

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
May 11, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:06 a.m. on Friday, May 11, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator 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:

Assemblywoman Valerie E. Weber, Assembly District No. 5

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Gale Maynard, Committee Secretary

OTHERS PRESENT:

Ken Lightfoot, Director of Loss Prevention, Scolari's Food and Drug Company
Lea Lipscomb, Retail Association of Nevada
Samuel P. McMullen, Retail Association of Nevada
Jesse Wadhams, American Insurance Association
Jeanette K. Belz, Property Casualty Insurers Association of America
Ray Bacon, Nevada Manufacturers Association

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Arthur Dixon
Susan Fisher, Washoe County Employees Association
Michael Langton, Washoe County Employees Association
Cindy Patterson
Frankie Fash
Ronald P. Dreher, Peace Officers Research Association of Nevada
Danny Coyle, State of Nevada Employee Association/American Federation of
State, County and Municipal Employees Local 4041
Jack Schroeder, Reno/Verdi Township Justice Court, Department 3,
Washoe County
Joan Neuffer, Office of Court Administrator, Nevada Supreme Court
Darin D. Conforti, Court Administrator, Reno Justice Court
Christy Magers, Municipal Court Administrator, City of Reno
Lisa Gianoli, Washoe County
Maxine Cortes, Court Administrator, Carson City District Court

CHAIR AMODEI:

I open the hearing on Assembly Bill (A.B.) 421.

ASSEMBLY BILL 421 (1st Reprint): Establishes the crime of participating in an organized retail theft ring. (BDR 15-1292)

KEN LIGHTFOOT (Director of Loss Prevention, Scolari's Food and Drug Company):
Several people spoke at the last hearing and clarified retail organized crime and theft, what is being done to prevent it and the fiscal impact on the state.

I have 34 years of municipal law enforcement in Nevada, and I am currently with corporate security for Scolari's Food and Drug Store. The challenge is to provide security and safety to the residents of this state without raising taxes; this is the focus of the bill.

Several Nevada communities are being targeted by these organized theft rings. Las Vegas is one of the top ten targets in the United States for this theft and six weeks ago, there was a major bust. There are teams leaving from southern California, stopping in Las Vegas, moving into Salt Lake City and sometimes further up to Boise, Idaho, and make the trip back while stealing large amounts of property.

One thing we discovered is they carry a list of the loss values in each state. Meaning, if I am stealing in Nevada and I know the loss value is \$250, I will only steal \$249 worth of merchandise; if I get caught, it will not be prosecuted as a felony. This system is repeated over and over again. A case of conspiracy may be put together eventually, but the prosecutors and criminal defenders know how difficult it is to put together such a case.

Years ago, as a detective, I would have a stack of cases that needed attention and have limited resources to deal with a few cases. If it is a choice between retail theft and other cases, I do not have the resources to expend on a conspiracy case. The bill before the Committee today is to make the task simpler.

A lot of detail went into this bill; we did not want it to be a broad-base approach with many people caught. Therefore, three people or more would be the target. We did not want to target the two siblings caught shoplifting; they are not our target. We are going after the teams of people. We are going after the people at the top of the organization. Questions were raised about the 90-day limit. We are going after an organization; the bill is designed to address a specific problem and not burden the courts with unintended offenders.

We have seen that surrounding states are looking to pass similar bills, and we do not want Nevada to be known as the easiest place to steal.

CHAIR AMODEI:

Are you the in-house security person for Scolari's?

MR. LIGHTFOOT:

Yes.

SENATOR CARE:

I read the bill to say someone can be charged with not only the crime created by this statute but the acts themselves. It is an addition to current law, is this correct?

MR. LIGHTFOOT:

The intent is to go after the person sitting in the office who sends the teams out to commit the thefts. As the statute is written now, it is hard to get a conspiracy case together to arrest the top person in this organized crime ring.

It is easy to catch the person stealing but difficult to bring down the top person. The bill was written for the prosecutor to have leeway to go after the person at the top; this is how I see the intent of this bill.

SENATOR CARE:

Do you agree that if this bill becomes law, someone could be charged with conspiracy? You can be charged with conspiring to enter into a retail theft ring.

MR. LIGHTFOOT:

Yes. You will not see this used much or a large number of cases prosecuted under this bill. It is a tool to target important cases without going through a complex conspiracy case.

SENATOR WIENER:

We have heard about the losses taken from Walgreens. Do you have an estimate on Scolari's losses?

MR. LIGHTFOOT:

It is difficult to say. In the past week, there were two instances where our losses were \$3,000. It is one of those cases where you do not know for sure. The retail grocery is pursuing this, but the bigger losses come from larger retailers such as Wal-Mart Stores, Inc. and Walgreens that have national teams working on this issue.

SENATOR WIENER:

What are the top products taken from your retail base?

MR. LIGHTFOOT:

I did a search this morning; 206 eBay sellers in Nevada are selling infant formula. Other loss-revenue items are hair coloring, razor blades, teeth whiteners, skin oils and anything of high value in a small package. Typically, they end up in flea markets, on eBay or on craigslist.

CHAIR AMODEI:

Why was the language chosen in section 1, subsection 3, paragraph (a) of A.B. 421 not retail or wholesale?

MR. LIGHTFOOT:

I do not have a specific answer, different companies determine the value by their own means. Scolari's determines the value by the retail value, others may select wholesale value. This is true, not only in grocery but for everyone who sells retail.

CHAIR AMODEI:

In terms of prosecution, the value is one of the things considered under reasonable standard. Is the value placed on wholesale or retail?

MR. LIGHTFOOT:

It is a good question; different people will measure it different ways, and we did not want to lock someone out.

CHAIR AMODEI:

My thought is you would use retail value. Would this get you to the number you need?

MR. LIGHTFOOT:

Yes, but the other side is that I cannot see a case that would not reach a felony value.

CHAIR AMODEI:

The definition of an organized retail theft ring is detailed on page 3, lines 7 through 12. Why does it not say engaging in retail thefts against a merchant? Why did we get this specific? The way it is written now, if I steal a large amount from a merchant with two other people, it is not against the law.

MR. LIGHTFOOT:

The concern was raised that we are not going after the mastermind. Also, this bill is modeled after other national bill language.

CHAIR AMODEI:

When this language is applied in terms of investigation, what is the role of a person in your position going to play? For local law enforcement, the investigation is something you and possible staff will have to get started. How will this work on a daily basis?

MR. LIGHTFOOT:

Retailers will cross jurisdictional lines and start putting together the investigations bringing in law enforcement with the tools necessary to get the cases prepared to get to a prosecutor. The retailers will do the lion's share of the work, but we need the law enforcement agent to put together some of the confidential information, such as driver licenses, criminal histories and the like.

CHAIR AMODEI:

Have you spoken with the Nevada District Attorneys Association as part of this process?

LEA LIPSCOMB (Retail Association of Nevada):

We worked closely with the district attorney as well as with law enforcement.

SENATOR WIENER:

Section 1, subsection 3, paragraph (a) mentions "reasonable standard" and also states "property or services." We have only addressed lifted products; what kind of service would we be addressing?

SAMUEL P. MCMULLEN (Retail Association of Nevada):

The standard language in section 1, subsection 3, paragraph (a) is utilized in other places in the code.

BRAD WILKINSON (Chief Deputy Legislative Counsel):

The identical language is used in the theft statute, *Nevada Revised Statute* (NRS) 205.0834.

SENATOR WIENER:

I do not know what service you could apply this to in a retail setting.

MR. MCMULLEN:

When we are talking about these sections, we need to make sure we are talking about sections that are applicable. It is clear the crime we are trying to define is a crime against property and not the theft of services. The umbrella language of section 1 would apply only if it related to some other crime to do with services. We are primarily defining theft.

I would like to discuss our definition of "organized retail theft ring." The overarching language of section 1 would apply only if it related to a crime of

services. In these cases with a series of thefts, other crimes would be involved. Potentially, once you start adding other allegations or crimes, this proves the organization of an enterprise based on other facts and charges. The language will give us enhancement and a shot at unmasking pieces of the organization. I do not know what kind of prosecutions we will see in the future, but this will be a higher set of penalties and provides ability to take action against other participants in this organized enterprise. I want to give credit to the District Attorneys Association and law enforcement. This is difficult, and both entities gave us a lot of their time.

We have collaboration between the retailers and law enforcement to ensure the evidence is packaged correctly and the resources will be case-worthy and effective.

SENATOR CARE:

It raises a question. With the definition of the crime, you have to have three or more persons who associate with the purpose of engaging in the conduct of committing a series of thefts with more than one merchant at more than one location in the state; this is the crime.

MR. McMULLEN:

Yes.

SENATOR CARE:

You could be prosecuted under this bill without any thefts.

MR. McMULLEN:

That is not correct. Every word in the definition is important and has to be proven. It is not only by association, it is associating for the purpose of engaging in the conduct of committing a series of thefts. It is different from conspiracy. When there is a series of provable shoplifting events put together by the same association of people, then this comes into effect. There has to be that engaging conduct in committing those crimes.

When you see a series of offenses in a location during a specific time, it is distinct from the category of normal and regular shoplifting. It is a higher-level crime that needs attention and penalties, and it is the collection of these crimes that leads to this language in A.B. 421.

SENATOR CARE:

Proponents of the bill would say there has to be at least two thefts against different merchants before this takes effect.

MR. McMULLEN:

Yes, correct.

SENATOR CARE:

It is not just the act of organizing.

MR. McMULLEN:

Correct, nor the mere act of association.

SENATOR HORSFORD:

With the explanation you have just given, why does the definition for "organized retail theft ring" in section 1, subsection 5, paragraph (b), not read "three or more persons who associate for the purpose of committing a series of thefts of retail merchandise"? My concern is the application of "engaging in the conduct." I do not understand what engaging is and who determines what type of engagement. People could be doing many things that lead to this type of theft ring. Again, why does the language not read "for the purpose of committing a series of thefts"?

MR. McMULLEN:

I do not know if I qualify to answer. The language for shoplifting is clear. What we are building is a higher level of crime where associating for the purposes "of" is part of the language. Whether the language "engaging in the conduct" is appropriate, I do not know. Legal Counsel can best answer your question relating to language and drafting.

SENATOR HORSFORD:

Can we get an explanation of the language because the wording is giving me heartburn? Can I also get an explanation whether "persons" means only an adult or does it also include juveniles?

MR. WILKINSON:

We patterned this after model legislation enacted in other states. It is intended to encompass "engaging in the conduct of committing" rather than just committing and a desire to include persons other than those directly taking an

item out of the store. The people involved in the ring might be involved in acts beyond taking the property in their hands. As to whether persons include juveniles, I believe it would.

SENATOR HORSFORD:

Under that scenario, two children who are with their parent and commit this "retail theft ring" could be charged with a Category B felony if the value is as high as the bill states?

MR. WILKINSON:

The children will have to be willing participants in the ring, fall under the juvenile court system and not be subject to adult penalties; the adult will be charged with a Category B felony. I do not know if other states that have this law have faced this kind of situation.

SENATOR WIENER:

In my first session, we passed law that if an adult used a child in a commission of a crime, there was an enhancement for the adult. That would be a substantial inducement not to use a juvenile. How would that law play in the scenario Senator Horsford gave?

MR. WILKINSON:

I believe you are correct. It would fall under enhancements statute and there would be an additional penalty.

CHAIR AMODEI:

Is there anyone else to testify on A.B. 421? We will close the hearing and reopen the hearing on A.B. 519.

ASSEMBLY BILL 519 (1st Reprint): Enacts provisions concerning the sealing of certain court documents. (BDR 1-1404)

JESSE WADHAMS (American Insurance Association):

A letter was submitted ([Exhibit C](#)) to cover the points we would like to make. We oppose this bill.

MR. McMULLEN:

I oppose A.B. 519. Many of us believe the sealing of court records would drive a supreme court to look at that issue comprehensively. It ought to be given a

chance to work. This has been a continuous issue. If you look at this law, the important point is no record would ever be sealed.

Testimony by Kathy A. Hardcastle, Chief District Judge, Department 4, Eighth Judicial District, showed how this language is broad and reasons were given for keeping information open. If we look at the process and take a case such as a slip and fall, it would affect businesses, retail or restaurant establishments and could be a public hazard. As part of the settlement, depositions and other evidence in the records were sealed. The process envisioned on page 2 of [Exhibit C](#) takes an individual case and its costs for litigation. Other people will participate and cause costs and a lot of disruption of judicial economy. I do not know the fiscal impact on the judicial system. If the attorney prosecuting a case has to decide whether records should be sealed, this adds a different process and costs to the case. This would be an interesting point for the Committee to consider in terms of whether it is the right thing to enhance the settlement of these cases.

A lot happens in litigation; people want to know about them and sometimes profit from them. Cases get resolved, sometimes through settlement; this is a feature of the judicial system. When you change that, you change the playing field for bargaining and balance.

SENATOR CARE:

It has been framed in terms of all or nothing. By that, I mean a case is sealed or it is not sealed. Let me use the analogy from my public records bill, Senate Bill (S.B.) 123. Under state law, the government may refuse to produce a document if it contains confidential information. Senate Bill 123 would say, no, you redact the confidential information and produce the rest of the document. The only documents we are talking about would be those documents filed with the courts and the exhibits attached to those documents, not the settlement agreement or the deposition transcripts unless they are attached to a particular motion.

What would be wrong in a products liability case, for example, with saying the case may not be sealed except for trade secrets, proprietary and confidential information and such? I am trying to imagine the rationale for sealing a products liability case.

MR. MCMULLEN:

That question was addressed in past legislative hearings. In a general sense, most of these cases, whether a slippery tile or a chair that breaks, are products liability cases. A blanket allowance of all of those might have a great effect on settlement and judicial economy. The litigation and disclosure systems are not perfect, but the point is it does work and there is a balance with plaintiffs gaining settlement on difficult cases without a lot of court costs because of the opportunity to settle.

We are talking about depositions filed which contain a large amount of testimony about processes and such. I am not sure redaction would work in those cases, but it might. It is far-ranging testimony of very probing questions about products liability, manufacturing processes, business processes and care and control processes. That is a lot of information. Unfortunately, we have found these depositions marketed on the Internet and other places, and people try to use them in fostering other cases. Having a blanket opening of that kind of information under the theory that products liability should be out in front of the world might be much more damaging. We do not know the effect of this; it sounds great, but it could be a serious disruption of existing processes.

CHAIR AMODEI:

Is there anything else for these testifiers from the Committee?

JEANETTE K. BELZ (Property Casualty Insurers Association of America):

I have a letter from my client, Sam Sorich, Vice President and Regional Manager, Property Casualty Insurers Association of America ([Exhibit D](#)). This bill burdens the court, drains judicial resources and discourages settlements. We urge this judicial body to allow the Nevada Supreme Court to do its job.

RAY BACON (Nevada Manufacturers Association):

We also oppose A.B. 519.

CHAIR AMODEI:

Senator Care, you had a proposed amendment from the Nevada Supreme Court; can you bring us up to date?

SENATOR CARE:

Yes, but I do not have anything in writing. I spoke with the Court Administrator and there were suggested changes. In section 1, subsection 1, line 3, the new language after "statute" would read "or court rule." Another suggestion was that a member of the Senate Judiciary Committee and a member of the Assembly Judiciary Committee be appointed to the Nevada Supreme Court Commission.

CHAIR AMODEI:

Was the court rule a Nevada Supreme Court rule or a district court rule?

SENATOR CARE:

The statute discusses district court where a lawsuit such as this would be filed. It would not cover justice court or municipal court, but a rule by the Nevada Supreme Court may govern the procedure in district court; I do not know.

CHAIR AMODEI:

Just for discussion, A.B. 519 seeks to put uniformity into state statutes. If we or the courts do anything, it should be a global application across all courts.

Mr. Wilkinson, what do we need to make it apply uniformly throughout the districts?

We will close the continuation of the hearing on A.B. 519 and open the hearing on A.B. 95.

ASSEMBLY BILL 95 (2nd Reprint): Makes various changes concerning the confiscation of firearms during an emergency or a disaster. (BDR 36-294)

ASSEMBLYWOMAN VALERIE E. WEBER (Assembly District No. 5):

Hurricane Katrina slammed into the Louisiana-Mississippi coastline August 5, 2005. It was both costly and deadly. Help arrived after many days; it was painful to watch with the feeling of helplessness. There were law-abiding citizens who stayed and protected their families, properties and businesses. However, just when these people needed protection most, the New Orleans Police Department Superintendent ordered the confiscation of firearms under the state's emergency powers law. He said, "No one will be able to be armed, guns will be taken, only law enforcement will be allowed to have guns."

There is a video of eyewitnesses who told of experiences with the New Orleans Police Department. This footage was shown in the Assembly Committee on Government Affairs during testimony. An 80-year-old woman was tackled to the ground in order to confiscate her palm-held weapon. This video is on YouTube, or you can google New Orleans Guns Confiscation. Others told of blatant disregard to return firearms even after the emergency; we cannot have this happen again—and never in Nevada.

In the second reprint, A.B. 95 amends NRS 414, the Emergency Management section. It provides that during an emergency, the Governor, executive heads and governing bodies of political subdivisions of Nevada do not have the power to confiscate a firearm from a person unless a person is in unlawful possession of the firearm.

This makes sure no state official can disarm our citizens. If there is a violation, section 8 of the bill gives remedy. In the aftermath of Hurricane Katrina, 16 states have enacted legislation to pass emergency firearms protection bills.

The people have spoken. This bill has strong bipartisan support across the nation. This legislation is important to protect our liberties.

CHAIR AMODEI:

Senator Horsford has someone in Las Vegas who has a question with a definition of the bill.

ARTHUR DIXON:

The issue is the definition of a firearm. With this bill, they can take everything away including BB guns and water pistols.

CHAIR AMODEI:

Mr. Dixon, what is your concern?

MR. DIXON:

I want a definition of a firearm.

CHAIR AMODEI:

The way the bill is written, not even your BB gun can be taken away.

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MR. DIXON:
It can be taken away, correct?

CHAIR AMODEI:
No. Did I miss something? The bill reads that you cannot confiscate anything. You would want to leave the definition broad.

MR. DIXON:
At the same time, I do not want this to be applied to S.B. 92.

SENATE BILL 92 (1st Reprint): Revises certain provisions pertaining to the regulation of firearms by local governments. (BDR 20-45)

CHAIR AMODEI:
Okay, A.B. 95 will not be applied to S.B. 92. Is there anyone in Carson City opposed to A.B. 95? Assemblywoman Weber, you have a choice, we can listen to the testimony in support of this bill or I can take a vote. We will listen to testimony if anyone is going to get upset. What is your choice, Assemblywoman Weber?

ASSEMBLYWOMAN WEBER:
Mr. Chair, make it as painless as possible.

CHAIR AMODEI:
What is the pleasure of the Committee on A.B. 95?

SENATOR WASHINGTON MOVED TO DO PASS A.B. 95.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
We will now open the hearing on A.B. 515.

ASSEMBLY BILL 515: Clarifying that certain judicial employees are local government employees who have the right to join or refrain from joining an employee organization. (BDR 23-1379)

SUSAN FISHER (Washoe County Employees Association):
We have an amendment that Mr. Langton of the same association will explain.

MICHAEL LANGTON (Washoe County Employees Association):
My handout has proposed amendments ([Exhibit E](#)). After discussion with many judges about A.B. 515, the language in section 1, page 1, line 4 about any "person" was too broad. Therefore, the language was changed to any "classified employee." It also adds "a municipal court judge"; this was done for purposes of clarification. A letter ([Exhibit F](#)) to be entered into the record as well expresses our position.

In this society, the right to vote is important and this is an equal rights bill. There are disputes in many localities about whether classified employees working for local government have the right to belong to an association. This bill does not take away any power of a judge to run his or her courtroom, determine sentencing or carry out an order. What it does is allow the employees to have input into their employment conditions such as wages and hours. This does not prevent the judge from saying you must work tonight until 9 p.m. because this is when I want to run my court.

Primarily, it is not an issue of wages but of discipline when an employee seeks representation. We are asking that you allow people employed by local government, including counties and cities, to have equal voting rights.

CINDY PATTERSON:

I am a Washoe County district court clerk here to ask for your support of this bill. In 2000, there were 129 eligible employees to associate. Seventy-eight of those employees voted to associate and petitioned the court through a letter in 2001. The chief judge refused to set up a meeting and a lawsuit was filed. In 2003, a senior district court judge dismissed the case. This situation is what brought us here today.

Under this bill, the judges will not lose any power. There will still be overtime when trials are lengthy but no changes in the hiring or disciplinary process.

The only difference is our growth and with that growth comes employee complaints. There are people who face allegations and find themselves without representation. We understand that because of our numbers, we may qualify to be our own separate unit. Our job classifications are different from Washoe County's, and the Washoe County Employees Association (WCEA) can give us some guidance. A negotiation unit will include court administration and the county as the funding authorities.

FRANKIE FASH:

I am a supervising clerk. I support A.B. 515 and believe this bill will not affect any current policies in place by the judges in hiring, firing, discipline or resolving employee disputes. Any concerns by the County in negotiating with another collective bargaining unit are exaggerated. Currently, clerks are covered by the Washoe County Employee Association agreement with the county. If the clerks are allowed to have representation, they are going to go to the WCEA.

Concerns among the judges that they will not have support among the clerks during an elective process or while they are in office are unfounded. We are focused on our duties as a representative of the government. An objective of the clerks is to have a smooth atmosphere with harmonious relationships and good rapport with the public.

SENATOR CARE:

Mr. Langton, we have received various letters from the Judicial Branch and the argument seems to be a separation-of-powers doctrine. The bill says "pursuant to the *Constitution of the State of Nevada*." Will this interfere with the courts' ability to administer their affairs?

MR. LANGTON:

I understand the argument of the separation-of-powers doctrine, but I am baffled that the argument is being made. There is no way a group of employees can prevent the judge from sentencing anyone. Nor can one group of employees prevent another group from carrying out a judge's order. I understand the doctrine is to prevent political influence of one branch over another. An employee having the right to bargain his or her terms for employment does not interfere with separation of powers.

In many counties in Nevada, the clerks who are already covered by the collective bargaining agreement have never interfered with the judge to perform their duties.

This law does not affect only one county. Local government employers should have the right to say we have no problem with employees belonging to a general organization or with separate, collective bargaining agreements.

In a county the size of Washoe, it may make more sense to have a separate unit where a separate contract covers those people. One of my concerns is if an employee wants to transfer from judiciary employment to the county, they should have that right because it is the same employer. The ability to transfer does not interfere with the separation of powers, although the move is from judiciary supervision to the Executive Branch.

CHAIR AMODEI:

Is there further testimony on A.B. 515?

RONALD P. DREHER (Peace Officers Research Association of Nevada):

I agree with many of the comments made by Mr. Langton. We urge this Committee to pass A.B. 515.

DANNY COYLE (State of Nevada Employee Association/American Federation of State, County and Municipal Employees Local 4041):

We support this bill and agree to the amendment in [Exhibit E](#) with the change of "person" to "classified employee." I also agree that the separation-of-powers doctrine does not apply to this bill.

JACK SCHROEDER (Reno/Verdi Township Justice Court, Department 3, Washoe County):

I am in opposition to this bill because it is a red herring; I submit written testimony ([Exhibit G](#)). Our employees are important to us; we must recognize them and deal with them fairly and separately. I am familiar with NRS 288 and if you pass this legislation, I will have to deal with the Employee-Management Relations Board (EMRB). It will take away from my responsibility to my constituents. In an elected position, I have to run my court the way my constituents expect.

If this legislation passes, I will feel hampered in performing my functions and responsibilities to the people who placed me in office. In the long run, it will cause interference. I have seen and represented organizations where we had specific concerns about employee rights. I oppose this bill.

JOAN NEUFFER (Office of Court Administrator, Nevada Supreme Court):
Letters have been submitted to this Senate Judiciary Committee as well as the Assembly Judiciary Committee ([Exhibit H](#)) in opposition to this bill.

DARIN D. CONFORTI (Court Administrator, Reno Justice Court):
I am opposed and ask this Committee not to pass this bill. I have submitted written testimony ([Exhibit I](#)).

SENATOR CARE:
I am looking at handouts ([Exhibit J](#) and [Exhibit K](#)) from Christy Magers, Court Administrator, Reno Municipal Court, about the decision by the Second Judicial District Court of the State of Nevada dated December 13, 1996. Are you familiar with that case?

MR. CONFORTI:
Yes.

SENATOR CARE:
On page 4, line 11, it states, "The City of Reno is not the employer" Is there a written opinion that says this is so due to the Nevada Constitution or is this an existing scheme between court employees and the City of Reno?

MR. CONFORTI:
I am not a lawyer, but I referenced [Exhibit J](#) merely to point out that the court has established this issue. I can give my opinion as to why I have trouble with NRS 288 applying to Judicial Branch employees. The NRS 288 is silent on the Judicial Branch and gets back to the separation-of-powers issue. The constitution of the EMRB has nothing to do with the Judicial Branch. The Judicial Branch is not represented at all within the EMRB constitution. This is where encroachment between the Executive Branch into the Judiciary Branch would take place.

CHAIR AMODEI:

Mr. Conforti, if this bill were changed to say that judicial employees could form an association of their own, exclusive of the Executive Branch and Judicial Branch, what would be your thoughts on separation of powers?

MR. CONFORTI:

That question needs to be addressed and the legal details ironed out. Would that concept be established in NRS 1, which is the judicial statute or would it be in NRS 288? If the separate association were to be included in NRS 288, it would cause problems over separation of powers.

CHAIR AMODEI:

Is this a problem because NRS 288 deals with Executive Branch associations?

MR. CONFORTI:

Yes.

CHAIR AMODEI:

Anyone else who has not testified on A.B. 515, please step forward.

CHRISTY MAGERS (Municipal Court Administrator, City of Reno):

We oppose A.B. 515 for reasons given in my written testimony ([Exhibit K](#)).

LISA GIANOLI (Washoe County):

We oppose A.B. 515. We do not have a problem with employees being represented, and the issue has already been discussed.

SENATOR CARE:

Ms. Magers, could you get the Committee a copy of the December 1966 order granting a motion for summary judgment in *Reno Municipal Court v. City of Reno, et al.*, which you spoke about in [Exhibit K](#)? Is there a reasoned opinion that gives a background to the case where it actually discusses these issues?

MS. MAGERS:

The order granting motion for summary judgment is [Exhibit J](#), but I do not have the lawsuit itself.

CHAIR AMODEI:

Is there any further testimony on A.B. 515?

MAXINE CORTES (Court Administrator, Carson City District Court):

I want to bring out one point pursuant to NRS 1.030 which refers to application of common law in courts. Common law is understood to be a law by precedent and distinguished from statutory law. We have common law, law by precedent in this issue, and it was made law on December 13, 1996, by then-District Court Judge Deborah A. Agosti.

The ruling was that the employees were not employees of the City of Reno but those of Reno Municipal Court. The judge found that the Municipal Court is part of the judicial system of the state pursuant to the Nevada Constitution, Article 6, section 1. It was further stated that it is the settled law throughout this country as in Nevada that lower courts of limited jurisdiction are a part of the state judicial system.

Amending NRS 288.050 to include judicial employees is contradicting this ruling. On behalf of the court judges, we oppose A.B. 515.

MR. LANGTON:

Assembly Bill 515 is an employees' rights bill and not an attempt to override the judges involved in the hiring process. We have elected sheriffs, county clerks and treasurers who supervise local government employees. Assembly Bill 515, section 2, subsection 1, indicates that every local government employee in NRS 288.140 has the right to belong or not to belong.

You are either private or public; the employer is defined as the person who pays your bills. For those employees who work under the supervision of the judge, their Public Employees Retirement System, unemployment and workers' compensation is paid by Washoe County, not the court.

The judges have a court administrator involved in the hiring process. The personnel record of a court employee is kept by Washoe County; it is the same in Reno.

The definition of employer is the person who employs that person, not who supervises. The employee has the right to due process. We do not want litigation from suits. If an employee sues, they are not going to sue the court; they are going to sue the County.

All the arguments I have heard go to the pragmatics of negotiations and administrations. I have told my clients that if you do not do your job, you can be fired.

CHAIR AMODEI:

Is there anyone in the Grant Sawyer State Office Building or in Carson City who wishes to testify on A.B. 515? We will have the representative of the Nevada District Judges Association and Rick Loop, who is the contact for the Eighth Judicial District in Clark County, forward any input they may have on A.B. 515 for our next work session. We will close the hearing on A.B. 515.

There are bills we need to make decisions on in our work session document ([Exhibit L](#), original is on file in the Research Library).

The first bill up is A.B. 25.

ASSEMBLY BILL 25 (3rd Reprint): Makes various changes to provisions governing business associations. (BDR 7-544)

CHAIR AMODEI:

Are there any comments, motions or roll this to the next work session? At the request of Senator Care, we will roll A.B. 25 to the next work session.

The next bill is A.B. 49.

ASSEMBLY BILL 49 (1st Reprint): Revises certain provisions concerning jury service. (BDR 1-145)

Is there anyone on the Committee who wants to work session A.B. 49? At the request of Senator Care, we will roll A.B. 49 to the next work session.

We move to the next bill A.B. 107. Are there any comments?

ASSEMBLY BILL 107 (2nd Reprint): Revises the provisions governing the possession of weapons at certain locations. (BDR 15-764)

SENATOR MCGINNESS:

I do not like this bill.

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CHAIR AMODEI:

If there are no further questions or comments, what is the pleasure of the Committee on this bill? Hearing no motions, we will move to A.B. 137.

ASSEMBLY BILL 137: Revises provisions concerning acts of terrorism.
(BDR 15-934)

Seeing no motions or comments, we will move to A.B. 190.

ASSEMBLY BILL 190: Makes various changes to provisions governing criminal procedure. (BDR 14-655)

What is the pleasure of the Committee? Seeing no motions or comments for A.B. 190, we will move to A.B. 344. What is the pleasure of the Committee?

ASSEMBLY BILL 344 (1st Reprint): Makes various changes relating to the Statewide Alert System for the Safe Return of Abducted Children.
(BDR 15-1276)

SENATOR HORSFORD MOVED TO DO PASS A.B. 344.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

We will move to A.B. 352. What is the pleasure of the Committee?

ASSEMBLY BILL 352 (1st Reprint): Prohibits the issuance of certain work cards to persons who have been convicted of certain crimes. (BDR 10-708)

SENATOR MCGINNESS MOVED TO DO PASS A.B. 352.

SENATOR HORSFORD SECONDED THE MOTION.

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THE MOTION CARRIED. (SENATOR CARE VOTED NO.)

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CHAIR AMODEI:

We will move to A.B. 535. What is the pleasure of the Committee?

ASSEMBLY BILL 535 (1st Reprint): Revises various provisions pertaining to gaming. (BDR 41-591)

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 535 WITH THE FIRST TWO AMENDMENTS FROM PAGE 17 OF THE WORK SESSION DOCUMENT, [EXHIBIT L](#).

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

If there is nothing else to come before the Committee, we are adjourned at 10:49 a.m.

RESPECTFULLY SUBMITTED:

Brian Campolieti,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____