

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-third Session  
March 24, 2005**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 8 a.m. on Thursday, March 24, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4401, 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 at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Mark E. Amodei, Chair  
Senator Maurice E. Washington, Vice Chair  
Senator Mike McGinness  
Senator Dennis Nolan  
Senator Valerie Wiener  
Senator Terry Care  
Senator Steven A. Horsford

**GUEST LEGISLATORS PRESENT:**

Assemblyman Richard D. Perkins, Assembly District No. 23

**STAFF MEMBERS PRESENT:**

Nicolas Anthony, Committee Policy Analyst  
Kelly Lee, Committee Counsel  
Gale Maynard, Committee Secretary

**OTHERS PRESENT:**

Bob Atkinson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau  
Thomas N. Shaheen, Chief Executive Officer, New Mexico Lottery Authority, State of New Mexico  
E. Louis Overstreet, Executive Director, Urban Chamber of Commerce  
Dora LaGrande, Caucus of African American Nevadans

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Ana Gomez

Patti Moseley

Terry Hickman, President, Nevada State Education Association

Loretta Evenson, Nevada State Parent Teacher Association

Scott Gunn, General Manager, GTECH Holdings Corporation, California

Susan Lacey, Teacher, C. C. Meneley Elementary School, Douglas County  
School District

Sherrie Jackson, Teacher, C. C. Meneley Elementary School, Douglas County  
School District

Douglas C. Thunder, Deputy Superintendent for Administrative and Fiscal  
Services, Department of Education

Lynn P. Chapman, State Vice President, Nevada Eagle Forum

Janine Hansen, Nevada Eagle Forum

John L. Wagner, The Burke Consortium of Carson City

CHAIR AMODEI:

We will call this session of the Senate Judiciary Committee to order. The only item on the agenda today is Assembly Joint Resolution (A.J.R.) 2.

**ASSEMBLY JOINT RESOLUTION 2**: Proposes to amend Nevada Constitution to authorize Legislature to provide for statewide lottery to provide money for textbooks, classroom supplies and class-size reduction. (BDR C-1181)

NICOLAS ANTHONY (Committee Policy Analyst):

At your request, Mr. Chair, I have provided the Committee members with some general background research on lotteries (Exhibit C, original is on file at the Research Library) and specific questions posed about lotteries in other states.

Assembly Joint Resolution 2 does not specify a specific type of lottery; rather, it removes the constitutional prohibition on lotteries and dictates that later, the Legislature may authorize a specific type of lottery. There are many types of lottery games that are looped under the generic term of lottery. These include instant games such as scratches, pull tabs and various numbers games. There are lotteries, also commonly known such as the California SuperLotto Plus, where numbers are drawn weekly, sports betting lotteries operating in Oregon, keno and video lottery terminals.

Currently, 41 states plus the District of Columbia authorize state-run lotteries with 9 states banning such lotteries. Those states banning lottery are Alabama,

Alaska, Arkansas, Hawaii, Mississippi, Nevada, North Carolina, Utah and Wyoming. What is the smallest state, by population, with a self-supported lottery? Most states have a state-run independent lottery, but also participate in a multistate game. These multistate games include Mega Millions and Powerball.

North Dakota recently became the first state to join a multistate lottery without first having a game of its own. This was done to alleviate some of the start-up costs associated with a single-state lottery and to also take advantage of a larger population of potential lottery buyers.

Maine, Vermont and New Hampshire have combined to offer Tri-State Lotto. Additionally, 11 states participate in Mega Millions, and 28 states, including the District of Columbia, participate in Powerball.

States that compare in population to Nevada and participate in single-state lotteries would be Kansas, Nebraska, New Mexico and West Virginia. They all have independent state lotteries, but all participate in Powerball.

How much money is returned to the beneficiaries versus how much is eroded due to prize winnings and administrative costs? Under Tab C of [Exhibit C](#), you will find that specific figures and states varied, depending on their reporting requirements. Generally, it is thought that 50 percent of every dollar taken goes to prizes, and roughly 35 percent is returned to the beneficiary. How a beneficiary is chosen is up to each state. Approximately 15 percent is taken up by administrative costs, retailer commissions, advertising and the funding of lottery commissions.

The most profitable types of lotteries are instant games, which account for 47 percent of the money bought in. Daily numbers games account for 19 percent. Traditional state lotto games count for 13 percent, and multistate games such as Powerball are roughly 8 percent. Although Powerball and Mega Millions sometimes receive a lot of press, despite this excitement, these games, overall, are a small percentage of the lottery market.

Generally, most states manage and operate state-run lotteries through a lottery commission, usually appointed by the governor. These commissions have been formed by statute and by constitution. The governor usually appoints a number of members for various terms of office; this is how the California State Lottery Commission is set up. California put a bid out for a company to provide the

technology and chose GTECH Holdings Corporation for their video lottery terminals to sell the tickets and keep track of the numbers. As of February 28, 2004, GTECH was the largest lottery-equipment provider and serviced 27 of the 41 markets.

The Committee Chair wanted to know what percentage of profits Powerball lotteries made and what the states received in return. The Multistate Lottery Association (MUSL) was contacted, and it appears larger states do not have to pay a fee to participate in Powerball. If you are a large state, such as California, your fees are waived, but a smaller state might have to pay an administration fee of \$45,000 per year. Mr. Charles Strutt, Executive Director of MUSL, explained Powerball percentages: 50 percent goes to winnings, 35 percent goes to the state beneficiaries and 15 percent is kept by the state for administrative fees and revenues. Theoretically, Powerball works by states submitting only the winning large jackpot portion to MUSL to be paid out. Each state is responsible for paying out on the smaller prizes, and then they keep their own administrative costs down.

I researched Mega Millions, which is also a multistate game, and the figures seem to be the same as for Powerball.

CHAIR AMODEI:

Mr. Atkinson, please give us a briefing on the education-funding issue for this biennium, as a result of what was done in 2003 at the 20th Special Session.

BOB ATKINSON (Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

I was asked to provide information on what is included in the Executive Budget for kindergarten through twelfth grade (K-12) education, any new funding, and specifically, information regarding textbooks. Just to give a background, the Distributive School Account (DSA) in the Executive Budget is handled differently than any other budget account. It is only there as a funding mechanism to provide the State portion of the K-12 funding. It does not attempt to show the entire budgets for the K-12 education system. It is based on the entire budgets of the K-12 education system, and the Executive Budget anticipates the total school district budgets for the upcoming biennium will be \$2.5 to \$2.6 billion each year. This number does not include capital projects, debt service funds or special revenue funds, this is their operating budget.

There are three major components to this, the first being local revenues outside of the DSA that are not guaranteed by the State. These are local revenues, primarily coming from the local government services tax and the 50-cent property tax, that account for approximately 25 percent of the total funding support for the school districts. These revenues are not included in the Executive Budget.

The second portion of the funding mechanism is the local revenues inside the Nevada Plan, the 25-cent portion of the property tax and the Local School Support Tax (LSST), which account for about 44 percent of the total funding. Again, this is not included in the Executive Budget, but it is guaranteed by the State, and if these projected revenues fall short, the State makes up the difference. If the revenues come in higher than projected, this reduces the amount required to be funded by the State.

The final portion of this is the State's share, supported by General Fund slot tax, out-of-state LSST. This is what is included in the Executive Budget as the DSA. In the case of the upcoming biennium, this is about \$1 billion each year and the portion guaranteed by the State.

The previous two items I discussed, the local revenues inside and the State's portion, are what make up the basic support guarantee that is talked about during Session. With this in mind, we next talk about the new things included in the budget, meaning the budget is built based on the actual fiscal year (FY) 2004 expenditures in the school districts and then dispersed for various items based on expanded populations and other things we refer to as maintenance items.

MR. ATKINSON:

Enrollment projections show an increase of approximately 35,000 students over the upcoming biennium, taking the total student population to about 422,000, giving us a 9-percent increase. The cost of this increase is about \$98 million the first year and about \$180 million the second year. This will not be new funding; this is providing the same services to the expanded population that we provided in the current biennium.

The Governor's budget includes a 2-percent roll-up of salary costs to cover the movement on scale. As the years go by and personnel get in more years of service, they will be entitled to move over a salary schedule. Again, this

increases the size of the budget, but not necessarily new funding. It is providing the same services provided previously.

The Governor's budget also includes a 2-percent cost-of-living increase for school district personnel as well as State employees. The cost will be \$41 million for the first year and \$86 million the second year. Again, this does not allow for any expanded programs; this only funds the same personnel and gives them a cost-of-living increase.

MR. ATKINSON:

The Executive Budget, through an amendment, includes provisions for inflation in utilities: 4 percent for electricity and 8 percent for natural gas. The cost for this is about \$2.5 million the first year and \$4.5 million the second year. These are maintenance items and continue the ongoing programs. The \$2.5 million I referenced is about a 16-percent increase from the current biennium. This is based on the increases I have previously mentioned and not on increases that would lead to new programs.

In the Governor's State of the State Address, you heard mention of a recommendation of \$50 million each year into a new remediation trust fund. You will not find this in the DSA Executive Budget account, but in a separate account. This does not increase the operating budgets of the districts in that it is set up for a specific purpose. It is for remediation of schools that are not meeting the adequate yearly progress dictated by the No Child Left Behind Act. We build the budget based on the individual line items expended in 2004 by the districts. This is how the amount is constructed.

When the Legislature approves the budget, it approves the funding for one block of money. The Legislature will establish the minimum level of funding that will be provided, and once established, the local school boards establish the expenditures from this money. The 2003 Legislature approved a restriction on the three line items budgeted for textbooks, instructional supplies and instructional hardware. The amount built into the budget for these items had to be spent on a combination of those three items.

When the budget is approved, there are basically two buckets of money. One bucket involves textbooks, instructional supplies and instructional hardware. The other involves everything else.

The amount allocated for textbooks, instructional supplies and instructional hardware is \$64 million the first year and \$67 million the second year. Based on the actual per-pupil expenditures in 2004, when we look at these amounts in the upcoming biennium, it is about \$87 million the first year and \$90 million the second year. The 2004 budget for textbooks was built at about \$62 to \$63 per pupil. The districts actually spent \$74, and this figure is carried over into the next biennium. In both these cases, 20 percent more was spent out of budget than the line item allocation built into their budget. This was allowed because they are given the bucket money, and they determine the expenditures.

As I understand in the bill, the other use could be for class-size reduction. The only thing to be pointed out on this is about 15 years ago, when a class-size-reduction program was established, the goal was to fund Grades 1 through 3 at a ratio of 15 students to 1 teacher, and we have not done this. We have funded Grades 1 and 2 at a 16-to-1 ratio and Grade 3 at a 19-to-1 ratio. A calculation was done of what it would take to change this back to a 15-to-1 ratio for Grades 1 through 3, and it would cost approximately \$35 to \$38 million per year.

CHAIR AMODEI:

Mr. Atkinson, I would like for you to stay, so we may possibly hear more testimony from you later.

ASSEMBLYMAN RICHARD D. PERKINS (Assembly District No. 23):

I present and share my support for Assembly Joint Resolution 2. As the interim chair of the Assembly Committee on Education, I have seen many classrooms across this great State and find crisis in our schools. I will read from my prepared statement ([Exhibit D](#)).

I actually had a prop in the Assembly Committee that was a Nevada history textbook used here, in a Carson City middle school. The cover was falling off the 1998 textbook, and the last-mentioned Governor of the State was Bob Miller. There were no current events to learn about in that history book.

Some concerns were raised in both Houses, and I would like to address those issues briefly. One concern was the lack of detail in A.J.R. 2, creating an uncertainty on how a lottery would be run in Nevada. The reason for the drafted language in the resolution is because it amends the *Constitution of the State of Nevada*. The Constitution is the document that governs us and government.

I wanted to keep it simple. This amendment to the Constitution would simply repeal the prohibition of operating a lottery in Nevada. It does not mandate a lottery occur, but rather that future Legislatures, under various situations, may determine a lottery is not appropriate; however, I think it is today.

If this Committee feels the details of a lottery are necessary now, and without them the constitutional amendment would be in jeopardy, I stand ready and glad to work with you to produce an amendment to this resolution. The real issue is the repeal of the prohibition. I have faith in future Legislatures to put the structure in place, and if this Committee and others do not share this faith, again, I will be glad to work with you on those details.

Concerns were also raised that the lottery preys on the poor. A *Washington Post* survey showed that middle-income Americans are the most likely to play the lottery. Two out of three Americans with household incomes between \$25,000 and \$45,000 per year will play the lottery at least once per year. Americans earning \$45,000 to \$65,000 per year play more often. In that group, three or four play occasionally, while one-third will wager once per month. A 1999 Gallup Poll on gambling in America showed 57 percent of adults had bought a lottery ticket in the previous 12 months, and those with incomes ranging from \$45,000 to \$75,000 were most likely to play. Those with incomes less than \$25,000 were least likely to play.

The argument, to me, for Nevada is that virtually every convenience store in the State has some sort of gaming device, where someone of any income can gamble their money. There is also a concern raised about money being taken away from the gaming industry. At one time, Nevada was the only state in the country with legalized gaming. This is not the situation anymore. In fact, the operators in Nevada coexist with the lottery in many other states. The lottery and gaming industries have found ways to coexist and co-market their products.

As you have already heard from Mr. Anthony's testimony, we are one of nine states in the country that do not have a lottery. Besides this fact, Nevadans are still buying lottery tickets; they are buying them just outside of Reno or Primm, and they are paying for California students' textbooks instead of ours.

I will point out the short provisions in A.J.R. 2. On page 2, the old Section 24 of the Constitution, on lines 4 through 6, the prohibition to the lottery has been



stricken. Then, there is language that authorizes the Legislature to create a lottery. Going back to competition with the gaming industry, the new Section 24 of the Constitution, subsection 1, paragraph (a), would state, "Determine the appropriate manner of operation of the lottery, other than the use of video lottery terminals or similar type of machines."

This language was used, on purpose, to get away from direct competition or the appearance of direct competition with the video lottery terminals, which are very popular in many other states.

The money will be earmarked toward textbooks, classroom supplies and materials, and reduction of class sizes. The information we have received from many of our constituents and others indicated if a lottery were to occur in Nevada, there needed to be some accountability. They had to have some assurance as to where the money was going, and it seemed to be a high priority. It would provide a dedicated and directed funding source. Mr. Atkinson spoke of how much money goes to education for textbooks. This money is not enough, but is some that is being spent. We will not have to continue to look for monies in our General Fund for textbooks if a lottery is passed in Nevada, because proceeds will be dedicated and directed, and will not be subject to the arm-twisting and wrangling that goes on during the 120-day Legislature in Carson City every other year. This will provide some assurance that our students will actually have the tools to accomplish the high standards we have set out for them in Nevada.

CHAIR AMODEI:

Committee members, do you have any questions? In a general sense, do we have any information on what type of budget range this would bring if we eventually got into this? What are we looking at as a supplement for budgeting from the State source for these purposes?

ASSEMBLYMAN PERKINS:

There was an analysis done last Session by our Fiscal Analysis Division that showed \$40 million to \$50 million in revenue in the first year of the lottery in Nevada. There are a number of variables, including whether or not you have a multistate arrangement. The different types of games that could be played are various. There was an outside firm that provided a similar analysis and came up with like numbers. We believe it will be \$40 million to start and will grow over time with the State's population.

CHAIR AMODEI:

If this were to pass this Session and this language was removed from the Constitution, can you give me a time frame of how you get from constitutional removal to having the lottery up and running to an actual cash flow?

ASSEMBLYMAN PERKINS:

As you are aware, amendments to our Constitution are somewhat of a lengthy process. It would need to pass this Session, the 2007 Legislative Session and then be placed in front of the voters in 2008. The lottery option would be available to the 2009 Legislature for the creation of a lottery. At that point, I would suspect, it would take some months to take effect; probably by January of 2010 there would be an actual, operating lottery in this State.

CHAIR AMODEI:

Are there any other questions? Senator Horsford, if you will step forward.

SENATOR STEVEN A. HORSFORD (Clark County Senatorial District No. 4):

I am providing testimony in support of A.J.R. 2. As Assemblyman Perkins has already explained, there is clearly a need to provide increased funding for education that directly improves student achievement by ensuring every child has the textbooks to learn, class sizes are manageable and educational supplies are available, so teachers do not have to dig into their own pockets for paper, pencils and other basic supplies. Why is a state lottery a good solution to address the funding need of public education? This is the question this Committee is charged with evaluating.

There is overwhelming public support for creating a state lottery. During my campaign for the State Senate, I asked the constituents in my district what issues they wanted addressed. One of the issues that came up time and time again is why does Nevada not have a lottery? And if one was created, why would we not dedicate the money to education, as it is done in most other states? This is an example of the broad-based support regularly reported that shows more than 73 percent of those polled in Nevada support creating a lottery.

Why is a state lottery a good solution to help fund our children's education? Because of the five western states that have lotteries, Arizona, California, Idaho, Oregon and Washington, four of them earmark all or some of the state lottery profits to public schools. Many of these states have experienced some of

the same challenges our State faces in properly funding education and identifying resources that make sense in the long term. A state lottery would help us improve the dismal statistics that currently plague Nevada's public educational system.

Why does a State lottery make sense for Nevada? Forty-one states and Washington, D.C., have lotteries. Most of these states enacted their lotteries by a vote of the people, and that is what A.J.R. 2 does. It proposes to change the Constitution to allow for a lottery with approval by the voters. Nevada has always led the country as the premier destination for gaming. Nevada citizens and tourists alike make haste to the borders of Arizona and California to buy lottery tickets that benefit public education in those states. Why would we not put the choice of a lottery in the hands of the voters, especially when Nevada's children would benefit by the profits being used for textbooks and improving class-size ratios in our schools?

Assembly Joint Resolution 2 is the first step in a long-term attempt at identifying funding opportunities for our schools' burgeoning populations. In the Clark County School District, there are over 280,000 students enrolled in K-12. By 2014, this number will increase drastically to 444,000; this is an additional 100,063 students. As Legislators, we have a constitutional requirement to fund public education in this State. How can we honestly say we can meet this requirement if we do not start identifying ways to fund education in the future?

Assembly Joint Resolution 2 is not the only solution, but it is part of the answer in funding textbooks, class size reduction and school supplies. This funding will supplement and not supplant current financial support.

Mr. Chair, this is my statement. When I was campaigning, my constituents requested I find a way to improve our schools. As a parent with a four-year-old and a two-year-old, I am concerned about the quality of the education they are to receive. I benefited greatly from the education I received in Nevada; I am here partly because of it. I am concerned if we do not start to find ways now to improve funding in the future, our children are going to lose. This bill is one way which demonstrates we are looking for a means to adequately fund education.

CHAIR AMODEI:

Are there any questions for Senator Horsford from the Committee?

SENATOR NOLAN:

Do we know how many Nevada residents purchase lottery tickets from California with the Primm lottery or other neighboring states? Do they track how many residents from Nevada buy tickets?

SENATOR HORSFORD:

I am not aware if they track this or not, but according to a spokesman from the California lottery, the two highest-volume retail outlets are located on the state border of Nevada. Primm Valley Lotto Store is located on Interstate 15, and in FY 2004, they had sales grossing \$7.8 million in lottery tickets. The Gold Ranch Lottery, located at Floriston, California, just off Interstate 80, had revenue in FY2004 of \$5 million. Clearly, these locations are directly on the border of Nevada. Most of us have seen the news accounts when the lottery became high; there were lines, and the highway was packed with Nevada residents driving to these locations to purchase lottery tickets. If this is any indication, there is enormous support from Nevadans to buy them.

SENATOR NOLAN:

I understand those interstates are the two most-traveled highways by tourists coming into Nevada, and these lottery stations more easily facilitate people who are coming in to the State. I agree there are a lot of Nevadans buying tickets. I just wanted to know if a tracking system was kept of what residency was buying lottery tickets.

SENATOR HORSFORD:

I do not have the answer to that particular question. There are two things. One is with the changing demographics of people moving to Nevada from many other states, most of which have lotteries, they are accustomed to buying lottery tickets. These may be people who may not like other forms of gaming, but they like lotteries, and they are buying lottery tickets. Unfortunately, they cannot do this in Nevada, and this is an important issue to note. The other point is we had 55 million tourists who came to Nevada last year alone. With in-state population growth and the changing demographics, as well as the number of tourists entering Nevada, we have an awesome opportunity to participate and make our form of lottery the biggest in the country.

SENATOR NOLAN:

I do not disagree that we have to find innovative ways to better fund education. I, too, have children who are attending public schools and would like to see the

State do a much better job of getting off the bottom of the list. My concern with the lottery proposition is that it has been presented in the past, and there is the potential of robbing Peter to pay Paul. Information raised by the gaming industry indicates the potential to take from the same market dollar that currently goes to fund the General Fund and draw revenue otherwise available from people who invest in playing games. Thus, we could lose money we receive in gaming revenues and supplant it by lottery-ticket revenue.

I am interested in seeing evidence that will tell us otherwise. Will you share your thoughts with me?

SENATOR HORSFORD:

Clearly, there are arguments that some companies feel that a lottery will take market share. Most people I spoke with, who want to purchase lottery tickets, do not gamble now. They do not go into neighborhood casinos or on The Strip, but they are prohibited in buying lottery tickets. The way this resolution is proposed would have the lottery revenue dedicated to education, which would increase the interest. We have a burden to show there is a new market of those who would purchase lottery tickets and yet not entertain other forms of gaming. The opponents making those charges need to demonstrate how they are going to lose market share. The larger issue for this Legislature to balance in the end is whether this outweighs our children's education. Is market share more important than our children's education? This is something we all have to answer.

CHAIR AMODEI:

Has anyone who is affiliated with this resolution done an analysis of what the better deal would be for the State General Fund? We receive monies through the existing nonrestricted gaming, and this is where part of our education funding comes from. Do we have a feel for what would provide more money to the State of Nevada? Would a lottery be a more profitable form of revenue source in a tax structure, or would nonrestricted gaming and Strip-style things yield about the same?

SENATOR HORSFORD:

I am not aware of such an evaluation, but the existing gaming companies and the revenues that come from those approved licenses are not going to change with A.J.R. 2. This bill is just to put a lottery to a vote by the people to allow for it. The mechanics of how it is implemented, who participates, and how

details are still being evaluated. I have made an effort to reach out and ask those questions and what are some of the issues. As we are working to implement the solution in the long term, we will be able to address some of these concerns. To answer your question, specifically, I do not have an analysis between gaming and how much revenue it brings in now, as opposed to what a lottery would do. I see A.J.R. 2 as a complement to what we have in our existing gaming structure and the revenue it brings. The lottery is voluntary and will allow us to earmark that funding specifically for education.

CHAIR AMODEI:

The bill states one of the things it will do is to supplement and not supplant various areas, and one is reduction of class sizes. I understand there is a proposal in the Governor's budget to allow flexibility for class sizes. If money is fenced off for class size, do you see this working in the present statutory climate? How does that money, in your view, go towards class size in either one of those instances?

SENATOR HORSFORD:

Under the new section 24, lines 26 through 28 of the bill, it specifically says the money would be used for "(1) Textbooks; (2) Classroom supplies and materials; (3) The reduction of class sizes." What this means to me is that it is permissive, but required for all three. If the Governor's proposal to provide flexibility for class size is passed, and as the districts implement this, if there is revenue to address class size, then this language permits a greater portion of the funding to go towards textbooks, class size reduction and supplies. Based upon the districts, if this is where the needs are, then this is where we need to put the resources. As Assemblyman Perkins said, there are schools that do not have textbooks, and children are not able to do their homework with their parents because of this.

The Legislature has tried to provide funding, but it is not enough. This resolution allows for those three items, specifically, but by having the word "and," it ensures all three are addressed equally.

CHAIR AMODEI:

I know Mr. Atkinson testified on what the State has done in fencing off money for textbooks and supplies. Do you have any information or a feel for what

portion of other sources, coming locally from the districts, is used to fund those areas, or are the districts looking strictly for the funding of those items from the State?

SENATOR HORSFORD:

I do not know. I have asked some of those questions as a member of the Senate Committee on Human Resources and Education. A presentation was done on the textbook issue and the need for additional funding for textbooks, but I have not received this information back.

CHAIR AMODEI:

As Mr. Atkinson has indicated, funding for education is not the exclusive province of the State. If anyone who will be speaking knows what portion of their district's funding is dedicated to the textbooks, this will be helpful to know whether the whole responsibility is placed upon the State or if there is a collaborative effort to use funds from multiple sources. Are there any other questions? Senator Horsford, you have a list of people who are ready to testify. Is there any specific order in which you wish for them to speak?

SENATOR HORSFORD:

The individuals from New Mexico should speak next, then the testifiers in Las Vegas.

THOMAS N. SHAHEEN (Chief Executive Officer, New Mexico Lottery Authority, State of New Mexico):

I have been in this industry for 18 years and was instrumental in the startup of the Florida, Georgia and Texas lotteries. Both Florida and Georgia are educational lotteries, and I believe Texas, now, has an educational component to its lottery. I have been Chief Executive for the New Mexico Lottery for the past five years, and this lottery is an education lottery.

I will speak primarily today about the New Mexico Lottery and its educational program. The New Mexico lottery began in 1996, and the funds were originally dispersed for capital outlay projects and the Lottery Success Scholarships. Over time, the scholarship program reached such a demand that the Legislature went back in 2000 and changed the program to make all the funds available for Lottery Success Scholarships, and other ways were found to fund the capital outlay projects.

New Mexico is slightly smaller than Nevada. Our population is approximately 1.9 million. We have three major areas of population: Las Cruces, Santa Fe and Albuquerque; these areas account for over 1 million of our population, and throughout the remaining parts of the state, there are only about 900,000 people.

Our scholarship program has been extremely successful and very similar to the Millennium Scholarship in Nevada, although our requirements are slightly different. The key to the success of the lottery has been this scholarship program. It is well known throughout the state of New Mexico how the funds are distributed from the proceeds of lottery sales.

We reached the \$200-million mark in return to education, and we went to various stores around the state to speak to people and heard why they play the lottery. I was surprised to hear some people say they did not care if they won or lost because they knew it was going toward scholarships. They recount the stories of how their children and others whom they have known have been in the scholarship program. In over nine years, this program has touched almost everybody in New Mexico. Currently, there are 32,000 students who qualify, and this is a big number for New Mexico. By the end of spring, there will be about 35,000.

The University of New Mexico and New Mexico State, our two major universities, have both indicated the dropout rate has decreased and the completion rate has increased as a result of the scholarship program. I have a short video to present about students who have graduated from New Mexico colleges ([Exhibit E](#), original is on file at the Research Library).

CHAIR AMODEI:

We will view it, but are there any questions from the Committee?

SENATOR NOLAN:

What other gaming existed in New Mexico in 1996, when you instituted the lottery?

MR. SHAHEEN:

Tribal casinos were in existence at the time and had Class 3 gaming. We currently have 18 tribal casinos and 3 state casinos in New Mexico.



SENATOR NOLAN:

Does the state monitor the revenues received by those casinos, and what level of shared funding is received from state gaming revenues with Tribal casinos?

MR. SHAHEEN:

I am not an expert in that area. I do know we have the New Mexico Gaming Control Board that is a liaison between the State of New Mexico and tribal casinos. Through the papers, I know the returns to the state are supposed to be 8 percent of the net win. There has been some concern that the full 8 percent is not being received.

SENATOR NOLAN:

There is a difference between possibly getting 8 percent from tribal gaming and not knowing what 8 percent is. In a gaming environment such as ours, the major portion of our State General Fund is received from gaming revenue and it is known, almost to the quarter, where it is coming from. We are trying to make the best analysis whether we will detract monies away from current revenue by setting up a lottery. Was this, at any time, a concern and was there any impact on other types of gaming in New Mexico you could share with other states?

MR. SHAHEEN:

New Mexico is the one state where I had not participated in the lottery startup. I came to New Mexico in 2000. To put it into perspective, the New Mexico Lottery returned \$35.9 million to the educational program last year, and I believe, the combined casinos returned about \$38 million.

SENATOR NOLAN:

I was concerned if the projection marks were made.

SENATOR MCGINNESS:

Was \$200 million the gross number?

MR. SHAHEEN:

That return-to-education figure was from inception to February, 2004.

Senator McGinness:

You mentioned that \$35 million went to education. How did you figure what percent of the gross went toward education?

MR. SHAHEEN:

That \$35.9 million figure is approximately 25 percent of our gross sales for last year. I heard a gentlemen speak earlier of the 35 percent that most lotteries return. That number was used years ago, when lotteries in Florida started up in the mid-eighties. The average return now is around 30 percent. There are states who do return 35 percent, but several issues affect this. Retailer commissions are increasing, and they have felt over the years that an increase was needed for the work they are doing. For example, the last two states to begin lotteries were South Carolina, which pays its retailers 7 percent, and Tennessee, which pays its retailers 6.5 percent.

When that 35-percent number was being used, retailers were paid between 3 and 5 percent. For smaller states, there are vendor fees; your online-gaming supplier fees are higher because your gross sales are going to be smaller. In order for them to make a profit, their fees are going to be slightly higher. We pay a high fee in New Mexico which we have worked down over the years and hope to work further down the next time we bid.

When you say 35 percent and 50 percent in prizes, 50 percent is a gauge. I do not know too many lotteries paying 50 percent anymore. Most of them are paying 55 to 60 percent, and in the state of Massachusetts, they are paying 75-percent average in prizes. To say 35 percent would go toward your educational causes would be misleading for a state this size. What you have to focus on is the dollar amount return you are going to get. Very often, people focus on percentage; when I came to New Mexico, that was all anyone focused on. It was about 19 percent when I first arrived, and now it is at 25 percent, but we have gone from returning about \$18 million to \$19 million per year to last year's \$35.6 million.

SENATOR CARE:

I picked up a 2004 or 2005 article written by Colleen Heild, journal investigative reporter, and it might be the *Albuquerque Journal*. One of the things discussed in the article, "Seven Years of Continuous Growth," is the growth in the sale of lottery tickets. What is the operation in New Mexico for getting the word out for the lottery? Are there television or radio advertisements, or do people just know about the lottery by walking into a store and seeing a display? How do you have several continuous years of growth? Is there some sort of aggressive advertising?

MR. SHAHEEN:

Yes, Senator, that is seven years since the lottery first started. Georgia and New Mexico have done it, but we are not going to make our \$8 million this year because Powerball jackpot has been low. We do our share of advertising and spend about 1.8 percent of our budget on advertising. Since I have been there over the five to seven years, sales increases have occurred, but it is due to the fact that the citizens in New Mexico believe in the lottery. Not everyone is for the lottery, but those who are against it are not vocal, publicly. They have seen the money go towards scholarships, have been touched by it, and someone they know has received a scholarship through it. People in New Mexico know where the dollars go.

We spend a lot of our advertising dollars promoting the benefits of where the money goes. I have been other places; in the first year in Florida, there was a situation where lottery proceeds supplanted other educational funding and became a big deal. It took many years for the State of Florida to recover from this because the citizens thought the money was going to be an addition to what was budgeted for education, and come to find out, it was supplanted. I do not know of any start-up lottery that has made the same mistakes as Florida.

When you talk integrity of the lottery, most people think of the games, where it is fair and everyone gets an equal chance. The drawings need to be fair. There are two sides of integrity in the lottery industry. It is not just the games and drawings, but the integrity of distributing the proceeds properly and to where you said you were going to distribute them. This is a vital element to the integrity of the lottery that a lot of lotteries and people overlook because the integrity concern is on the computer systems, scratch-off games and security. This is a part of it, but the other piece is the integrity of the funding.

SENATOR CARE:

Commercial implies radio and television. If you could, elaborate on what kind of media or advertising campaigns are conducted and what times during the day these advertisements are run.

MR. SHAHEEN:

The New Mexico Lottery is set up as an instrumentality of the state and separate from the state. There is close legislative oversight and we report to the Legislative Finance Committee, who also oversees how we advertise. The strategy that works best is to focus on the benefits of the lottery. Most of our

television advertising throughout the year is either on the benefits or compulsive gambling spots, and also, introduction of a new computerized game. All of our instant scratch-off games are seldom done by television, maybe once or twice a year, otherwise, we use radio as our primary means. With instant tickets we do some newspapers, but on a small scale, and we use billboards for Powerball.

CHAIR AMODEI:

You indicated some association with other state lotteries. Can you share with us what your experience has been in terms of market analysis performed in those states to make a decision in starting up a lottery?

MR. SHAHEEN:

I do not have the specifics, but most of the analysis done was by people who were not a part of the lottery. I do know that both Florida and Georgia had favorable passing of legislation, but we did have some problems in Georgia with the religious groups.

CHAIR AMODEI:

I want you to understand my question. Before you open a hamburger stand, you want to make sure there are people to support the business. A number was heard earlier in testimony of \$40 million and if this option is available in the Silver State. Do you have any opinion, based on your experience, whether you think this number is a good number for Nevada? How would you determine this number is reliable before the investment in the infrastructure?

MR. SHAHEEN:

Your number of between \$40 million and \$50 million seems reasonable, based on the population of Nevada. It seems reasonable based on the population of New Mexico at 1.8-million people and returns of \$35.9 million in lottery sales.

All the lottery systems I have worked with did some precursory research among players to determine how much they are going to support a lottery, and then when it gets down to brass tacks of how many times they actually buy tickets. You usually come up with different numbers.

The lottery industry is strange. The numbers given could turn out to be low for Nevada. As an example, the Georgia lottery began in 1993 with a population player base of 6.4 million, and the anticipated gross sales for that lottery, in the first year, were \$500 million with an anticipated return of 30 percent. In the

first year, the lottery sales were over \$1 billion, so it was double what was forecasted. Since that time, it has grown to be a \$2.7-billion lottery, but also, take into account the population growth, over the time period, to 8.1 million. No one can be absolutely sure. The best anyone can do is statistical analysis based on demographics, compare it to other states and come in with a medium range of what your return can be. The \$40-million projection could turn out to be a low figure.

CHAIR AMODEI:

In your experience, if someone performs an analysis for Nevada, with the premise that one of the relevant things to consider is the presence of the casino gaming industry in Las Vegas and The Strip or downtown Reno, do you think this would have an impact on play?

MR. SHAHEEN:

Yes, you do have a unique situation in Nevada. Although other states do have casinos, maybe not to the degree of Nevada, what you need to focus on is what the citizens of Nevada are going to do, as opposed to what the tourists will do. They are the ones who live here and will buy the bulk of the lottery tickets. Most of the tourists who come to Nevada have lotteries in their own states. Will tourists buy them, sure. If you are a part of a multistate game such as Mega Millions or Powerball, everyone here is going to buy a ticket. It does not matter if a person made \$20,000 or \$1 million per year, they will start buying lottery tickets at the megabucks level. The casino industry will have an effect; I would not focus on tourists, but the local population.

CHAIR AMODEI:

Is New Mexico a single-state lottery or a member of a multistate lottery? Could you give us some idea as to how your affiliations work?

MR. SHAHEEN:

We are a separate, single-state lottery. Those other multimillion lotteries such as Powerball and Mega Millions are not lotteries. They are just a group of lotteries working together to have a jackpot large enough to attract players into playing. Those multimillion-dollar games are run by a staff, which manages the games for all the states. As Chief Executive Officer of the New Mexico Lottery, I am one member on the board of directors of Powerball, as is every other lottery

director, and any decision made is done by the entire group. We have an instant ticket scratch-off game, daily 3- and 5-digit games and our big game is Powerball.

CHAIR AMODEI:

Can you describe your organization in New Mexico? In Nevada, we have a Department of Taxation and State Gaming Control Board. Are you a separate entity charged with operating the lottery? Who do you work for?

MR. SHAHEEN:

We are separate and apart from the state and have a seven-member board of directors appointed by the governor and confirmed by the senate. We receive no state funding; we do our own procurement and advertising. We have our own human resources. We can be sued if there is an issue with a lottery prize; the state is not involved in that. We have oversight by the Legislative Finance Committee, which can call on me or any member of the board at any time, and we report annually.

CHAIR AMODEI:

Are you or your outlets subject to investigation before sitting on the board? Describe to me the enforcement procedures in New Mexico for the integrity of your operation.

MR. SHAHEEN:

A good part of the background investigation is spelled out in our New Mexico Lottery Act. I or anyone considered executive level or a member of our security staff have to go through a full, detailed background investigation. For retailers, there is a financial credit check and criminal background investigation before they are approved.

CHAIR AMODEI:

Is this similar to what you have experienced in the other states you have been affiliated with?

MR. SHAHEEN:

Yes, but not to this degree, because I was at a lower level position in some of the other states. In Florida, I started delivering tickets out of the back of a van,

and my investigation was limited to a criminal and financial check. After joining the Texas lottery, where I was considered executive level, I went through a full background investigation.

CHAIR AMODEI:

Do you have any data that supports your program in New Mexico in terms of job and property tax generation? Obviously, the gaming and casino industry in Nevada is the largest contributor to the economy. Six out of the top ten property tax payers in the State are gaming entities. With the operation of a lottery, there are property-tax issues along with direct and indirect consequences to the economy. Can you describe what the direct or indirect benefit has been to the economy in New Mexico?

MR. SHAHEEN:

I can talk only to the degree of jobs created and the income stream created for our retailers. We have approximately 1,200 retailers, and that is about one retailer for every 1,500 persons. I do not have specifics, but some retailers feel it has increased their revenue streams considerably. Others mention moderate increases, while some say no increases have been seen. What it has increased is the foot traffic in the stores, which allows them the opportunity to sell other products to people who otherwise might not have come into the stores. For the vendors, we may have created about 35 to 40 jobs. It is not a significant number. With our lottery operation, we only have about 60 employees in order to maintain costs. As far as job creation, in total it is about 100 to 125 jobs. For the retailers, what it does is put cash into the hands of the players when they collect on their prizes which allows the retailers the possibility of selling other products in their stores.

CHAIR AMODEI:

If there are no other questions for Mr. Shaheen, we will go to the video of [Exhibit E](#).

MR. SHAHEEN:

The persons on the video were not scripted. Often, I question whether the lottery is the right thing to do. When I see the results, I know it is the right thing to do.

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E. LOUIS OVERSTREET (Executive Director, Urban Chamber of Commerce):  
With me is the president of the Urban Chamber of Commerce, Hannah Brown.  
I have a written statement supporting A.J.R. 2 ([Exhibit F](#)).

DORA LAGRANDE (Caucus of African American Nevadans):  
I am here in support of A.J.R. 2, and I have written testimony ([Exhibit G](#)).

CHAIR AMODEI:  
Are there any questions from the Committee?

SENATOR WASHINGTON:  
We look at this legislation to repeal the constitutional amendment on lotteries.  
There is also an amendment in the Constitution that states we will not have  
a personal State income tax. Would anyone from the Chamber or any other  
individual be willing to repeal that provision of our Constitution and implement  
a personal State income tax for the purpose of education, books, supplies and  
equipment, as opposed to instituting a lottery?

MR. OVERSTREET:  
We have not researched that issue, but at the present time, this is not  
a preferred alternative for raising additional funds.

SENATOR WASHINGTON:  
I am asking you if you would support a personal State income tax.

MR. OVERSTREET:  
No, not at this time. We have not taken a position and would have to go before  
our board. Our board has taken a position on the lottery; we have not taken  
a position on State income tax.

SENATOR WASHINGTON:  
Personally, would you support repealing the constitutional amendment and  
implementing a personal income tax to be earmarked for education?

MR. OVERSTREET:  
Personally, no I would not.

CHAIR AMODEI:  
Are there any other questions?



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ANA GOMEZ:

I am in support of the bill A.J.R. 2; I will read from my written testimony ([Exhibit H](#)).

PATTI MOSELEY:

I am here as a concerned parent. I support A.J.R. 2 and have a written statement ([Exhibit I](#)). When we all were in school, I am sure many of you remember we all had books. I do not know how we got to the situation we are in today, and I think it is a crime. We are going to see more and more children dropping out of school, not getting general equivalency diplomas and not going on to college. Is this what we want for the future of our children? Do we want them not to be successful? We are setting them up for failure; we must stop this now.

SENATOR WASHINGTON:

Would you support an effort to repeal the constitutional amendment on personal or State income tax?

Ms. MOSELEY:

No, I would not.

SENATOR WASHINGTON:

Would you support the effort to take the \$300-million surplus we currently have and earmark \$50 million of this money to fund textbooks, supplies and materials, and reduce classroom size?

Ms. MOSELEY:

Would I be interested in having something done in a more timely fashion? Do I want to wait until 2010 for this to happen? Absolutely not, especially if we could come up with some better ideas, but I believe the lottery is the answer as long as it is saying directly that those supplies and textbooks will go to our children. This is not going to affect my children; they are going on to college. This is going to affect my grandchildren and your grandchildren. We have to do something for their future. We should be ashamed at how our children are averaged against the rest of the nation. This concerns me.

SENATOR WASHINGTON:

I appreciate your answer. You do not support a personal income tax, but would you be willing to earmark \$50 million of the \$300-million surplus to deal with books and supplies and materials needed in our educational system.

MS. MOSELEY:

I have not given this any thought prior to your bringing it up to me today. It might be something I can address at a later time. Right now, a lottery would make it possible to help our children's future, and we need this done in a timely manner. We have a serious problem in our school systems, and we all should step forward and be leaders. We are setting up our children to fail. The Las Vegas dropout rate is unbelievable. My oldest daughter was the only one who went on to college, and now she is working on her bachelor's degree. We should motivate them, but they have to go on their own to make up tests and put in an extra effort. Without someone behind them, pushing, they are not going to do it. They lose motivation and get behind; they cannot call a friend to have a book to study from. Living in Nevada and seeing the percentile of our children below average, we should all be ashamed. We have to start now.

SENATOR CARE:

I am familiar with the textbook issue. If the people of Nevada adopt the lottery, have you given any thought to whether you would encourage your family and friends to buy lottery tickets? If the answer is yes, then have you given any thought to a monthly budget towards purchasing lottery tickets?

MS. MOSELEY:

My answer is yes. We know in Las Vegas that many people travel weekly to buy lottery tickets in neighboring states and buy them for groups of people. I am not a gambler, but would I buy a ticket? Absolutely, because I would know where the money was going and I would be contributing, in part, to the future of our children.

CHAIR AMODEI:

Are there any other questions or is there someone who wants to speak?

TERRY HICKMAN (President, Nevada State Education Association):

I am a high school counselor, and lack of funding for public education is an ongoing problem in our State. According to the Nevada State Education Association rankings and estimates from fall 2004, Nevada has slipped to 47th

in per-pupil funding among the 50 states and the District of Columbia. We are only ahead of Mississippi, Arkansas, Arizona and Utah in per-pupil funding. A state lottery in Nevada is a small piece of a larger puzzle to help solve the education funding crisis.

Our organization is here today to support Assembly Joint Resolution 2. We support the resolution because the money generated by a lottery will supplement, not supplant, current revenue going towards important programs currently lacking funds. Our members appreciate the leadership of the sponsors of A.J.R. 2 to dedicate the funds of lottery to class-size reduction as well as textbooks and supplies.

CHAIR AMODEI:

Mr. Hickman, would you briefly describe for us your understanding of how textbooks are funded. I understand you are in the Carson City School District, and Mr. Atkinson has described what the State has done to fund textbooks. Is there any funding coming from the local sources in the districts that you are familiar with? Or is this something, in your experience, that when making the budgets at the local districts, the State is looked to to primarily shoulder the load for funding?

MR. HICKMAN:

There is money coming from local districts. I do not know the percentage allocated. Generally, for most school districts, there is a five- to seven-year adoption which means each year they buy English textbooks for grades 7 through 12; next year it will be science books and so on. They try to keep the textbooks up to date.

The problem districts face, especially Clark and Washoe Counties, is the growth. The estimate is 35,000 new students within the next 2 years, and the majority of those students will be in either Washoe or Clark Counties.

CHAIR AMODEI:

If an additional \$50 million were earmarked for textbooks, regardless of the source, would this solve the textbook problem for K-12 in the State of Nevada?

MR. HICKMAN:

It is our position that the lottery would be a partial solution for an ongoing problem that is larger than the estimated source. This is why it is a supplement

and not a supplantation. Textbooks for high school cost \$75 to \$100 apiece; you can easily see how quickly it will exhaust the millions already dedicated for textbooks and supplies.

CHAIR AMODEI:

Essentially what we are talking about is a funding source for K-12 education needs. Do you agree with this statement?

MR. HICKMAN:

Are you asking if the lottery would be an additional funding source?

CHAIR AMODEI:

The bottom line here is funding into the K-12 budget for textbooks, classroom supplies and class size reduction, whether it be a lottery, real estate transfer tax or a gaming tax dollar. Is that a fair analysis in the context of this bill?

MR. HICKMAN:

Yes, this is my understanding. The purpose of the lottery is to provide a supplemental resource to meet the needs of those three areas.

CHAIR AMODEI:

Do you have any thoughts about the present budget situation in terms of what was done for K-12 in the budgeting process by the tax measures passed during the last Legislative Session? Are there any potential sources from those measures which would assist with the problem A.J.R. 2 refers to?

MR. HICKMAN:

When in a budget process, it is always a question of priority. I believe new monies are available, and it is up to the Legislators to determine how much of that money will go into K-12.

CHAIR AMODEI:

Are you comfortable with the language that says, "used only to supplement and not replace the money that a school district would otherwise receive from this State for the system of public education"? I understand the intent, but we have been criticized for unfunded mandates. Has anyone checked with the Fiscal Analysis Division to ask if this is really going to work, especially in the growth context? Is this language that will give a solid foundation to stand on to make the supplement versus the supplantation argument?

MR. HICKMAN:

We are supporting the language because it is written to supplement. Some of the other states with lotteries have had this problem, where they have not supplemented but supplanted, and where the states have been paying less and the quality of the education has not improved. The purpose of the language in this bill is to add additional funds to those three areas. If this bill were in place now, the DSA would have available funds for textbooks, supplies and class size reduction.

CHAIR AMODEI:

When I read, "money that the school district would otherwise expend," those words are not specific in the context of what we have heard in terms of putting together the DSA that gets taken apart at the district levels. The concern is that the language is unnerving. Based on what is in here now, and by 2009 with two legislative approvals and one voter approval, there seems to be a significant amount of wiggle room.

SENATOR HORSFORD:

You spoke of a growth rate of 35,000 students, primarily in Washoe and Clark Counties; that growth rate projection is through what year?

MR. HICKMAN:

The projected rate of growth is from 2005 through 2007. This projection is including out-of-state students as well as in-state students.

SENATOR HORSFORD:

There was a presentation in another committee on education where the Clark County School District passed out materials that reported the student enrollment at 280,834, and projected by 2014, it will be 444,000. This will be over \$3 billion needed if you take the average per-pupil allocation for that growth. If these conservative figures are correct, and with your experience with the budgeting process for schools, how will our State pay for this, within our existing structure, in the future?

MR. HICKMAN:

Paying for growth and education has been a dilemma for a long time. We want people to come and stay in Nevada, and we need to have a school system that attracts them. Education is not cheap and becomes an expensive process when you have to comply with the State's standards and No Child Left Behind. Every

child in Nevada deserves the highest quality education. Growth is a problem; this is why we look at a State lottery as a beginning and a place to start for receiving funding for additional resources.

Future Legislatures will be facing this problem of how to pay for the tremendous growth. Success is a problem, and here in Nevada, we have a real problem in terms of success in attracting new people to our State. We will have to find the resources, and the priority has to be that K-12 will receive what it needs in order to provide quality education for our students.

SENATOR HORSFORD:

If this measure passed with future Legislatures' and voters' approvals, a lottery was implemented and we received \$50 million a year with the money specifically earmarked for textbooks, class supplies and class-size reduction, would this provide some relief to the burgeoning issue of the budget and the school population growth?

MR. HICKMAN:

Yes, it will. That is why we are supporting the bill. It is a step in the right direction. It is important because the revenue will have to be replaced. The lottery is a good way to put additional monies into the three areas the lottery bill specifies that are in need of further revenue.

SENATOR HORSFORD:

Based on some discussion and the history of the DSA, one of the factors in the school budget is personnel: the hiring of professional teachers and adequately paying them. This bill or measure will fence off, to some degree, this revenue source for these specific areas. Is your association comfortable with this?

MR. HICKMAN:

Yes, we are. The average teacher, annually, puts from \$500 to \$1,000 of personal money into his or her classroom. They do this because they know or feel what is best for their students and will continue to do that. If additional revenue is found through the lottery, then this will help the situation.

SENATOR WASHINGTON:

This is a comment. I think the education community is disingenuous. I have been here for several sessions where we have dealt with teacher pay. We dealt with this last Session and in two special sessions, dealing with taxes driven by

the education community. Here we sit today, dealing with a lottery designed to fence off textbooks, class supplies and materials, and class size.

Each session, each biennium, we go back to the voters to extract more money from them because we do not have money for books or classroom supplies or class-size reductions. The Legislature convenes and we offer solutions and remedies, and in each session, we get browbeaten by the fact there is not enough money for staffing; we are not at the national average; we do not have books, and we fence off money for books, just to find out that it is eaten up by something else.

If you want a State lottery, just say we want a State lottery. Let us not play games with this. You and I both know that 53 percent to 54 percent of the budget goes toward education. We give and work as hard as we can to make sure we fund our educational needs. It is disingenuous for you to come up here, sit before us, tell us we are not doing our jobs or we are not supplying enough money and we are not making an effort, when we spent one session and two special sessions going through the tax budget for the sole purpose of education.

Now, there is a surplus of \$300 million, and you are telling us you are not willing to fence off \$50 million of it for your needs? Something is not connecting. I am upset because as Legislators, we have done the best job we can, and I am a little tired of hearing from everyone else that we are not doing our jobs.

LORETTA EVENSON (Nevada State Parent Teacher Association):

The Nevada State Parent Teacher Association (PTA) has no position on the lottery bill. The association has, however, appeared in every Legislative Session to indicate education needs increased funding. It is the Legislature's job to find the mechanisms to do this, either through taxes or transfers of money.

The bill indicates that funds derived from the lottery would only be directed towards textbooks, classroom supplies and materials, and classroom-size reduction. The PTA has resolutions supporting the funding of these items. These issues are of high importance to parents, and we realize parents and the community have personal opinions on support of and opposition to a lottery. We are not in opposition of this bill going to the voters.

My only concern is in the funding of the items listed in the bill. How would the money be spent for the reduction of class size? Is it to build more classrooms? Is it to pay the teachers? I do not understand how the money is going to be used for that area of class size.

SENATOR HORSFORD:

Currently, this Legislature has voted for class-size reduction and the way it is supposed to be implemented, but it is not fully funded at that level. By identifying this as one of the ways to reach our goal of 15 students to 1 teacher for first through third grades, every study indicates this will improve student achievement. Our goal includes that as a priority.

MS. EVENSON:

We are for class size reduction.

CHAIR AMODEI:

Then, will this involve some salary aspects, in terms of this money?

MS. EVENSON:

That was part of my question, building or staffing?

SENATOR HORSFORD:

I could not answer that part of the question. I do know, with the flexibility in the Governor's plan, there are some discussions taking place on other measures to identify other avenues to help fund class size, expand it and give it flexibility. If that is addressed, then more money from the lottery could go toward textbooks and classroom supplies.

SCOTT GUNN (General Manager, GTECH Holdings Corporation, California):

As previously mentioned, GTECH Corporation operates lottery systems in many jurisdictions in the United States and around the world. Our primary responsibility as an operator is to manufacture, maintain and install all of the terminals you see at retailer shops. We install communication lines and networks that link those terminals to a central system and all the software and operations that support those systems and terminals. As testified by Mr. Shaheen, our most important role in the process is to maintain security and integrity of the systems. I am here today to make myself available as a technical resource of the lottery system.



SUSAN LACEY (Teacher, C. C. Meneley Elementary School, Douglas County School District):

Ms. Jackson speaks for us. I am here for moral support.

SHERRIE JACKSON (Teacher, C. C. Meneley Elementary School, Douglas County School District):

We have a crisis in our schools today, and some of us have become numb. It is like violence on television; we have heard it so much, we know it is there, but we have become immune.

I am here speaking from my heart to give you an idea of what I see every day in the classrooms. It is not working. I am in a position to compare the effects of class size reduction on teaching and the effectiveness of learning. Due to budget cuts where we lost one teacher, last year I went from a situation where I had between 16 and 19 students in my sixth grade classroom to now having 29 to 35 students. You may think, that is only 10 to 15 more students, how bad can that be? We do a lot of cooperative group work, but the groups are close together and the noise level so loud now that it makes our group work almost ineffective.

Those of us in education know how important cooperative group learning is. One of the comments from the business sector is the importance for students to learn to work in a group, but we have many geniuses who cannot work in a group or with other people.

Classrooms are crowded. Sixth grade students, who are developing physically and hormonally, can be aggressive and contribute to behavioral problems. Discipline problems, in the form of office referrals and class disruptions, have tripled since last year. These are the same students who had four fifth-grade teachers last year; the only difference with these students is class size.

There is a loss of 100 minutes per week in reading and spelling because we have to add another group. This is important instructional time lost due to more students in the classroom. There is a math class rotation for our sixth graders, and students are ability-grouped. I teach the accelerated math class, and in order to get into my class, students must pass a qualitative math test. My math class has not changed much in size, unfortunately; the remedial and average math classes have gone up to 30 and 33 students. The remedial math teacher does have an aide who helps her, but it is not enough.

MS. JACKSON:

Last month, my colleague who teaches the remedial math class collapsed, due to stress. To be an effective teacher today, you need frequent communication with parents. In my class, I have five students with Attention Deficit Hyperactivity Disorder who take medication, two learning disabled students and one emotionally handicapped child.

Frequent communication with parents is vital. When you add 10 to 15 students, it gets impossible to the point where I cannot do my job. Field trips are hard to plan because most places will only take 18 students at a time or 20; they are not going to take a class of 33, especially when dealing with sixth grade students. Teachers down the hall from me are on a waiting list to get down to the primary classrooms, not because the curriculum is more exciting, but because they can be effective. With class size reduction, you can be effective and do your job.

According to a *Time Magazine* article last month, new teachers are lasting an average of five years in this profession. I know of two who quit during student teaching and three others who left to go into the business sector after three years of teaching. They will tell you that dealing with parents and the overcrowding of classrooms were the two biggest reasons for leaving. When overcrowding exists, no one is happy and education is not effective.

Our job is to teach our children to process information quickly in order to be effective in today's society. This means the child needs immediate feedback. Teaching has changed; it has become more individualized, and yet, at the same time, we have more and more students in the classroom.

Our school dug up a time capsule from 20 years ago, and we pulled out an old science textbook. We are still using it. It is sad—a science textbook, of all things. Our English-language learners struggle to understand our complicated science and social studies texts. There are good textbooks out there that would lend themselves to those students who understand what is going on; they are not in simple language—not for those struggling to understand the English language—and up-to-date texts for others as well, but we cannot afford the books.

All that is ever said is, "Oh no, that won't work; let us try this." There are a lot of excuses, but we have to start somewhere. With all due respect to

Senator Washington, it is not working. I do not care if it is 53 percent or 58 percent. We are drowning. We need help, and this is a start. If something better comes along in five years, fantastic. We can repeal or get rid of the lottery, but for right now, this is a start, and we need help.

VICE CHAIR WASHINGTON:

Is there anyone else with questions? Is there anyone else to testify or comment?

DOUGLAS C. THUNDER (Deputy Superintendent for Administrative and Fiscal Services, Department of Education):

The State Board of Education and State Board for Occupational Education have not taken positions on the lottery, but if you have questions, I will be glad to address them or provide any information.

VICE CHAIR WASHINGTON:

Are there any questions from the Committee?

SENATOR NOLAN:

Everyone agrees, we need to better fund our schools. Do you see any potential with implementing this bill that it will lead to some detracting of the present funding mechanism for the school system?

MR. THUNDER:

It would be possible and would depend upon its construction and who is given the primary authority to oversee it. I recall Chair Amodei asking a question earlier about local contributions to the textbooks and the other line items. They talk about State and local elements, but the way school budgets are put together, they are all in one package.

The local contribution is part of that big budget; the total budget of the school districts, which includes the State and all sources of revenues for the general funds, is much greater than the amount the State contributes. It is just about double, and the parts that double it are locally generated revenue. It is all put together in the general funds that go together to compile the work papers we use in determining the DSA.

CHAIR AMODEI:

Mr. Thunder, correct me if I am wrong, but if we were to earmark \$50 million for what is proposed in A.J.R. 2 and we did it numerically, would it be

appropriate to say on the condition that the local sources—the school districts—provide \$100 million? In other words, if we are going to fence things off for these areas and keep the numbers in trim, would the correct proportion have the State commit to \$50 million for the school budget on provision that the districts commit to \$100 million?

MR. THUNDER:

The only problem with that logic is the revenue the school districts have available is 90 to 95 percent what determines the State allocation. It is not the actual money the State provides, but the fact the State has established the 75-cent property tax and the 2.25-cent sales tax. Districts do not have any other avenues to increase their resources. If you are asking the districts to chip in or match what the State is giving, in essence, everything they have is there because of the State's action.

CHAIR AMODEI:

From education and other areas, we hear, especially from the local population, that if there is a problem, go see the Legislature, it is their fault. We spend General Fund dollars to fund education. In dollars and cents, that is why we are here. At the same time you hear if there is a problem in funding education, see the State Legislature, we are asked to do something about reducing property taxes. Ironically, this adversely impacts funding education. Listen, funding education is a collaborative effort. It is not just the State, although it is primarily what we do; the local component is a significant piece of the puzzle.

MR. THUNDER:

From my perspective and in the school districts' point of view, the reason it always comes back to the Legislature is because virtually all of the revenue side is determined by the Legislature. The school districts have to negotiate the expenditure side which is not governed by the Legislature, but the revenue side is. It is up to the individual, local school districts to take the amount of revenue and try to meet the expenditures the best way they can.

I used to say the only way a school district can increase its revenue is by having a bake sale. All revenue the local districts receive is authorized by the State, and they cannot increase it in any way.

SENATOR WASHINGTON:

You hit the nail on the head. We always look at the revenue side, and we have never looked at the component on the expenditure side. At the local level, what are we spending our funds on? There are audits, and it has been detailed to some degree, but some prioritization needs to take place. If class-size reduction is a No. 1 priority, we need to either put more money into the class-size reduction or reduce expenditures so we can meet that obligation. If children in kindergarten are a priority, we might need to reduce our expenditures to meet these needs, as opposed to coming back to the table asking for more revenue. Sooner or later, the well goes dry.

MR. THUNDER:

You are an elected body, and you have elected local school boards that are given responsibilities and required to undergo the negotiating process for salaries; there is a lot of pressure that comes together in those different points. That is what the local districts and the Legislature are dealing with.

LYNN P. CHAPMAN (State Vice President, Nevada Eagle Forum):

I have been taking a lot of notes while listening to all the interesting concepts on lotteries. First, let us deal with class size. I went to school in the 1950s and 1960s, and we always had 28 to 38 children in every class, but the teachers usually had control.

The question I ask every year in dealing with schools is, When is enough, enough? How much money will be enough? The answer is there will never be enough. I homeschooled my daughter and expenses averaged about \$90 per school year, and we still had to use books. Well, we had books that had no covers, or were scribbled in, but the books had knowledge, and we used them.

Washoe County has always spoken with the homeschoolers and told them about the free books and sales of all the books the County was going to throw away. We would go through and take any book we wanted. A lot of those books were new. This event takes place every year. There are brand-new books being thrown away in Washoe County, I do not know about the other counties.

My handout, "Lotteries in the United States: An Overview," by Chad Hills, from *Focus on Social Issues*, July, 2003 ([Exhibit J](#)), is an overview about lotteries. If you turn to the second page, it talks about corruption. GTECH is the largest

supplier of lottery products. The article references a *FORTUNE Magazine* investigation about improper practices by this company.

On that same page, under the heading Educational Funding, the article continues that lotteries are promoted as a way to boost school funding, and although money is earmarked for education, a study conducted by *Money Magazine* cited that states without lotteries spend a greater percentage of their budget on education, while those with lotteries have decreased their educational spending.

Many lottery winners end up losers in the long run. The lotteries target the poor. The poorest counties in New Mexico all ranked among the state's top-ten counties, per capita, in state sales. New Mexico's wealthiest counties account for the fewest lottery ticket purchases per resident. The article also talks about Colorado, Wisconsin, Kentucky and Texas having the poorest population buying the tickets.

If you ask a child today how you make a million dollars, they would say to win the lottery. Twenty years ago, the answer would have been by hard work.

The proposed section 24, subsection 1, paragraph (a) of Article 4 of the Constitution, as detailed in A.J.R. 2 talks about "other than the use of video lottery terminals or similar type of machines." This is interesting we would want to keep the lottery ticket-buying from children. I have not seen a cigarette machine in a long time, but there are still children smoking. In California, they always talk about how they are at the bottom of the pupil spending, but they have a lottery, and where are all those billions of dollars that were going to go into the coffers to help education? Why are they at the bottom of the list?

I went onto the Internet and checked out horror stories of gambling and help for families from gambling. There are thousands of people who have suffered because of gambling. I think the lottery is a bad idea.

SENATOR CARE:

I have not heard issues such as: Does the lottery constitute a tax? and secondly, Given the constitutional prohibition with the initial adoption of the Nevada Constitution in 1864, is it appropriate for the State government to become involved in the gaming or gambling business? I have not heard anyone discuss this.

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SENATOR NOLAN:

Ms. Chapman, you homeschooled your children; what are their ages?

MS. CHAPMAN:

My daughter is going to be 20; she is going to college and works full-time.

SENATOR NOLAN:

Why did you homeschool your child?

MS. CHAPMAN:

I taught her to read using phonics. She wanted to learn to read, and she was reading at a third- or fourth-grade level at five years old.

SENATOR NOLAN:

Did you have a lack of confidence in the public school system?

MS. CHAPMAN:

Yes.

SENATOR NOLAN:

Was that due to your feeling the public school system was not able to adequately educate your child in a way you felt it should?

MS. CHAPMAN:

In some respects, yes, I felt that way. I was uncomfortable with the whole-language programs and knew phonics were better. She was at an 11th grade reading level in the 4th grade.

CHAIR AMODEI:

Ms. Hansen, we can have a full discussion after testimony, but we will be glad to hear anything you wish to add.

JANINE HANSEN (Nevada Eagle Forum):

I do not just speak for my organization, which has taken the position against the lottery, but for myself. Lotteries in other states have not improved educational funding or performance. A study of lottery-aided education funding by Saint Mary's College of Notre Dame in Indiana, concluded that regardless of where or when the lottery is operated, education spending declined once a state put a lottery into effect.

We heard a lot today that this is for the children, and I would suggest to you the opposite is true. How many families and children will be harmed when more parents become addicted to gambling via the lottery? Many regard lotteries as a relatively benign form of gambling; however, 31 percent of callers to the 1-800-GAMBLER national hotline indicate otherwise. There is no provision in this constitutional amendment to help those who become addicted to gambling.

The majority of people participating in lotteries are those who can least afford it. Players from households with incomes under \$10,000 bet nearly 3 times as much as those with incomes over \$50,000. Education reform is needed, including real instruction and systematic intensive phonics which have been repeatedly opposed by the teachers union. We need basic math and school choice.

We heard testimony by experts the other day in the Senate Committee on Legislative Operations and Elections that smaller-sized schools and districts were the key to improving education, all of which has been opposed by the education establishment. These reforms will provide more real educational improvement in our government schools than any amount of lottery money.

It is relatively easy for children to gamble in state-sponsored lotteries. In Massachusetts, 47 percent of the seventh graders have purchased Lotto tickets. Nationally, more than one in four adolescents gamble on lotteries. Recent research suggests the earlier a person begins to gamble, the more likely the person is to become addicted.

In 1977, the Georgia HOPE Scholarships were given to 392,000 citizens from lottery proceeds. However, 17,700 Georgia adolescents experience severe problems with gambling addiction, while another 39,000 to 56,800 adolescents in Georgia are at risk for developing gambling-related problems.

In our State, we have taken steps to ensure children under age 21 are not in our gambling establishments, which is certainly easier to police than lottery locations. We heard today that \$40 million to \$50 million will come to education from the lottery, but this will probably cost the citizens and families of our State up to \$200 million.

There is a social cost, and we are setting up our children to fail when we institute an easy way for them to gamble. This will be a tax burden on our



citizens; it will be a tax on those least able to bear it, and there will be more need for taxes for social problems created by gambling.

In my own family, there was a problem with gambling addiction. It took five years for me to pay off many of the debts incurred by a family member because of gambling addiction. At the end of the 5 years, \$8,000 was still owed on the debt. My children and stepchildren suffered because of this situation. How many children, in how many families, will be denied rent, medical care, clothing for school and the extracurricular activities they would have enjoyed had it not been for gambling addiction?

There were lies told and stealing from family members. Gambling addiction is horrendous. I went to Gamblers Anonymous with the person and found it to be a profitable program. I live next door to a place where they have Alcoholics Anonymous meetings. Every time they have a meeting, they have cars parked everywhere and I cannot park by my house. We have many social problems created and promoted by our own government. This lottery will be one more additional burden for families. There will be social agencies coming before the Legislature saying they need more money because children are living in poverty.

This might have increased spending in education, but it has not improved education. We have not reformed education and returned to the things that will make a difference. I encourage you to look at other ways to improve education besides throwing more money down the drain; things such as class size reduction do not have evidence that they improve education.

We need to teach our children how to read in the first grade with phonics. If we could do this, many children would be rescued from abysmal educations. I taught my son to read in homeschooling, and his cousin ridiculed him, but later in college, this same cousin told my son that my son knew a lot more and wanted to know how. My son said that he read.

JOHN L. WAGNER (The Burke Consortium of Carson City):

I will answer the question Senator Care asked earlier about the State operating a business. This is exactly what the lottery is, and it would be competing with our No. 1 business in this State, which is the gaming industry. I have a real problem with the State owning anything in the area of operating a business. I might add that the lottery did little for California.

As for Senator Nolan, he can bet on the Internet. He does not have to give his money to someone to get a lottery ticket outside Primm, and he can do this year-round with a credit card.

Another thing to consider is that we are not the largest state in the nation; how many people are going to be playing the lottery? Let us say we take 6 numbers out of 80, the odds of drawing 6 numbers are the same at any state in the Union. The odds of getting one, two, three, four, five and six are just as great as any other six numbers. Why would you want to bet money here, when you could bet in California, where they have more money and their jackpots get big and will probably be bigger than ours will ever get?

To answer a question from Senator Washington, his reference to supporting \$50 million is a good idea, but the total of the surplus is closer to \$1.4 billion, and I doubt the taxpayers are going to see any relief from that money or any rebates. I would support \$50 million to take care of this problem.

CHAIR AMODEI:

Are there any questions for Mr. Wagner? I am closing the public hearing on A.J.R. 2. The issues on this have been fairly hashed out. Is there anyone on the Committee who is prepared to make a motion on A.J.R. 2 at this time?

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED A.J.R. 2 TO INCLUDE LANGUAGE THAT UPON APPROVAL OF A MAJORITY OF THE VOTERS IN NEVADA, A LOTTERY IS PERMITTED ANYWHERE AN UNRESTRICTED GAMING LICENSE IS PERMITTED AND ALL FORMS OF LOTTERY ARE ALLOWED WITH APPROVAL BY THE STATE GAMING CONTROL BOARD AND THE NEVADA LEGISLATURE.

SENATOR WIENER SECONDED THE MOTION.

CHAIR AMODEI:

Is there further discussion on the motion?

SENATOR NOLAN:

I have an interest in this bill, as we all do, primarily from the perspective that we need to make a better effort at pulling our educational system from the abyss. This bill has been proposed for a number of years, and I have voted

against it for the same number of years. I am not convinced, at this time, that we have enough information for this bill to provide the protections we need to our primary funding source for education through gaming revenues.

I am not comfortable with the ability of the State to enter into a lottery system without providing some level of competition to the gaming industry. We are still not sure of the social impact of this bill, and without more information, I am not willing to take a vote on A.J.R. 2. I want to make this clear for the record, that I will vote against the motion for the reasons I have cited.

If we had enough protective language to make sure we were not damaging our primary source of funding and there were further amendments to this bill for those protections, I could vote for a lottery, but at this point and time, the language is not there.

CHAIR AMODEI:

Are there any other comments on the motion to amend and do pass A.J.R. 2?

SENATOR CARE:

Just as a clarification of the amendment, the amendment would not restrict a lottery from being located in certain licensee locations, which means it would not be prohibited elsewhere, is this correct?

SENATOR HORSFORD:

Yes, Senator Care, that is correct.

SENATOR CARE:

It is rather disingenuous that certain members of the gaming industry would circulate the hallways, obviously having an intense interest in this particular legislation, and fail to appear and testify, regardless of their positions. It does not go to all of the people who have approached me, but definitely to some.

SENATOR MCGINNESS:

I will not be supporting the motion. As Chair of the Senate Committee on Taxation, and looking at some of the background information we were provided, this seems to be a tax issue and not a game of chance. It is just raising tax in a popular manner. It also puts the State in a monopolistic position by making something previously unconstitutional now legal. A person's chance of being

struck by lightning in any given year is about 1 in 780,000, and a player is almost 10 times as likely to be struck by lightning as to win the lottery games.

SENATOR HORSFORD:

I have some further discussion on the motion. I have only been here several weeks, but I have yet to hear one proposal come forward other than this one that addresses the future needs of the tremendous growth occurring in the Nevada public educational system.

In good conscience, I do not understand how members of this Legislature would not allow a proposal to go forward and allow the voters to decide whether or not this is an appropriate way to fund some of the needs of our schools. If this motion fails today, I would hope members of this body, either in this Senate House or Assembly, come forward with some constructive, meaningful and specific plans to fund these needs that have been identified not only here, today, but in several other hearings that have taken place in both Houses of this Legislature.

If they fail to do so, then the voters will do it themselves. We, as a Legislature, constitutionally, have a requirement to fund education. We have heard testimony here, today, that we enable and instruct local governments in how they can fund education, and we have heard they have not done an adequate job. This is one way to properly do it. Yet, it only addresses part of the solution, and still, people do not want voters to decide.

CHAIR AMODEI:

The other six members of this Committee have been here longer than several weeks, and I do not mean this as disrespectful, but I am going to give a history lesson dating back to 2003 with a piece of legislation known as S.B. No. 8 of the 20th Special Session which raised over \$833 million, and the primary purpose was to fund education in this State.

To the other challenge, I would suggest to you that if anyone in either House wants to propose that \$50 million of the existing revenue be earmarked for the purposes in A.J.R. 2, I would support that, whether it is an eighth of a point of the existing gaming tax or whatever, if that is where it needs to come from, or whatever works out to \$50 million. But I am opposed to it because we are

creating a \$100- to \$200-million industry per year to get \$50 million for an educational purpose, which I agree we need, that exists in revenues we already have within the State.

In a sense, we are all beating ourselves up by not being on the money committees, because this is an issue for the money committees. I agree if \$50 million is a step in the right direction, I firmly believe, on the record, that those revenues exist within the existing revenue stream and I have no objection to earmarking them for education. I am not going to vote in favor of creating an entirely new industry, which puts the State directly, as opposed to indirectly, in the gaming business, creates no jobs, creates no tax base and does none of those things, all for the purpose of providing \$50 million to a worthy cause which exists in the budget already.

Is there any further discussion on the issue?

SENATOR WASHINGTON:

I would like to add one item. If we are going to be honest with ourselves and we want to fund education, the lottery is the worst way we can go. If we want to fund education and have everyone participate, Statewide, why not amend the Constitution and do away with the present amendment which states no personal income tax and institute a personal income tax. If we want to do something, this is an offer on the table.

CHAIR AMODEI:

Are there any further comments on the motion to amend and do pass A.J.R. 2?

THE MOTION FAILED. (SENATORS AMODEI, CARE, MCGINNESS,  
NOLAN AND WASHINGTON VOTED NO.)

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CHAIR AMODEI:

We will go to the work session briefly and discuss two bill draft requests (BDR), BDR 14-111 and BDR 7-728.

**BILL DRAFT REQUEST 14-111**: Makes various changes concerning Advisory Commission on Sentencing. (Later introduced as [Senate Bill 331](#).)

SENATOR MCGINNESS MOVED TO INTRODUCE BDR 14-111.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**BILL DRAFT REQUEST 7-728**: Makes various changes concerning business associations. (Later introduced as [Senate Bill 338](#).)

SENATOR MCGINNESS MOVED TO INTRODUCE BDR 7-728.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Seeing no further business to discuss, this Senate Committee on Judiciary will be adjourned at 11:04 a.m.

RESPECTFULLY SUBMITTED:

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Gale Maynard,  
Committee Secretary

APPROVED BY:

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Senator Mark E. Amodei, Chair

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