

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fifth Session  
May 20, 2009**

The Senate Committee on Judiciary was called to order by Chair Terry Care at 8:43 a.m. on Wednesday, May 20, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Terry Care, Chair  
Senator Valerie Wiener, Vice Chair  
Senator David R. Parks  
Senator Allison Copening  
Senator Mike McGinness  
Senator Maurice E. Washington  
Senator Mark E. Amodei

**GUEST LEGISLATORS PRESENT:**

Assemblyman Mark A. Manendo, Assembly District No. 18  
Assemblywoman Kathryn A. McClain, Assembly District No. 15

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Committee Policy Analyst  
Bradley A. Wilkinson, Chief Deputy Legislative Counsel  
Janet Sherwood, Committee Secretary

**OTHERS PRESENT:**

Charles Peterson, Student, William S. Boyd School of Law, University of Nevada, Las Vegas  
Brett Kandt, Special Deputy, Office of the Attorney General  
Carol Sala, Administrator, Division for Aging Services, Department of Health and Human Services

Senate Committee on Judiciary  
May 20, 2009  
Page 2

Chuck Callaway, Las Vegas Metropolitan Police Department  
Lee Rowland, American Civil Liberties Union of Nevada  
Chuck Weller, District Judge, Department 11, Family Division, Second Judicial District  
John R. McCormick, Rural Courts Coordinator, Administrative Office of the Courts  
Bryan Nix, Coordinator, Victims of Crime Program  
Sandy Heverly, Executive Director, Stop DUI  
Robert D. Faiss, Cantor Gaming  
Phil Flaherty, Consultant, Cantor Gaming  
Alfredo Alonso, Nevada Pari-Mutuel Association  
Samuel P. McMullen, TrackNet Media Group, Inc.  
Bill Bible, President, Nevada Resort Association  
Jeff Siri, President, Chief Executive Officer, Club Cal Neva  
Mark H. Fiorentino, Golden Nugget; Marriott International; Wynn Resorts, Ltd.  
Richard Perkins, Dr. Venkat Vangala; MW, LLC  
Pilar Weiss, Culinary Workers Union Local 226  
Dennis K. Neilander, Chair, State Gaming Control Board

CHAIR CARE:

The meeting will come to order. We will hear testimony about possible amendments to Assembly Bill (A.B.) 218, which was the William S. Boyd School of Law gaming project.

**ASSEMBLY BILL 218**: Authorizes the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming. (BDR 41-603)

Charles Peterson, your name is not on the bill, but you are one of the sponsors for A.B. 218. Your bill came out of this Committee but has not yet been reported to the floor. I asked one of the students to be here because this bill belongs to them. Before we amend a bill, we normally ask the sponsors if they are comfortable with that idea. Are you aware there is interest in amending your bill?

CHARLES PETERSON (Student, William S. Boyd School of Law, University of Nevada, Las Vegas):  
Yes, I am aware.

Senate Committee on Judiciary  
May 20, 2009  
Page 3

CHAIR CARE:

Do you have any objections to amending your bill?

MR. PETERSON:

We have no objections to the Committee amending A.B. 218 to enhance the gaming control system or assist the gaming industry.

CHAIR CARE:

Have you heard any discussions about potential amendments?

MR. PETERSON:

Yes. Professor Robert Faiss sent me copies of those amendments.

CHAIR CARE:

Are you speaking on behalf of the other two students who testified?

MR. PETERSON:

I am speaking on behalf of all the gaming law students in Professor Faiss's class at the William S. Boyd School of Law at the University of Nevada, Las Vegas.

CHAIR CARE:

Do you have any questions of the Committee?

MR. PETERSON:

No, I do not.

CHAIR CARE:

You wanted to be part of the process and that has certainly happened.

We will open up the hearing on A.B. 461.

[ASSEMBLY BILL 461 \(2nd Reprint\)](#): Makes various changes relating to older persons. (BDR 15-126)

ASSEMBLYWOMAN KATHYRN A. McCLAIN (Assembly District No. 15):

I will read from my prepared testimony ([Exhibit C](#)). I also provided information and statistics on national elder abuse ([Exhibit D](#), original is on file in the Research Library).

I will continue with looking at sections of the bill, [Exhibit C](#). A portion of section 1 regarding mandatory reporters has been deleted by the Assembly's request. Last Session, attorneys and clergies were taken out of the language of the *Nevada Revised Statutes* (NRS) as mandatory reporters. The Legislative Commission's Subcommittee to Study Issues Relating to Senior Citizens and Veterans and the Elder Abuse Task Force felt strongly about putting them back in, but an attorney and someone in the clergy made a convincing point that they should not be included as mandatory reporters because of confidentiality issues. They are more to counsel than to report. We have taken that language out, so the current language in NRS will stay the same.

Section 1 also requires the final report of all incidents be forwarded to the Repository for Information Concerning Crimes Against Older Persons, the Attorney General's Unit on Investigation and Prosecution of Crimes Against Older Persons and the Aging Services Division. To be consistent, the time requirement for reporting to these units is being revised to 30 days.

The existing language in NRS was vague on including the Unit on Investigation and Prosecution as a collector of this information. We tied them altogether. Law enforcement and prosecution will send the same report to three agencies. They can send it to the Aging Division which will then forward it to the other two agencies. This helps consolidate reporting to make sure we get the information we need.

Section 2 was an ambitious portion that said our district attorney could not plea down elder abuse cases. It was tying the hands of prosecution too much, so I agreed to delete that section.

Section 3 addressed the fees to support the Investigation and Prosecution Unit. That went away in the Assembly Committee on Ways and Means. I did not have a problem with deleting the fees as well as the appropriation because I have hopes that the Elder Justice Act in Congress will be passed this year with the new administration and the new majority. There is a lot of grant money in that legislation. By establishing the policy on the Investigation and Prosecution Unit and the multidisciplinary teams (MDT), we would be way ahead of the curve and qualify for some of the grant funding to pay for this program.

Section 4 adds an "older person" to the statutes to allow prospective witnesses who may be unable to attend a trial or hearing to have their disposition taken to be used in court. Senate Bill (S.B.) 45 also includes this provision.

[SENATE BILL 45 \(2nd Reprint\)](#): Revises provisions relating to certain criminal cases involving older persons and vulnerable persons. (BDR 14-262)

We have amended A.B. 461 to coincide with the 70-year age limit of S.B. 45. We missed another piece of language in S.B. 45, but there is nothing in A.B. 461 that conflicts with it.

CHAIR CARE:

We had the language for good cause shown in S.B. 45 which may not even be necessary, but that is how it was when it left the House. Later this morning, I will be talking with the Committee about concur-not concur, recede-not recede because we have the bill back to us. I am familiar with the provision.

ASSEMBLYWOMAN McCLAIN:

It does not conflict with anything here, but it will be an addition. The age limit had been changed so I put that in on the Assembly side.

Section 5 expands the information required on all reported crimes against older persons to be kept in the Repository in a complete and systematic form. This will help us get statistics because in substantiated cases, not all elder abuse issues end up in court. There are a lot of substantiated cases handled at the elder protective level by getting help for the family. We need to know about those things so we can get a handle on family violence.

Section 6 is the meat of this bill. It creates the multidisciplinary team program within the Office of the Attorney General. It is permissive, so the Office of the Attorney General may organize or sponsor one or more teams in the State. It does not give the Office of the Attorney General supervisory authority over state or local law enforcement or prosecution. The MDT, as approved by the Office of the Attorney General, would establish the guidelines for operations and be based on cooperative efforts of agencies involved with the resolution of elder abuse cases. This section also provided the MDT the ability to share confidential information concerning individual cases.

Section 7 requires the Peace Officers' Standards and Training Commission (P.O.S.T.) to adopt regulations requiring all peace officers to receive training in handling elder abuse cases. Section 10 was the appropriation, and it was deleted.

BRETT KANDT (Special Deputy, Office of the Attorney General):

Attorney General Catherine Cortez Masto has made elder abuse a priority of her administration. Assembly Bill No. 226 of the 74th Session was sponsored by Assemblywoman McClain and supported by our Office. Since then, we have taken a four-pronged strategy statewide to improving the issue of protecting our elders.

The first prong develops better lines of communication between the various State and local agencies that have responsibility for investigating and prosecuting crimes against older persons. The second prong provides public education, outreach and awareness of the problem of elder abuse. The third prong addresses investigative reporting and prosecution of these types of cases through training and specialization. The last prong compiles statistics to highlight the problem of elder abuse in our State. Assembly Bill 461 will help further these efforts.

SENATOR MCGINNESS:

Will this unit from law enforcement and district attorney offices be full time and travel around the State, or will they come together only if there is reported abuse?

MR. KANDT:

This MDT model has been successfully utilized in other states, but it works on a local level. It would not be a statewide team. It would be a model implemented on a local or county-by-county basis, if necessary, to review specific cases.

SENATOR MCGINNESS:

I notice there is no fiscal note. Would the MDT unit do this as part of their regular job?

MR. KANDT:

There is no fiscal note because it is permissive rather than mandatory and would only be implemented on an as-needed basis. This would involve professionals

from the various disciplines who already have some responsibility or role in this process, and it would better coordinate their efforts.

SENATOR MCGINNESS:

Section 7 says the P.O.S.T. Commission must require the peace officers receive training. Is that something they can do without affecting them fiscally? Will they have to add another week?

MR. KANDT:

I cannot address that section of the bill.

ASSEMBLYWOMAN MCCLAIN:

Section 7 is there to make certain that when P.O.S.T. trains cadets and in their continuing education portion, elder abuse is included and treated as importantly as child abuse, domestic violence and other issues in their regulations.

SENATOR MCGINNESS:

I do not have a problem with that, but it reminds me of the things we keep mandating of our school districts. Schools do not have time for the basics because we are teaching suicide prevention—which is a great program, but we keep stacking new programs on and do not leave time for teachers to teach the basics.

ASSEMBLYWOMAN MCCLAIN:

The Elder Justice Act in Congress has been there since 2002, and it needs to be passed. Within that Act, millions of dollars are appropriated for supporting teams such as the MDT to investigate and prosecute elder abuse. That is why I felt secure enough in taking the funding out of the bill. I believe money will be available within the next year, and we will be able to support this entire process.

CAROL SALA (Administrator, Division for Aging Services, Department of Health and Human Services):

I want to put on record that the Division for Aging Services thinks the language in the bill is good and will help us develop better statistics to show the patterns of elder abuse. We do not gather statistics well enough to identify the problem. The multidisciplinary teams are important. We tried to collaborate with local partners, but the formalized MDT provides an opportunity to work together with our partners.

Senate Committee on Judiciary  
May 20, 2009  
Page 8

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

We support this bill. The Las Vegas Metropolitan Police Department is in compliance with the training mandates of this bill. After the academy officers go through roll call training, briefing and in-service training, we have a four-hour block of training in our academy regarding abuse and neglect of the elderly to further enhance their skills.

LEE ROWLAND (American Civil Liberties Union of Nevada):

We are neutral on the bill, in part because it is not a civil liberties bill. We commend the sponsor for her dedication to protecting the elderly. I want to thank you, Chair Care, for your comments about reconciliation. We did offer amendments to include the good-cause language for the affidavits. We want to encourage you to retain that language during the reconciliation process on this bill.

CHAIR CARE:

We will close the hearing on A.B. 461 and open up the hearing on A.B. 99.

[ASSEMBLY BILL 99 \(1st Reprint\)](#): Makes various changes relating to public safety. (BDR 15-410)

CHUCK WELLER (District Judge, Department 11, Family Division, Second Judicial District):

I sit in the Family Division in Reno. Assembly Bill 99 tries to accomplish three things. First, it addresses the recordation of false liens. This is a problem across the Country. There are some bad actors out there who record false liens against judges and senators, harassing them and interfering with their ability to borrow against or sell their property. Assembly Bill 99 would make it a crime to knowingly file a false lien against any property owner in the State of Nevada.

Secondly, A.B. 99 addresses a deficiency in existing law. The law states it is a crime to threaten a public official with the intent to influence future action. What is missing from that law is making it a crime if the motivation is to retaliate for prior official action. Assembly Bill 99 adds that motivation to existing statute.

Thirdly, A.B. 99 addresses the security of judges in their homes. This has been a problem around the Nation for a long time. The last three federal judges murdered have all been murdered in their homes. In 2005, a plaintiff did not like



the ruling of a federal judge in a medical malpractice case. That litigant went to the judge's home and waited for her with the intent to kill. When she did not come home, the litigant killed her husband and mother. I was shot in my chambers a few years ago. The search warrant of the shooter's home found a map and directions to my home downloaded from the Internet.

Jurisdictions around the Nation have addressed this problem in different ways. Some jurisdictions have provided burglar alarms for all of their judges. Nevada has partially addressed this problem. In 2005, legislation was enacted that allows judges to ask county assessors to redact their home addresses from public records. Other states have followed that model. Assembly Bill 99 proposes a more effective and cheaper alternative. The State already operates a confidential address program for victims of domestic violence, and this bill allows judges to use that existing program. The judges have to pay the cost of participation in that program. Instead of doing it agency by agency, it allows one place for judges to go who want to use this program.

CHAIR CARE:

Let me go back to the recording of the lien. How was determination made that this should be a Category E felony as opposed to a misdemeanor or gross misdemeanor? What are the damages that can come to the property owner?

DISTRICT JUDGE WELLER:

It can ruin a property owner's credit rating. It can cause a sale to be lost because a cloud on the title needs to be rectified. I do not care about the penalty.

CHAIR CARE:

I voted against the bill. I am a former reporter, and I believe public records are public records and ought to remain that way. We have all read the stories that you have referred to in the newspapers, but the same can be said about movie stars, television personalities and even legislators. Why do you think this bill should be confined to judges? They are still public figures, but what is your rationale for treating them differently than others?

DISTRICT JUDGE WELLER:

All records should be public, but judges are unique in our governmental system. They are the only government officials who live openly in the same community with the people about whom they make specific determinations. This is

recognized in scholarly literature as a distinction about a tax on judges as opposed to a tax on movie stars and other people in the government. They cannot protect themselves from that distinction. Most judges are not going to use this program. If you live in a small community, everybody knows where you live. This would give urban judges within the State the ability to make their home address less public. Judges warrant that protection because a problem does exist concerning judges.

CHAIR CARE:

The bill reaches down to courts of limited jurisdiction and goes all the way to the Nevada Supreme Court. Is it necessary to include all judges? Is there an argument to confine it to district court judges?

DISTRICT JUDGE WELLER:

I wrote the bill to cover district court judges and Supreme Court Justices. The limited jurisdiction judges clamored and wanted to become a part of the bill, and so they did.

JOHN R. McCORMICK (Rural Courts Coordinator, Administrative Office of the Courts):

I am here to answer questions.

SENATOR WIENER:

What was changed by the amendment?

DISTRICT JUDGE WELLER:

Other provisions in the bill to enhance criminal penalties for other crimes of violence against participants in the judicial process were removed.

MR. McCORMICK:

The amendment from the Assembly Committee on Ways and Means included section 21, allowing the Secretary of State to adopt appropriate procedures to carry out the provisions of the confidential address program to clarify that the Secretary of State had the inherent authority to do so.

CHAIR CARE:

We will close the hearing on A.B. 99 and open the hearing on A.B. 283.

**ASSEMBLY BILL 283 (1st Reprint)**: Revises provisions governing the payment of compensation to certain victims of crime. (BDR 16-609)

BRYAN NIX (Coordinator, Victims of Crime Program):

This is Assemblyman Mark A. Manendo's bill. I submitted my testimony in writing to the Committee in an e-mail earlier this week ([Exhibit E](#)). This bill raises the cap on victim of crime claims to pay more in cases of catastrophic injuries such as those injuries suffered recently by a victim who had both of her legs amputated as a result of a driving-under-the-influence (DUI) crime. We support this bill. It will not have a negative financial impact on the Victims of Crime Program (VOCP) because we have adequate funding. It only affects a small number of victims, but these victims are important.

SANDY HEVERLY (Executive Director, Stop DUI):

I thank Mr. Nix for understanding our concerns regarding the current VOCP benefits and how they fall short in assisting innocent crime victims who have sustained catastrophic injuries and for taking the initiative to pursue the appropriate change in statute.

My greatest fear that demonstrates the need for this legislation came to pass. On July 7, 2008, in Las Vegas, Portia Hughes, a 26-year-old wife and young mother of two, became the face of what has become A.B. 283. Mrs. Hughes was sitting at a bus stop at Flamingo Road and Boulder Highway. Steven Murray, a drugged driver with multiple priors, lost control of his truck and crashed into the bus shelter. He killed Patricia Hoff and seriously injured Portia Hughes. The extensive and severe injuries Mrs. Hughes sustained required both of her legs to be amputated. These types of injuries are similar to those that occur on a battlefield.

The design and effectiveness of prosthetics have improved greatly over the years; however, they are expensive. Mrs. Hughes' prosthetics would cost tens of thousands of dollars because they contain microprocessors to help smooth her gait and improve balance. In her case, the cost would be double, and combined with other needs, would easily exceed the current VOCP benefit of \$50,000. I have been assured by Mr. Nix that the VOCP is solvent with sufficient funds to address these types of special circumstances. Innocent crime victims like Mrs. Hughes should not be further victimized by denial of available benefits. Please know that Stop DUI would not support any measure that had

the potential to deplete, reduce or otherwise jeopardize VOCP benefits for future crime victims.

Portia Hughes is a horrific example of the carnage caused by driving under the influence. Fortunately, these types of DUI-related catastrophic injuries are rare. Mrs. Hughes is the first double amputee DUI victim in Nevada that I am aware of, and I pray she will be the last. Stop DUI will continue with its work to make that a reality. In conclusion, we request you pass A.B. 283 so catastrophically injured crime victims will have the additional resources to continue their journey to achieving some semblance of normalcy and recovery.

CHAIR CARE:

Subsection 4 of section 1 states the Board must consider, "... the particular circumstances of the victim." This is the broad discretion you would use in these rare cases you mentioned. You cannot set specific standards.

ASSEMBLYMAN MARK A. MANENDO (Assembly District No. 18):

The VOCP assists victims of crime by paying a variety of benefits including lost wages, medical bills, counseling, burial expenses, relocation costs and prescription drugs. The VOCP is one of the best in the Country. It is the first in the Nation to adopt aggressive cost-containment measures including medical bill review, an application of insurance industry medical fee schedules to hospital and other medical bills. The VOCP is among the most effective and efficient compensation programs in the Country. I want to thank Bryan Nix for all that he does.

The bill increases the cap from \$50,000 to \$100,000 with an extra \$50,000 for consideration. I had a chance to meet Portia Hughes. Catastrophic injuries do not happen too often, but on the rare occasions when they do, this bill can give people the opportunity to have a bit of a change in their lifestyle, whether it is retrofitting a house to accommodate a wheelchair or some prosthetic legs to walk again.

SENATOR WIENER MOVED TO DO PASS A.B. 283.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

Friday of last week was the last day the Committee could adopt amendments to bills that had come out of or were before this Committee. This does not preclude one, two or all members of this Committee from submitting an amendment in their individual capacity or capacities for any bill we have yet to vote on prior to close of business on Friday. We had A.B. 388 and A.B. 476, but we never heard those bills.

[ASSEMBLY BILL 388 \(1st Reprint\)](#): Makes various changes relating to gaming.  
(BDR 41-711)

[ASSEMBLY BILL 476 \(1st Reprint\)](#): Makes changes relating to gaming enterprise districts. (BDR 41-659)

CHAIR CARE:

I thought it would be beneficial for the Committee to entertain proposed amendments in the form of those two bills. That was the purpose for the item on the agenda: possible floor amendments to A.B. 218. You heard Mr. Peterson, the student from the Boyd School of Law, who represented the students who testified on this bill and were involved with this project. They have no objection to amending A.B. 218.

If there is anybody thinking about a possible amendment in line with the language of A.B. 388, this is your chance.

ROBERT D. FAISS (Cantor Gaming):

We thank you for the opportunity to appear today and offer amendments. Our amendment language ([Exhibit F](#)) replicates the first two sections of A.B. 388. You will hear from proponents of the other provisions, and we welcome them.

Section 2 of A.B. 218, proposed in the amendment before you, was requested by the legislative bill drafter to ensure that references to "sports pool" will remain consistent throughout the Nevada Gaming Control Act if this amendment is enacted.

Section 3 provides a modest amendment of three words that will prove beneficial to all sports books. It was developed through consultation over many months with State Gaming Control Board member Randall E. Sayre. I spoke with Mr. Sayre this morning. He is engaged in meetings in Las Vegas and regrets not being here to answer any questions about the benefits of this language.

This amendment will confirm that the gaming control agencies have discretion consistent with our Nevada gaming policy to approve any event wager that will increase business per casinos and tax revenue for our State. It will harmonize the definitions of "sports pool" in NRS 463.0193 and Nevada Gaming Regulation 22 to confirm that this license covers wagers on sporting events as well as other events. This amendment suggests recognizing the present discretion of the gaming control agencies to approve those wagers they find suitable, including sports pool wagers on events other than those taking place in a sporting event.

Some of you will recall that the Nevada Gaming Control Act was created 50 years ago at the request of former Governor Grant Sawyer for whom I served as Executive Assistant. That original bill and its definition of gambling authorized 14 types of casino games. In the ensuing 50 years, the Legislature has never added one game. However, the gaming control agencies, utilizing the discretion granted by the Legislature, have approved an additional 492 types of casino games or variation games. The same is true, to a greater extent, of slot machines.

Event wagering does not promise that same sort of variety or growth. However, there is room for expansion that will allow Nevada sports books to satisfy the interest of their customers and meet the potential challenges of sports wagering in other states such as Delaware and New Jersey and event wagering on the Internet. As Mr. Sayre would tell you, the Nevada Gaming Control Board has been responsive in the face of such challenges. In mid-2008, the Control Board, under the coordination of Mr. Sayre, transmitted a questionnaire to all sports book operators to gauge interest in the expansion of event wagering. Among the possible wagers on which expressions of interest were invited were those on tournaments involving poker, slot machines, casino games and billiards. Those are some examples of nonsports events that may prove viable. The Control Board is now studying those and other events that have interest.

In 2005, this Committee's support was instrumental in making Nevada the first mobile gaming jurisdiction. At those hearings, Legislators offered condolences to Cantor Gaming's affiliated company, Cantor Fitzgerald, for the loss of 658 employees on duty at the World Trade Center on the tragedy of September 11, 2001, when the terrorists hit. You also expressed hope that the quality and commitment evidenced in the company's remarkable recovery could also take place in Nevada. Cantor Gaming has been the first to be licensed as a manufacturer, distributor and operator of mobile gaming, and its mobile gaming system was the first in the world to be approved. Cantor Gaming is involved in mobile gaming in race and sports book operations in the new Wynn Resorts, Ltd. It acquired the slot route operations of industry pioneer Mickey Wichinsky and also Las Vegas Sports Consultants, a respected supplier of odds on sporting events. Cantor Gaming's expenditures, with respect to Nevada operations, now exceed \$40 million. Today, Cantor Gaming is pleased to join with other members of the gaming industry in supporting the amendment language before you as confirmation of the Gaming Control discretion to approve event wagers that will enhance the Nevada gaming experience for the public and benefit the State Treasury.

CHAIR CARE:

Everyone should have the mock-up dated February 27, [Exhibit F](#). That contains sections 1, 2 and 3. Sections 2 and 3 were originally sections 1 and 2 of [A.B. 388](#). Subsection 1 of section 2 states, "... sporting events or other events." What is the scope of an event? When I first moved to Las Vegas in 1979, Skylab was about to come down. I was told you could bet on which continent Skylab was going to land. That probably was not true, but I remember the story. Other than a sporting event, what events can you bet on?

MR. FAISS:

Any event offered in the casinos is subjected to rigorous examination by the Gaming Control Board. I doubt if Skylab was approved. The only two events where wagers have been deemed unacceptable by legislation are elections and lotteries. Everything else is permissible if it follows the system laid out in the Gaming Control Act. For an event to come to reality, it must first have sufficient public interest in order to be viable. It must have a result that cannot be predetermined. The result has to be verifiable and approved by the Gaming Control system after its rigorous examination as consistent with policy and in the public interest.

Senate Committee on Judiciary  
May 20, 2009  
Page 16

SENATOR WIENER:

I remember meeting with representatives from Cantor Gaming. I recall they said they were doing wagers in England that can be placed during a sporting event. Is that correct?

MR. FAISS:

Yes.

SENATOR WIENER:

You can continue to place bets after an event has commenced. Cantor Gaming said two-thirds of their revenue comes from the simultaneous betting rather than our system of betting only at the beginning of an event.

MR. FAISS:

That is correct. One of the innovations taking hold and doing a big job for the industry and for the public treasury is allowing bettors to place bets on the game as it proceeds. The odds shift. They have found that bets during the game far exceed those made prior to the start of the game.

SENATOR WIENER:

I recall the odds were 2 to 1. It was more substantial than the betting we limit to prior to the event. The way this definition reads, is that something that would be anticipated?

MR. FAISS:

The language change is not necessary in that respect, but it is directly tied to a sporting event. If the Committee needs further explanation, Phil Flaherty is the consultant on operations of those in game wagers.

SENATOR WIENER:

At a time we are trying to make our State whole, we are looking for ways to responsibly generate resources to help us sustain the needs of our State. I learned that maybe two-thirds of the betting in England occurs in a way that we do not anticipate. It might be something to provide information on this to the Committee.

CHAIR CARE:

Will you elaborate on that, Mr. Flaherty?



PHIL FLAHERTY (Consultant, Cantor Gaming):

The Gaming Control Board permits in-running wagering. This experiment has come through Nevada a few times before. Unfortunately, in the past, technology has not been to the level where it could be executed in the manner it is now. Cantor Gaming offers games through the M Resort Race and Sports Book where once the event starts, the wagering never stops. In that sense, an algorithm takes control from that point, and as the scoring continues, the lines are perpetually changed in a real-time dynamic manner. To wager these propositions correctly, you need to have an electronic device. For our counterparts in England, subsequent or postevent start or in-running wagering has achieved two-thirds of the gross revenues. For those operations or games offered at the M Resort, oftentimes 200 percent to 300 percent of the activity is from pregame wagering on the in-running side. We have been pleased with the receipt and activity from that effort. It is not affected in this bill language, but this bill language would offer additional events to include those types of wagers.

CHAIR CARE:

Technically, we are talking about amendments to A.B. 218 although they stem from A.B. 388, but there is no A.B. 388 anymore. If you have a copy of A.B. 388, you can use it as guidance. It is in your bill books.

ALFREDO ALONSO (Nevada Pari-Mutuel Association):

We ask you to amend "Horse or dog races" into this bill as in section 5, page 2, line 17 of A.B. 388. This allows for dog races to be part of the pari-mutuel network. You allow for betting on dog races. To date, the handle on such betting has dropped about 21 percent for the quarter and over 16 percent last year. This bill is an attempt to add more revenue to the State's coffers and stem some of the bleeding with respect to this type of betting. This does not make dog racing legal in the State, which is done in every other state that allows this type of betting. We are the only state that does not have dog racing on the pari-mutuel system. It is a simple change.

The other amendment we ask to be included is in section 6, subsection 6, paragraph (b) on page 5 of A.B. 388. It says that any rates negotiated with the Off-Track Pari-Mutuel Wagering Committee are set identically in the establishment within establishment areas. In other words, Elko would have the same rate as Las Vegas so there would be no differentiation. Technology would have the same rate. If you are using a mobile gaming device or a telephone, the

same rate would apply. This is an issue of fairness. A larger casino with mobile gaming and this ability to have a lower rate would have an advantage over a smaller casino that could not afford the technology. It is difficult for the smaller casinos in rural counties.

CHAIR CARE:

Is there no statutory definition of races? The bill strikes "races" and puts in "horse or dog races." Are you saying there is a prohibition on dog races so we need to add this language if we are talking about a race outside the State?

MR. ALONSO:

I believe they are already defined in the statute. Horse is defined and horse races are defined. We are simply adding dog.

CHAIR CARE:

Did you say the prohibition is dogs on the pari-mutuel system?

MR. ALONSO:

Correct.

CHAIR CARE:

Looking at A.B. 388, I think about the freedom of contract of properties to establish their own contract price. You say this is fairness, but if I want to negotiate a separate rate, why should I not be able to do that?

MR. ALONSO:

The tracks negotiate with the Pari-Mutuel Wagering Committee and come up with a negotiated rate. The problem is the prices of these tracks continue to go higher even though the handles are dropping. In this economy, that is a difficult thing for Nevada sports books. With respect to the actual negotiations, they are not negotiating with the individual companies; they are negotiating with our Pari-Mutuel Wagering Committee. We are saying the negotiated rate should be the same across the board. Section 6, subsection 6, paragraph (c) of A.B. 388 states,

Require the Off-Track Pari-Mutuel Wagering Committee to grant to each person licensed pursuant to this chapter to operate an off-track pari-mutuel race pool the right to receive, on a fair and equitable basis, all services concerning wagering in such a race

pool that the Committee has negotiated to bring into or provide within this State.

It is already the State mantra with respect to these negotiations.

CHAIR CARE:

I assume that section 7 in the first reprint of A.B. 388 is also yours to be consistent with section 5.

MR. ALONSO:

Correct. It is technical in nature.

CHAIR CARE:

You may want to put together a specific mock-up of an amendment to A.B. 218. Is there anyone else wishing to testify on sections 5, 6 and 7 of the former A.B. 388?

SAMUEL P. McMULLEN (TrackNet Media Group, Inc.):

TrackNet Media Group, Inc. is a disseminator of race book signals. I wish to have section 6, subsection 6, paragraph (b) deleted from any amendment proposed to A.B. 218 ([Exhibit G](#)).

There is a state-sanctioned bargaining committee, the Off-Track Pari-Mutuel Wagering Committee, put in place by statute if the Chair of the Gaming Commission activates it for the purposes of negotiating. That Committee negotiates for the entire industry, and as you have heard in section 6, subsection 6, paragraph (c) of A.B. 388, it is required to do so in a fair and equitable basis throughout the State. In fact, some of the concerns about who would be in and who would be out are managed by that bargaining process.

A history of this is important. In the old days, the track industry in Nevada was trying to make sure they had the rights to or the allowance to utilize the signal, the TV signal or the simulcast signal. That was a very important thing. In the early stages, there needed to be some additional bargaining power. Consequently, there was a need for a state-sanctioned bargaining unit. The entire sector has matured in the evidence that this bargaining process works. There is a balance in the power between the parties. Consequently, the right to bargain in a balanced, fair way and the right to negotiate are in place and working.

A certain percentage of the handle is up for distribution between the parties, either the race books themselves and/or the gaming entities in the State. A portion is shared with the simulcast. The people who own the signal own the rights to it, create it, produce it and send it out. That splits 4 to 1 in favor of the casinos. The tracks get one-fifth of the 20 percent—about 4 percent—and the other 16 percent goes to the industry. It is not unfair. It is more evidence that the process works.

Once you have created a state-sanctioned bargaining unit, you have not compelled anyone to cut a deal. You cannot do that. You have the right to contract to sell your signal on the terms and conditions you want. This statute would change that by saying you are bargaining for one rate for all circumstances. It is premature, and this issue arises because of the new technology that might be possible in terms of Internet wagering. Consequently, those regulations are in process and will be done by the Gaming Control Board and the Gaming Commission, and there will be a bargaining exercise on that. At this point, we do not know whether that will work.

First and foremost, you have to be careful about affecting someone's ability to bargain effectively for their assets and to sell those to someone else. By statute, you have to be careful anytime you interfere with the right to contract. You cannot set rates. TrackNet Media wants the ability to recognize the cost structure in the bricks-and-mortar characterization of this because beautiful and wonderful facilities make sure there is increased handle and wagering on racetrack business. The putting together of the bricks-and-mortar facility costs money. To make sure that is adequately accounted for in the bargaining process, they have given due recognition for the cost structure, the expense, the labor and everything involved. However, there are different ways to wager. Wagering through the Internet may not have the same cost structure, expense structure or labor structure as the bricks-and-mortar offering. Since there is a different structure for how this is sold and how the signal is utilized, there ought to be free and open bargaining rights to accommodate that in setting different rates.

This is TrackNet Media's position, and they are extremely concerned about this statute. If this were to happen, it may not be economical to do it in certain ways and share appropriately. Restrictions on the right to bargain and the right to contract with your own assets are something this Legislature ought to be careful about, especially when you have a state-sanctioned exercise.

Senate Committee on Judiciary  
May 20, 2009  
Page 21

The issue of rural versus others is handled by statute which says they would receive all services negotiated on a fair and equitable basis. We need to let them go through one negotiation exercise to find out if there actually is an issue. If the parties felt it was needed, that would come back to this Legislature. We request that this provision be deleted from any amendment you process to A.B. 218. It is interference with the right to contract.

SENATOR AMODEI:

What are the elements of the negotiation process?

MR. McMULLEN:

Let me walk you through it. Page 4 of A.B. 388, has a process for the Nevada Gaming Commission to appoint an Off-Track Pari-Mutuel Wagering Committee. That Committee would constitute the users of the signals, the various appointed representatives of the industry who would then sit as users of the signal and bargain as a committee with the disseminator of the racetrack industry for their signal.

SENATOR AMODEI:

Is it one industry or are they bargaining with conglomerates of race tracks?

MR. McMULLEN:

TrackNet Media is a disseminator that has the rights to 18 tracks.

SENATOR AMODEI:

There are other people like them?

MR. McMULLEN:

There are a few around.

SENATOR AMODEI:

This State entity sits down and negotiates with those folks, and they come to a conclusion regarding rates?

MR. McMULLEN:

Right. The rate is based on the share of the handle.

SENATOR AMODEI:

How do individual properties come in after that process has taken place?

Senate Committee on Judiciary  
May 20, 2009  
Page 22

MR. MCMULLEN:

What is negotiated is the share. If you take the signal, you will pay so much of your handle back. You get to keep so much, no matter where you are in the State, and you pay back a certain percentage. Around 4 percent goes to the disseminator for purposes of utilizing that signal to increase your revenues.

SENATOR AMODEI:

Is that negotiated individually?

MR. MCMULLEN:

No.

SENATOR AMODEI:

What individual negotiation is referred to in this freedom of contract? I understand the State has an entity that does this, but now we are talking about fairness to the rural issue. Do the rural guys negotiate?

MR. MCMULLEN:

No, a small casino may be treated differently than a large casino. That is not the way this works. They all take advantage of the negotiated rates that are to be fair and equitable throughout the State as per statute. There really is not an individual casino negotiating.

SENATOR AMODEI:

Is there anything you want to say to further define the differences between intrastate wagers and the use of communications technology? Is that the issue we are talking about here?

MR. MCMULLEN:

The use of the phrase communications technology is incredibly broad. It covers everything. It allows the people to argue that this would make telephone wagering in a rural location more difficult because it could be treated differently. It has not happened that way. You are right that the technology language covers the new issues arising that have a different cost structure. Consequently, that is unclear in this, but the primary issue is the future.

CHAIR CARE:

Is there any other testimony on potential amendments to A.B. 218 stemming from A.B. 388?

BILL BIBLE (President, Nevada Resort Association):

With me is Jeff Siri, President of Cal Neva in Reno. They operate extensive race and sports wagering facilities in Reno on a satellite basis throughout the State. I oppose the proposed amendment of Mr. McMullen. It is a complicated area, and there is a State association of pari-mutuel wagering books, the Nevada Pari-Mutuel Association. All books that have pari-mutuel wagering are members. They appoint a committee that negotiates with tracks out of state for the signal. The amendment they advanced was contained in section 6 of A.B. 388. This was their attempt to create fundamental fairness in pricing throughout the State. They wanted to impose that requirement themselves.

You did ask the question about interference with markets. There was one occasion when California cut off the signal because Nevada books were engaging in a practice of rebating to some of their favorite customers. From the California perspective, they were losing handles from the State of California because some of these wagers were flowing to Nevada. They wanted restrictions. I was chair of the Board at that time. The pari-mutuel tracks advanced a similar statute to what you have here that would have prohibited rebate practices so we would gain the signal and have uniformity. At the time, I testified before this Committee that I did not believe we should have statutory interference in these kinds of arrangements because of contract rights. In this case, I felt it was necessary in order to get the signal. The Legislature adopted that particular statute, and it has worked well since that time. We have not had loss of signal because of that practice.

I will ask Mr. Siri to talk about current circumstances. The signal did go down this year because there was not an agreement between the disseminators of the signal. In Nevada, there was a loss of handle and revenue, not only to the books but also to the State because of the shutdown in the signal. The matter was resolved successfully, but the Pari-Mutuel Association and the Pari-Mutuel Wagering Committee requested this legislation be enacted by the Legislature so there would be fundamental fairness in the pricing. They want to have uniform pricing among the various pari-mutuel books. Mr. Siri will address the proposed amendment by Mr. McMullen.

JEFF SIRI (President, Chief Executive Officer, Club Cal Neva, Reno):

We operate 29 race and sports books across the State of Nevada. Twenty-eight of those can accept horse wagers. Some are taken on a pari-mutuel basis and some on a nonpari-mutuel basis. When we are licensed to operate as a

pari-mutuel sports book, we have to become a member of the Nevada Pari-Mutuel Association by regulation. For us, operating smaller race books in the State is a huge benefit because we are smaller locations with smaller handles. Now we have joined a group that has large buying power, which allows us to participate at rates we would not get if we were negotiating with those tracks ourselves. All the books in Nevada participate. If we do not have the ability to have this large buying power, the rates would go up and possibly put us out of business—the pari-mutuel business—in many of these locations.

If we are not able to accept those wagers, we would lose employees along the way. We do not want to lose any staff as a result of these rates going up and not being able to participate fairly with the rest of the industry. A little place like Bodine's in Carson City does not handle much in the horse business compared to Caesar's Palace in Las Vegas. We want to compete fairly with the rest of the books throughout the State of Nevada.

CHAIR CARE:

Let us go to what was formerly A.B. 476 using A.B. 218 as a possible vehicle for an amendment. In 1997, S.B. No. 208 of the 69th Session, sometimes referred to as the Neighborhood Gaming Bill, was heard by this Committee. Senator Washington referred to a statement that S.B. No. 208 of the 69th Session was a bailout for local governments unable to make decisions on gaming development. Later, Ron Coury, the owner of the Castaways Casino, objected to a Las Vegas City Councilman requesting the State to pass legislation on matters he was elected to decide. A pass-the-buck mentality in regard to tough issues was not what the City of Las Vegas residents expected from their City Council. That was a reference to former Council member Matthew Callister.

The reason I bring this up is a few thoughts crossed my mind when I read this. These boundaries drawn by the Legislature mean something, in which case they should not be moved. Everybody knew at the time that they owned the property where they were going to go. If the property was later conveyed, the new owner took the property knowing where those lines were located. Although there may be extraordinary circumstances to move the lines, it raises the issue whether the State Legislature, going back to 1989, should get involved in what is more properly left with local planning commissions, the Clark County Commission and the Las Vegas City Council.



MARK H. FIORENTINO (Golden Nugget; Marriott International; Wynn Resorts, Ltd.): Those are two good questions, and both questions can be answered by close examination of the bill.

I was not actively involved in 1997. There were a lot of compromises and issues graced in that bill. Each of you on this Committee knows that legislation is brought up every session, and you are asked to consider changes. The easiest way to explain what we are trying to do is to show you some maps. I have circulated this small booklet of exhibits ([Exhibit H](#)).

Tab 1 lays out the basics of what the original did and why we think it should be amended. Narrowing it down to its easiest points, S.B. No. 208 of the 69th Session said if you do a new nonrestricted gaming establishment, which is a casino, you have to be in a gaming enterprise district.

The first step in the process is to place your property in a gaming enterprise district. Today, the local government decides where gaming enterprise districts are allowed. The statute gives them certain parameters in what they can and cannot do. Ultimately, the decision is left to the local governments.

When that legislation was passed, certain criteria had to be determined before a new gaming enterprise district could be established. I am summarizing; this is not a complete list. The local government had to determine if the infrastructure was adequate and if the proposed establishment would expand the job and tax base. The establishment had to be found compatible with the surrounding areas. For a subset of proposed applications, a minimum-distance requirement was created as an additional objective criterion. Under S.B. No. 208 of the 69th Session, you must be a minimum distance from a church, a school or a developed residential district.

Some areas set aside in that original bill have remained unchanged since 1997 in which the additional requirements of those minimum-distance restrictions did not apply. In other words, if you owned property, you were exempt from those minimum-distance requirements. You are not exempt from the rest of the law. You still have to go to a public hearing process, you still have to demonstrate all the other infrastructure findings, but you are not precluded from presenting an application if you are within one of those minimum-distance restrictions.

If you do nothing, the red area in Tab 1 is under today's law. The area in red is exempted from the minimum-distance requirements. It is a 3,000-foot corridor, 1,500 feet on either side of Las Vegas Boulevard, ranging from St. Rose Parkway on the south to the Stratosphere on the north. In today's law, if you are in that red area, you have to get a gaming enterprise district and go through a public hearing, but you are not subject to minimum-distance requirements. Our proposal is to add the yellow area of Tab 1, [Exhibit H](#), to that area where you are exempt from the minimum-distance requirements. You would be expanding the exempt area if you pass this language to include the yellow areas.

To show you cases of why we think that is necessary and why this is good legislation, I ask you to turn to Tab 2, [Exhibit H](#). It shows you two specific examples relating to our clients. The first page in Tab 2 shows you the Golden Nugget area in downtown Las Vegas. This is in the heart of downtown Las Vegas, and no one would argue whether this is an appropriate location for casinos. In fact, the downtown is almost exclusively developed for resort-hotel casinos. The crossedhatched area is the property Golden Nugget owns in a gaming enterprise district grandfathered in many years ago when S.B. No. 208 of the 69th Session was adopted. The yellow highlighted area is property owned by the Golden Nugget that is not in a gaming enterprise district.

The C on the Tab 2 map stands for an old church downtown which is surrounded by gaming facilities. If you do not pass the language that we have presented in [A.B. 476 \(Exhibit I\)](#), the Golden Nugget cannot even ask to add that yellow to a gaming enterprise district, precluding its plans to either redevelop or expand into that area of nonrestricted gaming.

This gets to your second question, Chair Care. Why not leave this to local governments? I am proposing that you do. If you do not adopt this legislation, we cannot even ask the local government if that yellow-colored piece of property is appropriate for gaming. We are precluded by State law from even asking the question. If you pass the legislation, we still have to go to the local government and demonstrate all those other factors. The local government can include the thoughts of the church in their decision. If they think it will negatively impact the church, they would have the authority to not approve the gaming enterprise district. By law, we do not have an opportunity to ask the question.

The second page in Tab 2, [Exhibit H](#), shows similar factual circumstances. The C in the middle of that blue circle is an old existing Catholic church on the Las Vegas Strip. Its mission is to serve people who live, work and use the casinos in that area. The C is on the north side of Desert Inn Road, east of Las Vegas Boulevard. If you go further east on the map, you will see the factual circumstances that face Marriott International. Marriott International owns all of that property outside the blue circle. Part of it is in a gaming enterprise district on the right and a gaming enterprise district on the left. The sliver in the middle, also owned by Marriott International, is not in a gaming enterprise district. Under the law, it cannot be put in a gaming enterprise district because it is within the minimum-distance restriction of the church. It makes no sense, under any circumstances, to either force Marriott International to not utilize that property to its fullest extent or to design around a situation that will not change the impact on the church because there is a project there today.

A third example is the big green area on the map which is the Wynn Golf Club. There are no plans to convert Wynn's golf course to any other use, but there might well be in the future. If you do not pass this legislation, good portions of that golf course are potentially undevelopable for resort-hotel casinos. The black and red dashed line on this map shows the outer boundary of the existing exempted area. It does not make sense that a few hundred feet away, in Marriott International and Wynn Resort's cases, you are subject to the minimum-distance restrictions, but if you are a few hundred feet closer to Las Vegas Boulevard, you are not. Those extraordinary circumstances warrant consideration and should be cleaned up, especially in today's economy. If you are looking for tools to promote new development and new growth, this is a good tool.

Why did we pick those particular lines on the first map? Why not a different set of yellow maps? They were done strategically. Going back to the first tab, everything in the yellow is master-planned under the local government's existing master plan for resort-hotel casinos. It is also almost exclusively developed with such uses. There is no residential in any of those areas. In the yellow areas between Las Vegas Boulevard and I-15, between Las Vegas Boulevard and Paradise Road north of Sands Avenue and a small portion of downtown, little residential can be impacted if you pass this legislation.

I will highlight the rest of the tabs for you. Tab 3 is law that codified the findings made when the original S.B. No. 208 of the 69th Session was passed. I

highlighted the ones pertinent today. The purpose of the bill was to promote and guide new casino development along the Las Vegas Strip. The yellow areas we presented to you fit those findings.

Tab 4 highlights how this potentially has the ability to stimulate new employment, especially construction jobs. The Assembly asked if there would be new construction jobs if we passed this bill. I cannot promise you new jobs, but I can say this is a tool to help promote and support new jobs when the market recovers. You are eliminating a hurdle that exists under law.

On the Assembly side, we spent many months prior to Session working with interested parties vetting this out. The Assembly opposed some of the areas we took out in downtown Las Vegas that did not meet the three criteria. Part of it was not master-planned for resorts. There was concern over existing residential in the areas we took out—not in the version we are asking you to approve today—of unknown impact on existing residential or historic areas. Based on the changes we made in the Assembly, the version you have was passed in the Assembly 40 to 1. It enjoyed the support of not only our clients but MGM Mirage, the Carpenters Union, the Associated General Contractors, and the Building and Construction Trades Council. To the best of my knowledge, there is no further concern regarding this bill.

SENATOR WIENER:

Was anything mentioned about schools?

MR. FIORENTINO:

Yes. If you pass this legislation, we are proposing everything in both the red and yellow, [Exhibit H](#), be exempt from the minimum-distance requirements to schools, churches and residential areas. There would still be a required hearing but no minimum-distance requirement. I will say with 85-percent certainty that there are no schools or single-family residences in the yellow areas. Condominium units along The Strip are technically residences which may be impacted.

SENATOR WIENER:

There is commercial opportunity in some of these adjacent areas for strip malls and churches. After a plan has been established for expanded opportunity in gaming, is notice given to those who may consider putting up a facility that has a minimum-distance requirement?

MR. FIORENTINO:

That is a good question with a two-part answer. In the process of getting a gaming enterprise district, there are substantial notice requirements. If you are a property owner, you would receive notice and have an opportunity to speak and express your concerns. After the application is approved and before the unit is built, signs must be posted on the property indicating approval for a resort-hotel casino, and they must remain until the project is built. The local government, whose jurisdiction is required, must adopt and update a map showing all the existing gaming enterprise districts. As a property owner, you would have those two notice opportunities if you were considering something within the affected area of an approved casino.

RICHARD PERKINS (Dr. Venkat Vangala; MW, LLC):

On the heels of Mr. Fiorentino's remarks, I propose additional areas that warrant your consideration for the gaming enterprise district. I apologize for the quality of the maps ([Exhibit J](#)). You have heard the historical background on S.B. No. 208 of the 69th Session in the 1997 debate, why that came about and what brings us here today. Since I left the Legislature, there are times when I have looked back and thought we could have done things better. This debate always comes to mind.

The policy desires of S.B. No. 208 of the 69th Session were good ones in 1997. A great deal of proliferation of gaming throughout our State and the world ended up in places where some questioned as to whether there was a compatible land use. At that point in time, the State became involved in land use decisions and created the zones we have that preclude others. There are some highlighted areas on the maps I gave you, [Exhibit J](#). One map is a larger overview similar to what Mr. Fiorentino gave you. The smaller map shows two areas: one bounded by the railroad tracks, Wyoming Avenue, Main Street and Charleston Boulevard, and the other is frontage along Las Vegas Boulevard north of New York Avenue.

The current debate underscores how difficult this is. Sometimes, we have made silly arguments saying one piece of property similarly situated to another yet not in a particular line is excluded from those potential economic development opportunities. I see no good policy to deny the inclusion of these two pieces of property, particularly given the reasons for State involvement of protecting our churches, schools and residences. As you can tell from the maps, they are close to the defined gaming enterprise districts. The particular areas are already

commercial or industrial. For those of you not familiar with that area of Las Vegas, they are not economically active. This would give us an opportunity and additional tool to continue economic development.

I understand the desire of public policy to keep unrestricted gaming and casino gaming out of undesirable areas to protect our neighborhoods. When I look at these areas, I do not see that argument come to light. I have heard there is no point in doing this because no one can get the capital to build. I am not sure when the economy will turn around, but this is talked about every Legislative Session, and rarely is there any substantive action on the expansion of the gaming enterprise districts.

The only two logical reasons to oppose this suggestion are that someone wants to maintain their ability to have their market share and squeeze someone else out of the market, or because they do not want to see someone participate who can obstruct their ability to move forward. The larger piece of property on your map is the former REI assemblage talked about years ago that went by the wayside in terms of project and proposal.

Dr. Vangala owns the Aruba Hotel on Las Vegas Boulevard. He has 100 or more rooms which need upgrading before he could qualify for the unrestricted gaming license that would accompany any particular development. He would have to satisfy all the requirements the law lays out. If it makes sense for the larger operators in our community, it certainly makes sense for the smaller ones as well. I am advocating for the smaller operations.

PILAR WEISS (Culinary Workers Union Local 226):

We testified in the Assembly on some of the original drafted language. We are supportive of A.B. 476 as it passed out of the Assembly. We oppose Mr. Perkins's amendment. Some of the area in the square he has outlined may achieve the gaming enterprise district through county application. Based on the location of our union hall and residential apartments in that area, we do not believe that piece should be put back into the gaming enterprise district. We are supportive of A.B. 476 as it came out. There were a lot of negotiations regarding the neighborhood groups, including ourselves, who would have been affected if the gaming enterprise district had been raised north of New York Avenue and up to Charleston Boulevard.

CHAIR CARE:

You can see the difficulty this raises. We have three Legislators here from northern Nevada who are not familiar with these maps and the twists and turns of Las Vegas.

MR. BIBLE:

When A.B. 476 was first proposed, we did not have any particular position on the bill. A number of amendments proposed attracted the interest of our members. Some of our member companies were involved in intense negotiations at the Assembly level. A piece of legislation emerged from the Assembly that addressed the concerns Mr. Fiorentino enumerated where the three separate properties are impacted by two churches which create a prohibition in the statute about having a gaming application in those areas. Being from southern Nevada, it makes sense to waive that distance requirement for those three particular properties. The amendment Mr. Perkins has advanced would reincorporate some of the areas excluded from the original bill as considered by the Assembly. His clients could use existing statutory procedures to qualify these areas by going through the notice requirements and local governing bodies to obtain a gaming enterprise district status because you do not have a similar impact of a church or a school in terms of the distance prohibition. We oppose the amendment suggested today.

DENNIS K. NEILANDER (Chair, State Gaming Control Board):

I have no substantive comments at this point. I am here to answer any questions the Committee may have.

CHAIR CARE:

Going back to what once was A.B. 388, whether the provision in section 6 is deleted or not, this would present no difficulties for you as a regulator?

MR. NEILANDER:

It would not. State-imposed prohibitions and structures affect the rate-negotiating process. The Gaming Commission's role is to approve the members of the Pari-Mutuel Wagering Committee. This Committee's membership is made up of large and small operators, and there are times of disagreement as to which member should be on the Pari-Mutuel Wagering Committee. The Gaming Commission resolves that, but the negotiating itself is done strictly by the Pari-Mutuel Wagering Committee pursuant to provisions in

Senate Committee on Judiciary  
May 20, 2009  
Page 32

the law, including the ones presented today. There are no regulatory concerns from our perspective.

CHAIR CARE:

Members of the Committee, let me explain how this will work. We have passed the deadline for a Committee amendment. Thus, any amendments to A.B. 218 have to be made in an individual capacity. The bill will be reported to the floor Friday morning. At that time, anybody requesting an amendment would get the proposed amendment. I may be talking to some of you on an individual basis about my ideas and thoughts. You are free to disagree or go your own way. You may be approached by people who testified on the proposed amendments this morning. The bill would have to come out of the Senate by the last agenda on Friday.

SENATOR AMODEI:

Do you have a preference on seeing if there is a consensus among the Committee members and putting all our names on it?

CHAIR CARE:

I do not mind doing that, but I would like to wait until tomorrow morning since the bill has not been reported to the floor yet. Some people would like to think this over.

We have a concur-not concur on S.B. 45.

[SENATE BILL 45 \(2nd Reprint\)](#): Revises provisions relating to certain criminal cases involving older persons and vulnerable persons. (BDR 14-262)

We will need to appoint members to a conference committee. This was the bill that Assemblywoman Kathryn McClain made reference to earlier in her testimony. We did not concur, and the Assembly did not recede. Mr. Wilkinson, please explain the differences.

BRADLEY A. WILKINSON (Chief Deputy Legislative Counsel):

The section of the bill dealing with the application of a new civil penalty for crimes against the elderly was removed from the bill at the request of the Office of the Attorney General.



Senate Committee on Judiciary  
May 20, 2009  
Page 33

CHAIR CARE:  
Was there a double jeopardy concern?

MR. WILKINSON:  
That is correct.

CHAIR CARE:  
If everybody agrees with that concern, this would be a short conference committee. Senator Copening, Senator Wiener and I will be on the committee, and I will chair.

We have a concur-not concur on S.B. 35.

[SENATE BILL 35 \(2nd Reprint\)](#): Revises provisions relating to the prosecution of certain offenses. (BDR 15-272)

This addresses dual sovereignty. The Assembly wants Nevada to adopt a dual sovereignty doctrine but only where the trial of the charge is in another country. For example, if you do something dastardly in Sri Lanka, you may still have problems in Nevada. I have received correspondence from the Office of the Attorney General stating they want us to concur because the word was "slight" achievement. It does not get them anything. My recommendation is to not concur.

SENATOR COPENING:  
Is the proposed amendment striking "state" and adding "country" or just adding "country"?

MR. WILKINSON:  
The bill, as it arrived in the Assembly, would have applied to crimes committed in other states as well as foreign countries. It was amended to allow dual prosecutions when the conviction was in a foreign country.

SENATOR AMODEI MOVED TO NOT CONCUR WITH AMENDMENT NO. 624 TO S.B. 35.

SENATOR COPENING SECONDED THE MOTION.

Senate Committee on Judiciary  
May 20, 2009  
Page 34

THE MOTION CARRIED. (SENATOR PARKS VOTED NO.)

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CHAIR CARE:

Let us move to S.B. 101 where we have a concur-not concur.

[SENATE BILL 101 \(2nd Reprint\)](#): Makes various changes relating to securities.  
(BDR 7-416)

The Assembly has doubled the periods that somebody had to be notified of the investigation. Section 9.5, subsection 2 reads, "In granting a petition to waive service upon the customer, the court shall also order the agency to notify the customer in writing within a period determined by the court, but not to exceed ... ." We put 60 days and the Assembly put 120 days. "The time of notification may be extended for additional ... ." We put 30 days and the Assembly put 60 days. This was from the version of the Uniform Securities Act adopted by Nevada that goes into securities fraud.

LINDA J. EISSMANN (Committee Policy Analyst):

My counterpart in the Assembly said the amendment was suggested by Carolyn Ellsworth at the Office of the Secretary of State in response to concerns raised by Assemblyman William Horne.

CHAIR CARE:

That does not mean we have to concur.

SENATOR AMODEI MOVED TO NOT CONCUR WITH AMENDMENT  
NO. 625 TO S.B. 101.

SENATOR WASHINGTON SECONDED THE MOTION.

CHAIR CARE:

Is there any discussion on the motion?

SENATOR COPENING:

Is this a Uniform Act?

CHAIR CARE:

It is the Uniform Securities Act. The version Nevada adopted has been revised twice since, but there is no interest by this State in adopting a more recent version.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

We have a concur-not concur on S.B. 100.

[SENATE BILL 100 \(1st Reprint\)](#): revises the provisions governing the period of revocation of a driver's license upon conviction of certain offenses involving driving under the influence. (BDR 43-342)

Was the only change the effective date?

SENATOR WIENER MOVED TO CONCUR WITH AMENDMENT NO. 633 TO S.B. 100.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

We have a recede-do not recede on A.B. 259.

[ASSEMBLY BILL 259 \(2nd Reprint\)](#): Makes various changes relating to criminal offenders. (BDR 16-631)

This is the restitution issue. Does this go to the Division of Parole and Probation where somebody who has been ordered to pay restitution has not fully paid the restitution?

Senate Committee on Judiciary  
May 20, 2009  
Page 36

Ms. EISSMANN:

Assembly Bill 259 had an amendment proposed by Mark Woods from the Division of Parole and Probation. Because it was his bill, Howard Skolnik, Director, Department of Corrections, agreed to the amendment. When the bill went over to the Assembly, we attached an amendment that allows a person on probation to earn credits toward a reduction if he pays the full amount of the restitution he owes. The Assembly's concern was if somebody is not able to pay restitution, that should not impact that person's ability to reduce the sentence.

SENATOR AMODEI MOVED TO NOT RECEDE FROM AMENDMENT NO. 578 TO A.B. 259.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senate Committee on Judiciary  
May 20, 2009  
Page 37

CHAIR CARE:

Members of the Senate Committee on Judiciary, since there is no further business, we are adjourned at 10:47 a.m.

RESPECTFULLY SUBMITTED:

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Janet Sherwood,  
Committee Secretary

APPROVED BY:

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Senator Terry Care, Chair

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