

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session
March 29, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:02 p.m. on Wednesday, March 29, 2023, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Dallas Harris, Vice Chair
Senator James Ohrenschall
Senator Marilyn Dondero Loop
Senator Rochelle T. Nguyen
Senator Ira Hansen
Senator Lisa Krasner
Senator Jeff Stone

GUEST LEGISLATORS PRESENT:

Senator Julie Pazina, Senatorial District No. 12

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Karly O'Krent, Counsel
Kelsey DeLozier, Counsel
Sally Ramm, Committee Secretary

OTHERS PRESENT:

Victoria Gonzalez, Executive Director, Nevada Department of Sentencing Policy
Erica Roth, Washoe County Public Defender's Office
Jodi Hocking, Return Strong!
John J. Piro, Clark County Public Defender's Office

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Stewart Chang, Nevada Coalition Against the Death Penalty
Nicholas Cote, Conservatives Concerned About the Death Penalty
Mark C. Bettencourt, Nevada Coalition Against the Death Penalty
Michael Alonso, Caesars Entertainment
Virginia Valentine, Nevada Resort Association
Barry Lieberman, South Point Hotel Casino
Sasha Stephenson, MGM Resorts International
Russell Rowe, Boyd Gaming Corporation
Thomasina Fremont, Chief, Audit Division, Nevada Gaming Control Board
Edward L. Magaw, Office of the Attorney General

SENATOR OHRENSCHALL:

We will open the meeting with Senate Bill (S.B.) 316.

SENATE BILL 316: Makes various changes relating to criminal law.
(BDR 14-132)

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):

Senate Bill 316 makes minor changes in the way data is reported within the State regarding certain crimes. To put it simply, every prosecuting agency in the State is required to submit an annual report to the Office of the Attorney General (OAG) regarding murder and voluntary manslaughter cases in its jurisdiction. The information required is listed in *Nevada Revised Statutes* (NRS) 178.750. Not included in the list of required information are the names of defendants and case numbers filed during the previous calendar year.

In reviewing the historical records after implementation of this statute, I could find no reason for not including names and case numbers. Exclusion of this information makes data less useful than it would be if it were included. Without a case number, the data becomes aggregated in a way that is not helpful. If larger jurisdictions report handling 100 murder cases and 30 of the defendants were men and 40 of the victims were women, it would not be possible to determine details. Including case numbers would allow for analyzing data to study trends in murder prosecutions in the State. The names of defendants and case numbers are public information which every Nevadan is entitled to access through judicial websites and records.

The objective of S.B. 316 is to avoid requiring people to analyze data without specific information matching cases to case status. I may be offering an

amendment to shift the requirement to submit reports to the Nevada Department of Sentencing Policy (NDSP) rather than the OAG. The policy was passed in 2003 before the formation of the NDSP. The Department has a director, analysts and a clearinghouse of criminal justice data.

VICTORIA GONZALEZ (Executive Director, Nevada Department of Sentencing Policy):

Our mission is to provide reliable criminal justice data to ensure the justice system is data-driven, equitable and reliable. We are nonpartisan and do not advance programs. We provide data to interested parties for development of effective policy.

Senate Bill 316 will provide the ability to cross reference prison data with annual charges for murder or voluntary manslaughter. The information will assist legislative committees and stakeholders develop related reports and make data-driven policy decisions.

ERICA ROTH (Washoe County Public Defender's Office):

We support S.B. 316 and agree with the proposed conceptual amendment moving reporting of data to NDSP. The bill makes sense and is logical. We should be collecting as much data as possible to make informed decisions.

JODI HOCKING (Return Strong!):

We work directly with impacted people. Many of our members are on death row and S.B. 316 will provide for transparent data reporting. We support the bill.

JOHN J. PIRO (Clark County Public Defender's Office):

We support S.B. 316. The data will provide much-needed information.

STEWART CHANG (Nevada Coalition Against the Death Penalty):

The death penalty is an important issue in Nevada. As of April 2022, Nevada had the ninth highest death row population in the United States. In the last decade, Clark County has been consistently within the top ten of prosecuting counties in the Nation with inmates who end up on death row.

In Nevada, 35 percent of the death row population is Black while 9 percent to 10 percent of the State's population is Black. These racial disparities in the death row population have been a concern for some time. In the 1990s, the Nevada Supreme Court recommended information be collected to assess

potential bias in capital cases. *Nevada Revised Statutes* 178.750 mandates that district attorneys file demographic data reports with the OAG. Unfortunately, the demographic data is in aggregate form and virtually useless. Information with defendant names and case numbers would allow better tracking and precision for possible racial bias in the criminal justice system. We support S.B. 316. This is a good bill that will make recordkeeping and statistical analysis effective. It will provide transparency in the criminal process.

NICHOLAS COTE (Conservatives Concerned About the Death Penalty):

We support S.B. 316. Conservatives Concerned About the Death Penalty is a national network of political and social conservatives who question whether capital punishment aligns with conservative principles and values. More and more conservatives are reaching the conclusion that the system is marked by inefficiency, inequity and inaccuracy. Last month, conservative legislators in Oklahoma called for a moratorium on the death penalty. Yesterday, a bipartisan group of legislators in Ohio introduced a bill to repeal the death penalty.

Senate Bill 316 would not pause or repeal the death penalty, but it would produce greater transparency and accountability regarding this ultimate and irreversible exercise of government power. One question conservatives consider is whether the death penalty is arbitrarily and unfairly administered by the State. Senate Bill 316 would help provide the public with more information to assess racial bias in the application of capital punishment.

MARK C. BETTENCOURT (Nevada Coalition Against the Death Penalty):

We support S.B. 316 and are eager to see the Legislature consider this modest, important and crucial policy. As an individual whose family has been impacted by the legal system, both with multiple family members facing incarceration and dealing with the loss of an uncle who was the victim of violent crime, I understand it is important we have information to know what we are doing in the criminal justice system.

The bill will provide transparency and accountability to community advocates, impacted families, members of the Legislature and other interested parties. The statute S.B. 316 modifies has existed for decades. By adding names and case numbers to annual reporting, it will be easier to track not only individuals but trends in our justice system. We do not know what we do not know. The bill will mean time spent producing these reports is more worthwhile. It will inform the decisions we make while adding no fiscal burden.

MS. GONZALEZ:

The Nevada Department of Sentencing Policy is in the neutral position on S.B. 316. I want to emphasize our mission is to promote data-driven policy in the State for the criminal justice system. We are ready and willing to take on this task and applaud this Legislature for the effort. We are moving toward data-driven policy in a way not yet attempted.

VICE CHAIR HARRIS:

We have received four letters ([Exhibit C](#)) in support of S.B. 316. I will close the hearing on S.B. 316.

CHAIR SCHEIBLE:

I will open the hearing on S.B. 266.

SENATE BILL 266: Excludes certain portions of entry fees for participation in a contest or tournament from the gross revenue of gaming licensees for certain purposes. (BDR 41-943)

SENATOR JULIE PAZINA (Senatorial District No. 12):

Senate Bill 266 excludes certain entry fees for participation in a gaming contest or tournament from being included in the gross revenue of a casino or resort under specific circumstances. Several representatives of the gaming industry will provide expert testimony regarding the rationale for bringing S.B. 266 forward and the circumstances under which its provisions will apply.

Casinos and resorts frequently hold gaming contests and tournaments for which participants pay an entry fee. Those entry fees are considered part of the casinos' gross revenue and are included in the calculation of monthly licensing fees. Section 1, subsection 2, paragraph (g), subparagraphs (1) through (4) of this bill exempt from gross revenue the contest and tournament fees if the fees are designated as employee compensation; if they are designated as a donation to a nonprofit, charitable or other tax-exempt organization; if they are added to a payoff schedule of the contest or tournament; or if they are added to an account to fund guaranteed payouts of future contests or tournaments. The effective date is July 1, 2023.

The reason for exempting entry fees under these specific circumstances is none of this money is collected by casinos as income. It is either used to pay

employees or distributed as a donation or as prize money. A friendly amendment ([Exhibit D](#)) is proposed by the Nevada Gaming Control Board (GCB).

MICHAEL ALONSO (Caesars Entertainment):

We support S.B. 266. The bill is cleanup for legislation passed in 2019. I have submitted written remarks ([Exhibit E](#)).

Prior to the Eightieth Session, entry fees paid by patrons for the right to enter into a contest or tournament were not taxable. In 2019, the GCB worked with the industry and the Legislature to tax entry fees. Since then, it became apparent the gaming industry and the GCB differed in their interpretation of the statute. We have worked with the Board on clarifying language. I want to be clear; the GCB is not here in support or opposition to S.B. 266 but worked with us on language it would be comfortable with if this measure moves forward.

In the case of fees designated as employee compensation, for example, in a tournament or contest, chips without monetary value are used and known as tournament chips. This has been the case since long before 2019. In tournaments when players do not have monetary chips available, it affects how employees receive tips. In these situations, operators require fees as a mandatory tip.

In the case of fees designated as a charitable donation when a casino runs a tournament or contest and charges a fee, the fee funds the prizes and any amount remaining goes to the charity. Casinos are a conduit. All the money goes directly to the charity, though casinos are required to report the earnings as gross revenue.

Fees are used to fund progressive payoffs in contests and tournaments and should not be considered gross revenue. For example, in poker bad beat tournaments, cash prizes include an award to winners and those holding the second highest hands known as bad beat poker hands. All the fees go back to the players.

Fees are used to fund guaranteed payouts. When a casino advertises a \$5,000 tournament and there are not enough players, collected fees do not cover the guaranteed payout so the casinos allocate funds from fees previously collected. These fees should not be considered gross revenue.

The amendment makes clear the designated amounts we are discussing are taxable outside a contest or tournament, meaning interactive or online poker. In other words, these deductions from revenue would not be available to the operators outside of a live tournament or contest unless the Nevada Gaming Commission passes a regulation authorizing those deductions from revenue. The remaining amendment changes are to ensure that if casinos divert fees for some reason other than the approved exemptions, funds would be taxable in the month collected.

VIRGINIA VALENTINE (Nevada Resort Association):

We emphasize the amount we are trying to exclude in this bill is revenue not kept by the casino. It is distributed in prizes, to employees and donations to charities. We will note the definition of employee is narrow.

BARRY LIEBERMAN (South Point Hotel Casino):

Gross revenue with respect to gaming revenue is defined in NRS 463.0161. It has always been the position of the State that when casinos do not make revenue, it is not subject to taxation. Subsection 2 of the statute outlines casino items not defined as gross revenue, items such as counterfeit money or chips, coins of other countries deposited in gaming machines and uncollected baccarat commissions. When the legislation was passed in 2019, the industry assumed entry fees would not be taxable. The Gaming Control Board had a different interpretation, but we have been able to discuss and resolve these differences with S.B. 266. It is a win-win bill for everybody. Dealers deserve payments in lieu of the tips they would normally make on cash games. As part of an entry fee, licensees charge a certain amount that the players are told will go to the dealers and other personnel who work the tournament.

With respect to charitable organizations, there was a disincentive for casinos to hold charitable tournaments because the amounts paid out to charities were not deductible from gross revenue. Prize money was included in gross revenue and taxed. This bill solves the problem.

Under S.B. 266, casinos can use entry fees for future prize payments or tournaments, and the money would be excluded from gross revenue. In summary, this bill rectifies the problem that arose out of the Eightieth Session.

SENATOR DONDERO LOOP:

Does each hotel make its own tournament rules?

MR. ALONSO:

The gross revenue rules are the same for everybody, but the rules within the poker rooms of the various casinos may vary. The bad beat poker promotion, for example, depends on the size of the tournament guarantee.

SASHA STEPHENSON (MGM Resorts International):
We support S.B. 266.

RUSSELL ROWE (Boyd Gaming Corporation):
We support S.B. 266.

THOMASINA FREMONT (Chief, Audit Division, Nevada Gaming Control Board):
The Board takes a neutral position on S.B. 266. The Board does not have concerns regarding its ability to administer the proposed changes. Further, the Board does not anticipate any direct fiscal impact on the agency.

SENATOR PAZINA:
I urge the Committee to support S.B. 266 and hope for agreement that it does not make sense to tax money that does not fall under the definition of income.

SENATOR HARRIS:
Ms. Fremont, you mentioned there is no fiscal impact to the Board. Has anyone done calculations on fiscal impact on the State?

MS. FREMONT:
For fiscal year 2021–2022, the State collected approximately \$2 million relating to the proposed exemptions.

SENATOR HARRIS:
Can you tell me where this information is documented? Agencies submit fiscal notes when they anticipate additional costs. In this instance, we are anticipating that the State will be losing money. A fiscal note or something on the record would give policymakers some understanding as to what this decision would cost the State.

EDWARD L. MAGAW (Office of the Attorney General):
I represent the Nevada Gaming Control Board through the OAG. We did provide fiscal information to the sponsors of the bill. I do not know how the information was used.

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SENATOR HARRIS:

I would appreciate information on fiscal impact on the State of S.B. 266.

SENATOR STONE:

Any revenue the State has been receiving is on income that should not have been included as gross income. With the passage of S.B. 266, my hope is casinos will continue their philanthropic efforts throughout Nevada.

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CHAIR SCHEIBLE:

I will close the hearing on S.B. 266. We will adjourn the meeting at 1:40 p.m.

RESPECTFULLY SUBMITTED:

Jan Brase,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 316	C	5	Senator Dallas Harris	Four Letters of Support
S.B. 266	D	6	Senator Julie Pazina	Proposed Amendment
S.B. 266	E	6	Michael Alonso / Caesars Entertainment	Written Remarks