survey and tracking information about their employees. What might assuage some of those fears?

MS. BLACKHURST:

Having the data could become important to help companies be aware of the inclusion work they need to do. We could make filling out the survey voluntary for businesses while looking for ways to incentivize their participation. Perhaps we could limit participation to the larger companies.

As for your comment about equal pay, White women earn 82 cents on the dollar earned by their White male colleagues; African-American women earn 78 cents, Latino women earn 58 cents. Over 30 years, that has not changed. That cannot all be about how women choose employment opportunities.

When we began the 50/50 percent women at all workplace levels by 2025 initiative at Caesars Entertainment, one of our first actions was a pay equity analysis. There was 98 percent no discernable pay inequities. We never would have known that if we had not looked at the issue. The data will not just be useful for legislative bodies and governments; it will be useful for companies to assess themselves if their true desire is to be forward-thinking and build an inclusive workplace.

For decades, the composition of the New York Philharmonic Orchestra was 90 percent men until its management instituted blind auditions. People auditioned behind a screen—women were forbidden to wear high heels—with no way to determine who was there. Now, the Orchestra is generally 50 percent female and sometimes just 40 percent men. Then there is unconscious bias. No one wakes up and thinks, "Boy, I'd really like to discriminate today," but it happens.

TIFFANY TYLER-GARNER (Children's Advocacy Alliance):

The Children's Advocacy Alliance supports S.B. 267. We affirm the value of this type of survey, particularly as we attempt to understand and contextualize the need for children to have a sense of their household wage earners. Including data about family leave and the ability to leverage other resources would be helpful as a part of improving conditions for children.

The ability to collect surveys and information on marginalized populations goes a long way toward understanding conditions faced by Nevada families to craft policy and allocate resources. Oftentimes, data analysis has had national funding, and the Children's Advocacy Alliance can hope our State is included in the sampling. We end up encumbered by trying to extrapolate how it applies to

Nevada children and families. A state-specific survey like S.B. 267 would be invaluable.

MISTY GRIMMER (Nevada Resort Association):

The Nevada Resort Association supports S.B. 267 to assess how companies are doing with respect to workforce diversity and equity. Nevada's gaming industry has been in the forefront on this issue. However, we are concerned the bill's provisions could put a burden on our members because of the extent and detail of the recording requirements. We are also concerned about the public posting of data with respect to proprietary activities and inadvertent exposure of information that could lead to the identification of individual workers.

Much of the demographic information sought by S.B. 267 is already contained in Equal Employment Opportunity reports gleaned from in-house surveys large companies must file with the Equal Employment Opportunity Commission. Perhaps that federal data could be shared with the State; however, not all of it is publicly available.

NATALIE BUCKEL (Henderson Chamber of Commerce):

The Henderson Chamber of Commerce supports S.B. 267 as an effort to improve workforce equality, but ultimately we opposes the bill. The Chamber sees inclusion efforts as a way to make its businesses more attractive to prospective employees while addressing the concerns of underemployed and underrepresented communities. We have a technical concern that the bill could potentially violate the privacy of employees who do not participate in the survey, especially people whose race or gender identity is not readily apparent.

BRANDI HAIRSTON:

I oppose S.B. 267 because it needs amending. Descendants of child slavery exist throughout our Nation. There are many different women of color in Nevada, so they need to be separated into categories to identify which are being hired. The data collection needs to be more specific. Separating out different groups of women of color by nation would present a clearer picture of employment data. We need descendants of child slavery added to the list of underrepresented communities. Black men are not mentioned in S.B. 267, even though they have the highest unemployment rate of any State demographic. Labels like "people of color," "women of color" and "BIPOC" are problematic because they do not specify who is being referred to. If the data is collected appropriately, the bill could help pinpoint workplace discrimination;

unfortunately, its language is too vague. It only identifies half of our Black population.

CHAIR SCHEIBLE:

We will close the hearing on S.B. 267 and open the hearing on S.B. 365.

SENATE BILL 365: Requires the implementation of a pilot program relating to the housing of certain youthful offenders. (BDR S-500)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

During the 2019-2020 Interim, I chaired the Legislative Committee on Child Welfare and Juvenile Justice. The three remaining bills on today's agenda are based on the Committee's recommendations.

HOLLY WELBORN (American Civil Liberties Union of Nevada):

How youth are housed within the adult criminal justice system is a priority issue for the American Civil Liberties Union of Nevada (ACLUN). Brain science dictates our approach to juvenile justice. There has been a revolution in understanding how juveniles are scientifically and constitutionally different from adults; therefore, our laws governing juveniles should be quite different.

After abolishing life without possibility of parole for youth in our Country and State, the U.S. Supreme Court and our Legislature have ruled young people are entitled to parole. Caselaw states the perpetrator's age at the time of the offense weighs heavily in favor of parole for most youths. Most will become adults with lengthy sentences and eventually be released. If we fail to meet offenders' age-specific developmental needs, we fail to prepare them for a life outside of prison.

When children are transferred to Nevada's adult justice system, at pretrial they are sent to adult jails. The Clark County Detention Center has a youth pod separated by sight and sound from the general adult population for purposes of the Prison Rape Elimination Act (PREA). When youths are sent to the Washoe County Jail, they are housed in a medical isolation unit without programs. They may be there a long time before going to trial and entering the Department of Corrections (DOC) system.

The ACLUN issued the report "Youth Confinement in Nevada: Facility Assessment and Recommendations for Housing Youth Sentenced As Adults"

([Exhibit F](#)). We reviewed almost every juvenile detention center in the State and the Lovelock Correctional Center's juvenile housing unit. All stakeholders agree adult institutions are inappropriate for young people, and S.B. 365 could move us toward where we have wanted to go for several decades.

Senate Bill 365 would make policy changes to examine the best way to move juveniles out of DOC into a facility for young people. You have examples from Washington State ([Exhibit G](#)) and Oregon ([Exhibit H](#)) departments of correction whereby youth offenders are fully integrated into a Washington Department of Social and Health Services facility and an Oregon Youth Authority facility, respectively. Even if they have statutes that transfer offenders automatically to adult courts and certification statutes, in about 16 states youth never leave the juvenile system and are completely integrated. By establishing a pilot program in S.B. 365, Nevada would take a necessary first step to transfer juvenile offenders to the custody of the Division of Child and Family Services, Department of Health and Human Services (DHHS).

Section 1 of S.B. 365 directs DOC and the Division to develop and implement the pilot program for retention of offenders under the age of 18 serving time mostly at the Lovelock Correctional Center. The program would be limited to about eight to ten children transferred to another facility to be determined. Section 2 provides by January 1, 2023, DOC and the Division must submit a report on the program's status to the Director of LCB for transmission to the Legislature.

SENATOR PICKARD:

Could you describe the S.B. 365 pilot program as it is framed so far?

SENATOR OHRENSCHALL:

A lot of that will have to come from DOC and the Division; some things have gone forward through memorandums of understanding, as was done in Washington, [Exhibit G](#). Even if sight and sound separation is mandated by PREA, outcomes improve when children are in their own facilities.

SENATOR PICKARD:

Let us not forget we are talking about a population that has committed really serious crimes. These are not just kids who have stolen something at the convenience store; they were certified as adults because of some really bad

Senate Committee on Judiciary
April 6, 2021
Page 22

stuff. However, they are still kids, and we need to treat them as we do all people in the juvenile system with a goal of rehabilitation.

SENATOR OHRENSCHALL:

While the boys housed at Lovelock Correctional Center committed serious offenses, many are the victims of abuse and neglect and have had untreated mental health and substance abuse issues.

SENATOR PICKARD:

I agree completely.

JOHN PIRO (Offices of the Public Defender, Clark and Washoe Counties):

The Offices of the Public Defender, Clark and Washoe Counties, support S.B. 365.

DASHUN JACKSON (Director, Children's Safety and Welfare Policy):

The Children's Safety and Welfare Policy supports S.B. 365 as essential for appropriately housing juveniles. Youth are youth, and therefore should be treated as such.

BRIGID DUFFY (Director, Juvenile Division, Office of the District Attorney, Clark County):

The Juvenile Division, Office of the District Attorney, Clark County, supports S.B. 365. I am excited to see our State move forward in how we house youthful offenders.

LISA RASMUSSEN (Nevada Attorneys for Criminal Justice):

Nevada Attorneys for Criminal Justice support S.B. 365. The bill would treat youth as the different human beings they are.

CHAIR SCHEIBLE:

We will close the hearing on S.B. 365 and open the hearing on S.B. 357.

SENATE BILL 357: Requires the Department of Corrections to track and report expenses that are directly related to housing youthful offenders.
(BDR 16-499)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

As we have heard, boys tried and convicted as adults are sent to Lovelock Correctional Center to be housed separately from the general population with sight and sound separation pursuant to PREA. While the State has the problem of housing female juveniles tried and convicted as adults, the bill applies specifically to the boys at Lovelock.

Under the provisions of A.B. No. 449 of the 80th Session, the Legislative Committee on Child Welfare and Juvenile Justice studied the costs of housing and caring for youthful offenders. After discussions with staff at Lovelock Correctional Center, we learned what is spent on those juveniles is not separated out of the prison budget. The Legislature needs to know how much is spent on housing these children there.

Senate Bill 357 lists expenses DOC must track related to housing youthful offenders: education, communication and interaction with family and other persons, health care, mental health services, recreational programming and other costs the DOC director determines are related to housing youths at Lovelock.

MS. WELBORN:

Senate Bill 357 complements the efforts of S.B. 365, including cost-sharing agreements between DOC and DHHS.

SENATOR SETTELMAYER:

How would the bill apply to transferring boys out of Rite of Passage Community Learning Center and other youth detention facilities?

SENATOR OHRENSCHALL:

Senate Bill 357 only applies to children transferred to the adult DOC system and sentenced as adults. Boys are housed at the Lovelock Correctional Center; in the past, girls were housed at the Florence McClure Women's Correctional Center. The number of females transferred to the adult system and sentenced as adults is unknown.

MR. PIRO:

The Offices of the Public Defender, Clark and Washoe Counties, support S.B. 357.

Senate Committee on Judiciary
April 6, 2021
Page 24

MR. JACKSON:

The Children's Safety and Welfare Policy supports S.B. 357.

MS. RASMUSSEN:

Nevada Attorneys for Criminal Justice support S.B. 357.

CHAIR SCHEIBLE:

We will close the hearing on S.B. 357 and open the hearing on S.B. 356.

SENATE BILL 356: Provides for a study of certain issues relating to the housing of youthful offenders. (BDR S-501)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

The third bill originating from recommendations made by the Legislative Committee on Child Welfare and Juvenile Justice is S.B. 356. Young men between the ages of 18 and 25—defined as youthful offenders—tried as adults are housed in the youth pod at Lovelock Correctional Center, a medium-security facility designed for adults. Offenders who arrive at Lovelock before the age of 18 are segregated from the adult population as per PREA.

The issue the Committee seeks to solve with S.B. 356 is many juveniles whose sentences extend beyond age 18 will be transferred to other DOC facilities. The goal is to find a feasible alternative: a youthful offenders program in which they are housed in a model facility based more on the Lovelock youth pod. The hope is this will improve outcomes after they reenter society as productive adults.

MS. WELBORN:

A report from the National Conference of State Legislatures on "Young Adults in the Justice System" ([Exhibit I](#)) provides background on how youthful offenders need a different type of intervention because they are not quite mature. Senate Bill 356 would require the housing study's findings be sent to the Committee on Child Welfare and Juvenile Justice.

SENATOR PICKARD:

There is a \$2.3 million fiscal note from DHHS for the studies and pilot programs in S.B. 365, S.B. 357 and S.B. 356 combined. What would the pilot program look like, who will conduct it, and why are we hiring outside vendors to conduct it? Why will it cost so much?

CHAIR SCHEIBLE:

The fiscal note on S.B. 365 is also on S.B. 356. We will now talk about both of the bills.

ROSS ARMSTRONG (Administrator, Division of Child and Family Services, Department of Health and Human Services):

In regard to the Division of Child and Family Services study provided for in S.B. 356, it is common for the Legislature to require an Executive Branch agency to conduct a study it lacks the expertise and capacity to conduct by itself. Based on the cost of prior studies, the bill's fiscal note is the estimated amount for the vendor to conduct the study of similar complexity.

During the 2019-2020 Interim, DHHS did studies of the federal extended foster care program and of commercially sexually exploited children. The fiscal note in S.B. 356 is similar in cost to those studies. A contract to conduct and deliver the study within a specified timeframe was required to give the Committee on Child Welfare and Juvenile Justice time to draft legislation.

As for the fiscal note on the pilot program in S.B. 365, the Division told DOC it would take the lead on acquiring the contractor so there were not competing studies. The program fiscal note is the cost of eight beds and staff at Summit View Youth Center, the State's highest-security facility for youth.

SENATOR PICKARD:

Are you talking about a subset of the boys at Lovelock, not any young women?

MR. ARMSTRONG:

Yes. The DOC does not have a secure facility for girls, so they will not be included in the pilot program. There may be a demand for such a facility for girls because of increased human trafficking.

MR. JACKSON:

The Children's Safety and Welfare Policy supports S.B. 356. The study will be essential to understand how we should house youthful offenders.

MS. RASMUSSEN:

Nevada Attorneys for Criminal Justice support S.B. 356. The pilot program is appropriate, and it is necessary to acknowledge certain needs unique to the youth prison population.

MR. PIRO:

The Offices of the Public Defender, Clark and Washoe Counties, support S.B. 356.

ALEX ORTIZ (Clark County):

Clark County supports S.B. 356 as written. A potential fiscal impact on the County could be excessive. In the Eightieth Session, the Legislature enacted legislation requiring the Legislative Committee on Child Welfare and Juvenile Justice to conduct a study of juvenile detention during the 2019-2020 Interim. A representative of Clark County Juvenile Justice Services testified at a Committee meeting about the excessive cost to the County if DOC houses young offenders in the Clark County Juvenile Detention Center. If the young people held in DOC are transferred to the Center, the cost to redesign existing space, build new space and hire new staff will be tens of millions of dollars annually. Juvenile detention centers are not designed to contain young adults, and we would have to retrofit for that. Many arrested youth are first-time offenders, and programs for them are not the same as for adults. Young adults will need costly new supervision and parole. Many potential DOC costs in the bill will be an unfunded mandate for Clark County. Our fiscal concerns must be addressed.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Judiciary
April 6, 2021
Page 27

CHAIR SCHEIBLE:

We will close the hearing on S.B. 356. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 3:44 p.m.

RESPECTFULLY SUBMITTED:

Pat Devereux,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 8	B	1	Patrick Guinan	Work Session Document
S.B. 236	C	1	Patrick Guinan	Work Session Document
S.B. 332	D	1	Patrick Guinan	Work Session Document
S.B. 267	E	1	Senator Pat Spearman	Proposed Conceptual Amendment
S.B. 365	F	1	Holly Welborn / American Civil Liberties Union of Nevada	"Youth Confinement in Nevada: Facility Assessment and Recommendations for Housing Youth Sentenced As Adults"
S.B. 365	G	1	Holly Welborn / American Civil Liberties Union of Nevada	Washington Department of Corrections and Department of Social and Health Services Youthful Offenders Memorandum of Understanding
S.B. 365	H	1	Holly Welborn / American Civil Liberties Union of Nevada	Oregon Youth Offender Transfer Rules
S.B. 356	I	1	Holly Welborn / American Civil Liberties Union of Nevada	Report: "Young Adults in the Justice System"