SENATE BILL NO. 267–SENATOR SPEARMAN

MARCH 17, 2021

Referred to Committee on Judiciary

SUMMARY—Establishes provisions relating to the collection and reporting of information concerning diversity and equality in the workplace. (BDR 7-461)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[**~~omitted material~~**]** is material to be omitted.

AN ACT relating to workplace diversity; requiring the Department of Taxation to develop a survey to collect data and information concerning diversity and equality in the workplace; requiring corporations in this State that employ 500 or more people to use the survey to submit annual reports to the Department; requiring such a corporation that has an Internet website to make its reports available on the website; requiring the Department to make the survey, the annual reports submitted to the Department and aggregate data relating to such reports available on its Internet website; requiring the Department to submit an annual report to the Governor and the Director of the Legislative Counsel Bureau and make the report available on its Internet website; authorizing the Department to adopt regulations; requiring the Nevada Commission on Minority Affairs and the Nevada Commission for Women to assist the Department in developing the survey; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Secretary of State to design and conduct an annual survey of businesses in this State to collect data and information pertaining to issues of gender equality in the workplace, however, the provisions relating to the survey are currently only effective through December 31, 2022. (NRS 75A.400-75A.430; section 7 of chapter 434, Statutes of Nevada 2017, at page 2896) This bill establishes provisions concerning an annual survey of corporations in this State that

employ 500 or more people with regard to issues of diversity and equality in the workplace.

Section 6 of this bill requires the Department of Taxation to develop, in consultation with the Nevada Commission for Women and the Nevada Commission on Minority Affairs, a survey to be used to collect data and information relating to issues of diversity and equality in the workplace from corporations in this State. **Section 6** sets forth the information to be provided in the survey and requires the survey to be signed by an officer of the corporation or his or her designee under penalty of perjury.

Section 7 of this bill requires corporations to use the survey developed by the Department to submit an annual report to the Department. **Section 7** also requires a corporation that has an Internet website to make the annual reports available on the website, with any personally identifiable information redacted.

Section 8 of this bill requires the Department to make available on its Internet website: (1) the survey developed by the Department; (2) the annual reports submitted by corporations; and (3) aggregate data relating to the annual reports. **Section 8** requires that any personally identifiable information contained in a report must be redacted before the report or aggregate data relating to the report is posted on the website of the Department. **Section 9** of this bill requires the Department to compile annually the information contained in the reports submitted to the Department into one report and submit the report to the Governor and the Director of the Legislative Counsel Bureau. **Section 13** of this bill makes a conforming change to exclude the information redacted from reports in **sections 8 and 9** from the provisions relating to public records. **Section 10** of this bill authorizes the Department to adopt regulations to carry out the provisions of **sections 2-9** of this bill.

Sections 11 and 12 of this bill, respectively, require the Nevada Commission on Minority Affairs and the Nevada Commission for Women to assist the Department in developing the survey required pursuant to **section 6**.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Corporation" means a corporation that maintains a place of business in this State and that employs 500 or more people.***

Sec. 4. ***"Department" means the Department of Taxation.***

Sec. 5. ***"Female" or "woman" means a person who self-identifies her gender as a woman, without regard to the person's designated sex at birth.***

Sec. 6. ***1. The Department shall develop a survey for the purpose of collecting data and information from corporations in***

this State concerning diversity and equality in the workplace, including, without limitation, data and information specifically relating to females and persons from underrepresented communities. The survey must request a corporation to provide, without limitation, the following information:

(a) The name of the corporation.

(b) The number of employees of the corporation who are:

(1) Located in this State.

(2) Women located in this State.

(3) Women of color located in this State.

(c) If the corporation is publicly traded, the number of people in the corporation who are:

(1) On the board of directors.

(2) Women.

(3) Women of color.

(d) The number of:

(1) People who are employed in a management position.

(2) Women who are employed in a management position.

(3) Women of color who are employed in a management position.

(e) The number of:

(1) People who are employed in an executive position.

(2) Women who are employed in an executive position.

(3) Women of color who are employed in an executive position.

(f) Whether the corporation has employee development initiatives in place for administrative or skilled staff who are interested in advancing their career path, including, without limitation, tuition reimbursement, professional development, payment for conferences, business interest groups or a public commitment to gender inclusion.

(g) Whether the corporation has undertaken a pay equity analysis and, if so, whether the results indicated that there were any discernable differences in pay.

(h) With regard to the 20 highest-paid people in the corporation as determined by salary, bonuses and other incentives such as stock options, the number of those people who are:

(1) Women.

(2) Women of color.

(i) With regard to the hiring practices of the corporation, whether the corporation:

(1) Participates in diversity job fairs.

(2) Has a diverse hiring committee.

(3) Assesses the skill sets of candidates without regard to gender.

(4) Uses gender-neutral job descriptions.

(j) With regard to the issue of anti-harassment, including, without limitation, sexual harassment, whether the corporation:

(1) Has an anti-harassment policy in place.

(2) Offers formal anti-harassment training.

(k) With regard to cultural training, whether the corporation provides training relating to diversity and inclusion and, if so, whether such training includes specific training regarding:

(1) Implicit bias.

(2) Unconscious bias.

(3) Microaggressions.

(4) Fostering an inclusive environment.

(5) Improving engagement.

(l) With regard to female-friendly workplace policies and benefits:

(1) Whether the corporation offers:

(I) Employer-paid family leave and, if so, the number of weeks offered.

(II) Variable work schedules for caregivers.

(III) Options to work from home.

(IV) On-site child care, off-site child care or employer-paid child care subsidies.

(2) Whether there are any policies and benefits the corporation is currently pursuing but has not yet implemented and, if so, a list of such policies and benefits.

(m) With regard to health care, whether the corporation's policies cover:

(1) Birth control.

(2) Maternity.

(3) In vitro fertilization.

(n) Any additional information that the corporation wishes to provide.

2. The survey must include a statement signed by an officer of the corporation or his or her designee, under penalty of perjury, that the information provided in the survey is true, correct and complete to the best of his or her knowledge and belief, that the person acknowledges it is a category C felony under NRS 239.330 to knowingly offer any false or forged instrument for filing and that the person is authorized to complete the survey on behalf of the corporation.

3. The Department shall work in consultation with the Nevada Commission on Minority Affairs created by NRS 232.852 and the Nevada Commission for Women created by NRS 233I.020 when developing the survey pursuant to this section.

4. As used in this section:

(a) "Executive position" means a position in which a person is employed as a vice president, senior vice president or executive vice president or in a role that is superior to such positions.

(b) "Management position" means a position in which a person is employed as a manager or in a role that is superior to a manager.

(c) "Pay equity analysis" means a formal study regarding equity in salaries.

(d) "Person from an underrepresented community" means a person who self-identifies as Black, African-American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian or Alaska Native, or who self-identifies as gay, lesbian, bisexual or transgender.

Sec. 7. *1. On or before January 1, 2022, and on or before January 1 of each year thereafter, every corporation shall submit a report to the Department using the survey developed by the Department pursuant to section 6 of this act.*

2. If a corporation has an Internet website, the corporation shall make available on its website the reports submitted to the Department pursuant to this section, but any personally identifiable information contained in a report must be redacted before the report is posted on the website.

Sec. 8. *1. The Department shall make available on its Internet website:*

(a) The survey developed pursuant to section 6 of this act that corporations must use to submit the annual report required pursuant to section 7 of this act;

(b) The reports submitted to the Department pursuant to section 7 of this act in such a manner that the reports may be searched electronically by the name of the corporation that submitted the report; and

(c) Aggregate data relating to the reports submitted to the Department pursuant to section 7 of this act.

2. Any personally identifiable information contained in a report that is submitted to the Department pursuant to section 7 of this act must be redacted before the report or aggregate data relating to the report is posted on the website of the Department pursuant to this section.

Sec. 9. *1. The Department shall compile annually the information contained in the reports submitted to the Department pursuant to section 7 of this act during the immediately preceding year into one report and:*

(a) Submit the report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature,

or if the Legislature is not in session, to the Legislative Commission; and

(b) Make the report available on the Internet website of the Department.

2. The Department shall not include any personally identifiable information in a report submitted to the Governor and the Director of the Legislative Counsel Bureau pursuant to this section.

Sec. 10. ***The Department may adopt such regulations as is determined to be necessary or advisable to carry out the provisions of sections 2 to 9, inclusive of this act.***

Sec. 11. NRS 232.860 is hereby amended to read as follows:

232.860 The Commission shall, within the limits of available money:

1. Study matters affecting the social and economic welfare and well-being of minorities residing in the State of Nevada;

2. Collect and disseminate information on activities, programs and essential services available to minorities in the State of Nevada;

3. Study the:

(a) Availability of employment for minorities in this State, and the manner in which minorities are employed;

(b) Manner in which minorities can be encouraged to start and manage their own businesses successfully; and

(c) Availability of affordable housing, as defined in NRS 278.0105, for minorities;

4. In cooperation with the Nevada Equal Rights Commission, act as a liaison to inform persons regarding:

(a) The laws of this State that prohibit discriminatory practices; and

(b) The procedures pursuant to which aggrieved persons may file complaints or otherwise take action to remedy such discriminatory practices;

5. ***Assist the Department of Taxation in developing the survey required pursuant to section 6 of this act;***

6. To the extent practicable, strive to create networks within the business community between businesses that are owned by minorities and businesses that are not owned by minorities;

~~[6.]~~ ***7.*** Advise the Governor on matters relating to minorities and of concern to minorities; and

~~[7.]~~ ***8.*** Recommend proposed legislation to the Governor.

Sec. 12. NRS 233I.060 is hereby amended to read as follows:

233I.060 1. The Commission shall study the changing and developing roles of women in society, including, without limitation, the recognition of socioeconomic factors that influence the status of women, and recommend proposed legislation.

2. The Commission shall assist the Secretary of State in developing the survey of businesses in this State described in NRS 75A.410.

3. ***The Commission shall assist the Department of Taxation in developing the survey required pursuant to section 6 of this act.***

4. The Commission may:

(a) Collect and disseminate information on activities, programs and essential services available to women in Nevada.

(b) Advise executive and legislative bodies on the effect of proposed legislation on women.

(c) Inform the news media, educators, governmental officers, professional, business and labor leaders and other persons in positions of authority or influence about issues pertaining to women.

(d) Provide referrals and serve as a resource for information on issues pertaining to women.

(e) Identify and recommend qualified women for positions in all levels of government.

(f) Promote and facilitate collaboration among commissions and organizations for women at the local, state and national levels.

(g) Recognize and promote the contributions that women in this State make at the local, state and national levels.

(h) Enter into any contract or other agreement appropriate to carry out the provisions of this chapter, subject to the prior approval of the Director of the Department of Administration.

(i) Prepare an annual work program outlining the objectives and tasks of the Commission for the year.

Sec. 13. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,

218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207, 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,

637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325, 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, ***and sections 8 and 9 of this act,*** sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic

medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

(1) Was not created or prepared in an electronic format; and

(2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 14. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 15. The Department of Taxation shall develop and make available on its Internet website the survey required by section 6 of this act before October 1, 2021.

Sec. 16. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 15, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations, developing the survey required by section 6 of this act and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2021, for all other purposes.

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