

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
April 6, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:12 a.m. on Friday, April 6, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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:

Senator Warren B. Hardy II, Clark County Senatorial District No. 12
Senator Joseph J. Heck, Clark County Senatorial District No. 5
Senator Michael A. Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Lora Nay, Committee Secretary

OTHERS PRESENT:

David K. Schumann, Nevada Committee for Full Statehood
Bill Horne
Bryce Alstead, Nevada Resident Agent Association
Linwood Edward Tracy, Junior, Patriarch, World Prayers Answered

Senate Committee on Judiciary
April 6, 2007
Page 2

Scott Anderson, Deputy for Commercial Recordings, Office of the Secretary of State

Steve Cervantes

Herb Franklin LaGue, Senior Professor, Shodai, Bushidokan Temple Corporation
Sole

Robin S. Pecchenino, Ambassador of Peace, World Prayers Answered,
International Interreligious Peace Council

Alvin Hicks, Independent Gaming Operators Coalition

Richard Wells, President, Wells Gaming Research

Barbara Smith Campbell, Independent Gaming Operators-Reno

William Bible, President, Nevada Resort Association

Donna Saling

Patricia A. Glenn, Nevada Right to Life

Melissa T. Clement, Nevada Right to Life

Kathleen J. England, Chair, Council of Advocates for Planned Parenthood of
Southern Nevada

Jessica Brown, President, Nevada Chapter, National Organization for Women

Betty Pardo, Ph.D., League of Women Voters, Las Vegas Valley

David Hoff, The Reverend Father, Rector, St. Paul's Charismatic Episcopal
Church

Ronald P. Dreher, Peace Officers Research Association of Nevada

Patricia Elzy, Planned Parenthood Mar Monte; Planned Parenthood of the Rocky
Mountains

Ellen Spiegel

Janine Hansen, President, Nevada Eagle Forum

Don Nelson, President, Nevada LIFE

David Vidimos

Bruce Nelson

R. Ben Graham, Clark County District Attorney; Nevada District Attorneys
Association

Cotter C. Conway, Washoe County Public Defender

Lynn Chapman, Nevada Eagle Forum

Susan J. Meuschke, Nevada Network Against Domestic Violence

Nancy Podewils, Secretary, League of Women Voters of Northern Nevada;
League of Women Voters of Nevada

Joseph A. Turco, American Civil Liberties Union of Nevada

Richard R. Ziser, Coalition for the Protection of Marriage; Nevada Concerned
Citizens

Jason M. Frierson, Clark County; Clark County Public Defender's Office

Senate Committee on Judiciary
April 6, 2007
Page 3

CHAIR AMODEI:

We will open the hearing on Senate Bill (S.B.) 317.

SENATE BILL 317: Makes various changes to provisions relating to agents for service of process. (BDR 7-445)

SENATOR TERRY CARE (Clark County Senatorial District No. 7):

Senate Bill 317 is a bill to potentially regulate the practice of hiring nominee officers, nominee directors, straw officers and straw directors in Nevada as a result of recent scams in Clark County and was requested by members and representatives of the resident agent industry. Members from the resident agent industry will explain what they would like to do with S.B. 317. I hope there is uniformity and agreement within the industry as to what they want.

DAVID K. SCHUMANN (Nevada Committee for Full Statehood):

I am with the Nevada Committee for Full Statehood. I am troubled by section 6 which says "No new corporation sole may be formed in this State on or after July 1, 2007." Various churches use corporation sole. Existing churches can keep on going, but no new church corporations can be formed. Section 6 needs to be removed. I am not opposed to any other section of the bill.

BILL HORNE:

I am a resident of Carson City and a voter. I oppose the removal of corporation soles. The Internal Revenue Service (IRS) has pressured Nevada to remove them because, according to the IRS, they are abusive tax shelters and should be eliminated. My concern is with Nevada sovereignty. If an entity has a purpose, the federal government should not pressure a sovereign state to change it. If it does not have a purpose, then it should be eliminated. I do not know which is correct but grandfathering existing corporation soles lends credence to their purpose. Section 6 should be struck.

I have a resident agent business. Over 200 years ago, our founders stated in the *Declaration of Independence* that people had certain inalienable rights and to preserve those rights governments are created. Part of your bill changes a right of business to a privilege. The purpose of government is to secure rights, not create privileges.

BRYCE ALSTEAD (Nevada Resident Agents Association):

Corporation soles have become a troublesome entity. Apparently, there have been problems in other states. People have declared themselves a church and then used the shielding application of the corporation sole to transfer assets outside of the public eye. Though it is not a major issue, we felt it would be something good not to propagate any further.

The bill should be amended to remove all references to the State Board of Registered Agents. We are in the process of discussing with the Secretary of State the creation of a task force for the regulation of the industry. Left in the bill are section 6 and section 3, which lay out a framework for the industry. According to section 3, a resident agent needs a physical address in a commercial zoning district, needs to maintain normal hours of business and designate a natural person to accept service. The purpose is to ensure you cannot appoint a resident agent who will then hide from any lawsuit. We want to make sure that a resident agent is available for duty which is to accept service of process.

We propose amending S.B. 317 by adding something called charging order protection for small corporation shareholders. It is a lien system on shareholders' shares that does not allow a creditor to force an immediate sale of shares. The creditor still gets paid, but S.B. 317 will not give the creditor the ability to immediately force the sale of shares at what could be below market value and have a negative impact on innocent shareholders still in that corporation. This would not be applicable to all corporations. The cap is at 75 shareholders where the IRS put it in their regulation governing an S corporation. An S corporation is an entity that can be taxed as a partnership. The IRS designation of something that operates as a partnership is a good place to begin when we consider a corporation small enough to deem this protection.

This is not a new idea in Nevada. Limited liability companies (LLC) and limited liability partnerships (LLP) already have this. We want to expand it to the smaller corporations because in a lot of ways, they operate as the LLP and LLC; the LLP is more of a partnership-type arrangement. The smaller and family-owned corporations may have somebody do something really bad. It is fine to take their assets, but it should not bring down the rest of the people with them. With this protection, the creditor gets paid but anyone who is innocent is not implicated.

Senate Bill 317 does not shield corporate liability. If a corporation is sued, the corporation is still wholly liable. This bill will not protect anyone who tries to use this as a front for fraudulent activities. You will still pierce the corporate veil and get at them. This will not apply to public corporations, professional corporations like law firms or corporations with over 75 shareholders.

Senate Bill 317 is good for the state. Corporate filings bring in about \$100 million to the General Fund. Nevada would be the first state in the Union to adopt this, and it would lead to an increase in corporate filings and increased revenues. Most of our corporate filings are these smaller corporations. This would encourage filings in Nevada.

LINWOOD EDWARD TRACY, JUNIOR (Patriarch, World Prayers Answered):

I am from Fallon, Nevada. I have concerns with S.B. 317 and clarifications concerning resident agents. A resident agent is an arm of the IRS who has a duty to comply with all aspects of the IRS. The idea of corporation soles used in a wrongful manner is presented only by the IRS and its agents.

Testimony of the resident agents violates the First, Ninth and Tenth Amendments of the *Constitution of the United States of America* which these resident agents and the IRS are obligated by law to obey. However, 98 percent of the resident and IRS agents violate their own laws.

My handout ([Exhibit C](#), original is on file in the Research Library) provides information on mandatory IRS exemptions and a copy of the Constitution of the United States. Title 26 USC, section 508, has special rules with respect to section 501(c)(3) organizations. They say certain organizations do not have to meet certain requirements and provide exemptions for churches, their integrated auxiliaries and conventions or association of churches. The IRS is required by law to follow the law. The Constitution says all churches are protected.

In conclusion, you have a responsibility under the *Constitution of the United States of America* to obey the law. You have a responsibility to make sure churches are lawful and a corporation sole can exist in Nevada. Thank you, amen.

SCOTT ANDERSON (Deputy for Commercial Recordings, Office of the Secretary of State):

We are not opposed to S.B. 317 as written. The repeal of the corporation sole statute stems from a number of complaints by both federal and local investigatory agencies regarding the misuse and misdeeds of a few. Churches or religious organizations can form a corporation sole under the nonprofit statute in *Nevada Revised Statute* (NRS) 82. We are submitting a letter ([Exhibit D](#)) and an amendment ([Exhibit E](#)) which proposes to give the Secretary of State the authority to regulate the resident agent industry.

STEVE CERVANTES:

I am interested in establishing a corporate sole to fill a religious worship calling. I am choosing Nevada because of its sovereign borders. It allows activity and is more flexible than most states, which is one reason Nevada has vibrant corporate activity.

From a religious and personal perspective, 26 USC, section 508, pertains to an avenue of worship considered private rather than the more public 501(c)(3) where the IRS examines their specific worship for approval.

The removal of 508 hinders the freedom of worship that would take place in new religious organizations choosing to open in Nevada; they would probably migrate to another state. Every capitulation a state does to a federal law takes away from the sovereign status of the state. Nevada could not have gambling and other economic activities from which it derives an income stream. The incorporation of 508s adds extra income.

Every industry, including society, has bad practitioners in everything, and knowledge is a terrible thing, you pay for it if you have it or not. If you have no understanding of 508s, then either by accident or deliberately, you may violate some practice of law. Unfortunately, that, in and of itself, is not enough sufficient rights to remove something. If that was the case, every bad mother and father would be required not to have children.

HERB FRANKLIN LAGUE (Senior Professor, Shodai, Bushidokan Temple Corporation Sole):

I am a third-generation native of Reno, Nevada. I am opposed to S.B. 317. I agree with the others who have spoken before me. I have dedicated my life to service to others and operate under a corporation sole. I have just returned from

Ecuador where I was doing work for peace for the world through spiritual teachings. I have been all over the world traveling for world peace. This is a great country. Our Constitution of the United States stands out as what makes us such a strong country. To see little pieces torn away, which is what this legislation does, is disheartening. I pray the right thing will be done and this legislation will be thrown out.

ROBIN S. PECCHENINO (Ambassador of Peace, World Prayers Answered; International Interreligious Peace Council):

My name is Ambassador Robin Pecchenino. I am an ambassador with a corporation sole. I just received another diplomatic appointment as an ambassador of peace to the interfaith Peace Council which is attached to the peace council of the United Nations. I am also recognized by the Holy See of Rome to promote world peace. I have worked hard to get things initiated.

I am opposed to what is going on today. I ask you to please reconsider what could be a travesty. I feel bad if others have taken these instruments and misused them, but the organization that I serve and work with stands for world peace, humanitarian efforts and peace among nations through means like commerce, commercial businesses and honest and fair trade. The corporation soles we are involved with are not misused. If this bill goes through, it would violate my religious belief and rights. These entities used properly are of great benefit not only to the people of this country but to the world as a whole.

Every day, we lose more and more rights. It hurts me to see the people of this great country lose rights because people in power have closed minds or are not fully informed. They make decisions on things of which they really do not know much. What scares me is it seems like the government says to us that if we give up our rights, we will be protected from terrorists. Why do we have to give up our rights?

It is my responsibility to try to correct things and make them honest and fair for everybody. That is why I decided to turn my mission over to doing world peace and working with other nations. It is a hard task. We have been recognized for our efforts.

Corporation soles are important entities. Nevada seems to be on the forefront for people's rights and freedoms. I do not want to see them slip away where we start losing everything.

Senate Committee on Judiciary
April 6, 2007
Page 8

I hope you really look at this proposal. I do not feel good about it. It is bad, and a lot of people are against it. If you looked to see the work some of the corporation soles are doing, like the ones I am involved with, you would know they are a good instrument and helpful. Because a few people misused the corporation sole, not everybody has to be punished. It is not right.

CHAIR AMODEI:

We will close the hearing on S.B. 317.

SENATOR CARE:

My name is on the bill as a favor for those resident agents in the industry who wanted to do something this session. In light of the testimony this morning, I want compromising language from all stakeholders—the resident agents, the Secretary of State—on my desk by 5 p.m. on Monday. If there is no response, then I am going to recommend this Committee indefinitely postpone the bill. As to section 6 and corporation sole, the legislative record this morning is clear; the testimony from Mr. Alstead was rather milquetoast on the issue and everybody else opposed it.

CHAIR AMODEI:

We will open the hearing on S.B. 381.

SENATE BILL 381: Authorizes the Chairman of the State Gaming Control Board to allow the partial abatement of certain license fees paid by certain gaming licensees. (BDR 41-1130)

ALVIN J. HICKS (Independent Gaming Operators Coalition):

I will read my written testimony in support of S.B. 381 ([Exhibit F](#)).

RICHARD WELLS (President, Wells Gaming Research):

I am president of Wells Gaming Research, Reno, Nevada. In your handout materials ([Exhibit G](#), original is on file in the Research Library), there is a section called Industry Transformation, pages 10-15. When the current progressive tax structure was implemented in 1963, there were no lotteries, state lotteries, tribal casinos, riverboats and race tracks with slot machines or casinos. Nevada was the only state with legalized casinos. In 1963, Nevada's gross gaming revenues were \$248 million as compared to about \$12 billion in the most recent year.

Since 1963, on page 11 of [Exhibit G](#), you can see the avalanche of competition that has entered the gaming industry nationwide and regionally. New Jersey legalized gaming in 1976. The first tribal casinos in our neighboring state, California, started appearing in 1979. The National Indian Gaming Regulatory Act allowed tribal casinos to be developed with state agreement through compacts. In the 1990s, there was widespread expansion of both tribal and commercial gaming throughout the United States. Eight states legalized commercial gaming from 1989 to 1993. Eleven states legalized casinos or slot machines and racetracks. A significant impact occurred in 2000 when California legalized Nevada-style gaming. We went from Nevada being the only game in town to 37 states having casino-style gaming with 890 nationwide casinos and revenues of \$58.2 billion as shown on page 12.

The map on page 13 shows the Western States. Nevada is surrounded with about 200 various kinds of Nevada-style casino gaming with the exception of one state, Utah. California is the most notable, recent entry with 57 casinos and an estimated gaming revenue of \$7 billion.

The growth rate chart on page 14 for Washoe County is typical of what has happened to Nevada showing the onslaught of tribal gaming during the 1990s. The rate of gaming revenue growth was basically cut in half from about 6 percent per year to 3 percent in the 1990s during that big wave of competitive gaming.

In wave two, when California tribal gaming comes on full bore, the growth rate goes negative for Washoe County and northern Nevada and is still negative. We saw similar situations in Laughlin when Arizona legalized; the growth rate went negative and gaming revenues declined. Laughlin has turned around a little bit, but it is still growing very slowly at about 1 percent to 1.5 percent per year as opposed to much more rapid growth rates in prior years.

Growth rates have been cut and affected the entire industry in the state. The last chart in this section shows a county-by-county recap of growth rates for the five-year time period 1995 to 2000 and the most recent six-year time period from the year 2000 to 2006. All of the rates—with the exception of a few small counties like Lyon County where the population growth has been rapid—are down. Had the existing growth rates before this most recent wave of expansion stayed in place, the revenues would have been significantly higher statewide than they are today at about a half-billion dollars.

MR. HICKS:

We are seeking amendments to section 1, subsection 1 which allow gaming licensees to apply to the Chairman of the State Gaming Control Board for a determination that the licensee is eligible to be certified as a reinvestment licensee. Our amendments make it clear that it is a request for an administrative approval and not a formal application process.

In our proposed amendment on page 17 of [Exhibit G](#), we broke paragraph 2 into different paragraphs. They set forth the criteria a licensee must meet in order to be certified as a reinvestment licensee. Paragraph 2 requires the licensee to be a nonrestrictive casino licensee who pays percentage fees based on gross gaming revenues of \$50 million a year or less and provides health insurance or a health plan with optional coverage for all dependants.

In our amendments, we reference NRS 363B.115 for definitional purposes. That statute defines which health expenses may be deducted for purposes of determining the Modified Business Tax.

In our new paragraph 3 on page 18 of [Exhibit G](#), we add that a licensee must also satisfy one of the following two criteria in order to be certified as a reinvestment licensee. The licensee must have 15 or more employees, and the average hourly wage earned by those employees must be at least 150 percent of the federal minimum wage or the licensee must have obtained a reduction of the taxable value of its gaming establishment from the local property tax authorities. We make a reference in that section to NRS 361.227, which is the process for obtaining a reduction in your property tax values.

Paragraph 5 on page 19 of [Exhibit G](#) provides that, once the licensee is certified as a reinvestment licensee, it may take abatements of up to \$150,000 a year. They have already paid the tax to the state. It allows credits against future payments on a dollar-for-dollar basis provided they expend that money on particular classes of expenses. The first would be the purchase or lease of new gaming devices. The second would be capital improvements to the gaming establishment including improvements for public safety and security systems. The third would be for expenses incurred in complying with regulatory requirements.

The new gaming devices are generators of new revenues for a club. They can either add new devices or replace old devices. One of my members gave us an

example. He said every time he puts a new gaming device in his establishment, he sees an immediate jump in revenues. Those are taxable revenues he pays to the state. It also helps him. For example, if he has a machine making \$40 or \$45 a day and he can put in a new machine, that new machine will make closer to \$90 to \$100 a day. It is amazing how the impact of new machines on these small properties will help those properties. It generates additional revenues for them and the state.

You only need to drive out to Fallon, Fernley or any of the smaller areas and look at the small casinos to see they need capital improvements in general and, certainly, for public safety and security systems.

The third class of expenses helps them comply with regulatory requirements. One example is the adoption by the Nevada Gaming Commission of a new regulation addressing online slot metering systems about a year and a half ago. The systems are a great accounting and security feature for casinos. Large operators have had them in place for a long time, but smaller operators have older systems and have not been able to meet current standards. But the Gaming Commission moved to require all licensees to have the new, online slot metering systems by a certain date and gave all licensees a time to comply. The systems meeting the prescribed standards of the Gaming Commission are expensive, ranging in cost from \$500,000 on up. Russell G. Sheltra, Jr., who operates the Bonanza Casino in Reno, had to spend \$1.2 million to meet this new regulatory compliance requirement. That story is fairly common for these small-to-midsize operators. They are not complaining because it is a good feature with better accounting and security but it was an unplanned capital expense they had to meet because of the regulatory imposition of new requirements.

Our renumbered paragraph 6 of S.B. 381 on page 20 of [Exhibit G](#) contains provisions governing what happens if the reinvestment licensee accumulates credits and takes some of the credits but then closes their business or fails to adequately document their expenses. They will be audited by the Gaming Control Board, and if they cannot properly document those expenses, the state will recover that money with interest.

We propose adding a new paragraph 8 on page 21 of [Exhibit G](#), which addresses when this will be implemented. Credits from capital expenditures, new slots and regulatory expenditures will be allowed to begin accruing July 1.

It further provides that credits cannot be taken against their gross revenue taxes until after July 1, 2009. While there is no fiscal impact between 2007-2009, there are positive impacts. During that period of time, they are accruing credits. This time also allows the State Gaming Control Board and the Nevada Gaming Commission to adopt guidelines for the industry.

BARBARA SMITH CAMPBELL (Independent Gaming Operators–Reno):
I will read my written testimony ([Exhibit H](#)).

SENATOR CARE:

I begin with a disclosure. Mr. Hicks is a partner with the law firm of McDonald Carano Wilson, LLP, as am I. I made my disclosure on the Senate Floor the second week of the Session. It is on file with the Legislative Counsel Bureau (LCB), and I would like that incorporated into my disclosure here this morning.

I am focusing on the amended version on page 23 of [Exhibit G](#), section 1, subsection 2, paragraph (c). This is the passage that reads, "The licensee must provide health insurance coverage or a health benefit plan for all full-time employees pursuant to NRS 363B.115(1)." I would like to know what impact this would have on employees of these licensees who are either underinsured or uninsured. We will be dealing with the underinsured and uninsured issue several times this Session.

MS. CAMPBELL:

We have a graph demonstrating what kind of health insurance exists within this segment of the industry ([Exhibit I](#)).

SENATOR CARE:

The focus is on the licensee, but is it not also supposed to benefit the employees? That information would be helpful. Every session, we hear about the burden the uninsured and underinsured are increasingly becoming to the state. I testified on a bill this morning on that very issue.

SENATOR MCGINNESS:

Under what policy reason are we singling out gaming operators rather than allowing other businesses in rural Nevada to get advantages by reinvesting? A lot of businesses face competition. Why would we not offer some form of reinvestment opportunity for them?

MR. HICKS:

Part of the answer is we are not saying other businesses should not have opportunities. The businesses in rural counties need attention, and we recognize the problems in the rural counties. In many communities, the gaming operations are the community center separate from mining and agriculture businesses. It is a combination of the increased and unanticipated competition from other gaming operations outside the state, along with the fact they have been operating under a tax structure that made sense when adopted in 1963 that has not since changed. They are paying on the same three tiers of taxes since 1963 which is the point of Mr. Wells' presentation. Things have changed dramatically. This is the only industry in the state that pays a tax based on their gross revenues whether they make money or not. Operating these casinos has become more expensive over the years. Most of these casinos are locally owned properties, and they need help. They are not asking for money back, they are asking for assistance so they can reinvest in their properties and make them more profitable for both them and the state.

SENATOR MCGINNESS:

You said the impact would not be felt until 2009, but have you done calculations on the fiscal impact?

MR. WELLS:

The last tab in [Exhibit G](#) is labeled "Impacts." In order to estimate the impacts as accurately as possible for this proposal, I have obtained data from the Gaming Control Board, which is in the first slide on page 28 that shows in detail the revenues by size and class statewide. There are 369 licensees in the \$50 million or below category. Mr. Hicks mentioned 310, but the 369 is all licensees including sports books and others that are not actually casinos. Some of them are part of a casino. They generate about \$2.4 million in revenue.

From this data, we then calculated taxes paid or estimated for each size class shown on page 29. From that schedule, we estimated the impact as shown on page 30. We are not entirely sure how many casinos would qualify for the various qualifying requirements. I calculated a range of estimates from high to low. The high assumes all licensees qualify; in that event, the annual impact could be about \$28 million based on fiscal year (FY) 2006 data. On the low end, I estimated about \$16 million of impact. The middle case is a more likely scenario that shows \$21.9 million per year of abatements.

Page 31 of [Exhibit G](#) shows information from the University of Nevada, Reno, Bureau of Business and Economic Research Department. They computed the economic impact resulting from this program. The highlighted middle case shows \$21.9 million in abatement. The flow-through effect to the economy would be \$35.6 million per year with incremental employment of 245 jobs, either supported or new jobs.

The next schedule on page 32 shows timing issues related to the 24-month lag. The abatements, which start accruing in this upcoming FY 2007-2008, continue and accumulate for two years to an estimated total of \$44 million and stay at that level because casinos then begin claiming and taking those in the third year, 2009-2010. The economic impacts begin in Year 1 and continue at that \$35.6-million rate year by year. The last line shows fiscal impacts based on the middle case estimate at roughly \$22 million per year beginning in 2009-2010.

SENATOR HORSFORD:

Companies providing health care can receive a deduction from their payroll taxes. Is that the case? Do those companies you represent qualify for that provision now?

MS. CAMPBELL:

As you acknowledge, there are two separate taxes. When we were considering the draft on S.B. 381, we tied the health care provision to current statutes and regulations dealing with the health care deduction in the Modified Business Tax.

SENATOR HORSFORD:

Are they already eligible for that deduction through the Modified Business Tax? Would this be an additional abatement from the gross gaming, separate and apart from the deduction they take from the Modified Business Tax?

MS. CAMPBELL:

You are correct.

SENATOR HORSFORD:

You are familiar with the provisions of the tax abatement and deferral programs. The provisions of those economic development abatements or deferrals exempt mining, gaming and retail industries. Do you know the legislative history as to why those industries were specifically exempted and why should we provide

this provision as requested? I would be interested to know if there is any legislative record as to why those specific industries were exempt because it will be an important part of this discussion.

MS. CAMPBELL:

I do not know this history, but I will be happy to research it. If I come up with something in the history, I will submit it to the secretary of the Committee for distribution.

SENATOR HORSFORD:

In the amendments you are proposing, paragraph (3) on page 18 of [Exhibit G](#) states that the licensees satisfy one of two additional criteria; they have 15 or more employees making an average hourly wage of 150 percent of federal minimum wage or the licensee has applied for and obtained the tax deduction on their property taxes. What is the approximate amount of that minimum wage at 150 percent and why is it "or" and not "and"? Why is the criteria one or the other and not both?

MS. CAMPBELL:

This addresses the annual property tax assessment when the assessor is developing taxable value for the purpose of assessed valuation. All commercial properties have the ability to request the assessor do that valuation based on an income approach which would bring the property tax valuation down. The income approach is below the valuation being developed under Marshall and Swift. This was a key indicator, and there was more obsolescence than in other properties of the age, place and industry group. It was a good indicator a commercial property was declining and would be one of the criteria to help qualify a property for the abatement.

MR. HICKS:

We are putting parameters on the types of qualifying licensees, hence, we included this requirement of 15 or more employees to rule out some nonrestrictive slot operations you see in grocery stores, particularly in Clark County. It would encourage people applying for the abatement to ensure they pay their employees at least 150 percent of federal minimum wage.

The federal minimum wage is \$5.15 an hour. In February, the United States Senate passed a proposal to increase the federal minimum wage to \$7.25 over the first two years of its implementation. In Nevada, we have the federal

minimum wage plus \$1. When the federal minimum wage is fully expanded over the two-year period, that number will be \$10.88 an hour.

SENATOR HORSFORD:

Would it apply to the additional dollar? Is this based only on the federal requirement and not on the federal and state requirement?

MR. HICKS:

This would only be based on the federal requirement.

SENATOR HORSFORD:

Can someone explain why the "or" and not "both"? I am trying to get at how many companies are actually going to benefit. If one company does not pay 150 percent of the federal minimum wage but they do this tax reduction process, does that allow a majority of those companies to do B and not A? While some rural operators may need relief, workers in those properties need relief as well, and I want to be sensitive to that issue.

MS. CAMPBELL:

The "or" was added strictly for the fact we do not know how many of our property owners would qualify under the income approach. We surveyed the membership and got a healthy response. Most of them were unaware this methodology was available. Rather than guess at the answer, we put an "or" because we did not know if we would eliminate or qualify all of them.

SENATOR HORSFORD:

I would like a list of the properties in Las Vegas or Reno that fall within the \$50-million-or-less threshold and meet the other criteria you listed. We have the list of the rural independent operators, but I would like to see those existing in the urban areas as well.

CHAIR AMODEI:

We will close the hearing on S.B. 381 and open the hearing on S.B. 217.

SENATE BILL 217: Revises the provisions governing deeds of trust and the sale of real property after default. (BDR 9-742)

Senate Committee on Judiciary
April 6, 2007
Page 17

LINDA J. EISSMANN (Committee Policy Analyst):

Beginning on the second page of the work session document ([Exhibit J](#)), I have summarized the amendment Rocky Finseth and Dave Evans suggested. It is essentially the same amendment suggested by Teresa McKee; the only difference is the change in the number of days. Senate Bill 217 calls for 30 days as the time in which to commence an action, and, similarly, 15 days for the time to file a lis pendens. The proposed amendment increased the 30 days to 90 and the 15 days to 30 and adds paragraph (d) to section 1, subsection 5 from Ms. McKee's original amendment but changes that day to 120 days and 30 days, respectively.

SENATOR CARE:

Five days for the lis pendens is no longer five days. It is either 15 or it is not there, did I understand that correctly?

Ms. EISSMANN:

Yes, Ms. McKee's original amendment suggested going from 15 days to 5 days, and the current amendment goes from 15 days to 30 days.

SENATOR CARE:

Yesterday, we heard a bill which addressed the same subsections of NRS 107. What do we do with that?

Ms. EISSMANN:

The amendment is the same for both bills, and I summarized it in today's work session document.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 217.

SENATOR CARE SECONDED THE MOTION.

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

CHAIR AMODEI:

We will open the hearing on S.B. 212.

SENATE BILL 212: Revises provisions governing the issuance of nonrestricted gaming licenses in certain counties. (BDR S-998)

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):

Senate Bill 212 has to do with a gaming establishment in Las Vegas that got caught up in the USA Capital Mortgage (USACM) problem with mortgage lending. This was a property of USACM. They had an agreement to sell the casino floor to a licensed individual, a person who has held a gaming license in Clark County in excess of 25 years. They had a letter of intent and an agreement with the State Gaming Control Board. The deal was struck and the license would continue on to Mr. Ron Coury. The Federal Bureau of Investigation (FBI) shut down USACM, put them in receivership and took them over. The Casino Royale was put into bankruptcy along with everything USACM had.

There was an agreement Mr. Coury could put in 16 machines and turn on the slot machines for one day to renew the license for another 18 months. He could do that twice without going to the Gaming Control Board. When USACM was taken over by the FBI, no one called Mr. Coury with the date to turn on the machines and so the license expired.

We are asking to renew the license to its previous standing. It is a grandfather license. Under law, 300 rooms are needed to be a resort hotel. This property does not have the full 300 rooms, it has about 150 rooms. We are asking to reinstate grandfather license. Mr. Coury will have to go before the Gaming Control Board and the Commission to get the waiver for this application.

The USACM caused a serious crash in the mortgage business in Las Vegas. Many private investors in USACM have lost millions of dollars. If we could make those investors whole, as long as it did not cost the state any money, we would do it without hesitation. This is an area where we can help. This investor, Mr. Coury, was damaged by the USACM failure. He is asking to get the license back, and he will start operation. We are not guaranteeing he will make a profit, he is totally at risk.

Some in the gaming industry do not support the amendment. It is hard for billion-dollar and multibillion dollar gaming companies to see gaming outside their own corporate structure. Maybe they are nervous about competition or opening doors; they think boogie men will come out of the walls and gaming

will be all over in different areas not allowed. Senate Bill 212 does not do that. We include a lot of discretion with the Gaming Commission, and they will use that discretion properly.

SENATOR MCGINNESS:

You said if we pass S.B. 212, it would allow him to begin operation again. Would that mean plugging in the machines every 18 months?

SENATOR SCHNEIDER:

The property is in new hands and he has a lease agreement with somebody approved by the state and, yes, he would put the machines in place and is prepared to open up right away.

WILLIAM BIBLE (President, Nevada Resort Association):

We have worked diligently with Senator Schneider in an attempt to resolve our concerns that remain on the main bill and proposed amendments ([Exhibit K](#)). Senate Bill 212 has transitory language similar to a bill adopted in the 66th Legislative Session. At that time, I was the chair of the State Gaming Control Board. This bill imposed a minimum 200-room limit for both Clark County and Washoe County in order to be granted a nonrestricted license. Chair Dennis K. Neilander of the Gaming Control Board, then a staff member of this Committee, advised the Judiciary Chair. Since then, we have had a substantial increase in the growth of gaming, principally in southern Nevada. Many properties opened in the 1990s after this bill was heard. These expansions occurred because of the economic environment the state created for its major industry, gaming. The state has a stable and reliable regulatory and economic environment on which licensees can depend as they make investment decisions. Luckily for Nevada, the dependability of that environment has led to a substantial increase in investment. Billions of dollars have been invested in various properties that I attribute to the creation of a stable and reliable environment.

I am not suggesting S.B. No. 535 of the 66th Legislative Session with its room requirement is what created this environment. It is just one item on which companies could make informed decisions as to whether to invest their dollars here versus other jurisdictions where, luckily for us, the environments are considerably less reliable and dependable. Senate Bill No. 535 of the 66th Legislative Session defined a resort hotel as having a certain number of amenities: a restaurant opened for a certain number of hours, a bar opened for

a certain number of hours, a pool area and things of that nature. It also had transitory language; before you today is a suggested amendment to that transitory language.

The proposal in S.B. 212 says in order to maintain grandfathered status, the licensee has to have a continuous gaming operation, and they could not cease gaming for a period of more than two years. If they ceased gaming for a period of more than two years, they lost their entitlement as would anybody else who bought the property. They would either have to bring the property up to the state standard of 200 rooms or, in some cases, put in a restricted license which would qualify a property to operate 15 or fewer slot machines.

The industry has relied on the transitional language in effect since 1991. The proposal is to rewrite that language in a circumstance that Senator Schneider described to you. Our concern with the proposed amendment is twofold. You are unringing the bell; you are rewriting the rules after they have been in effect for a considerable period of time. People have relied on those rules to make economic decisions. They have relied on that particular set of rules to define their economic and operating environments. Secondly, we really do not know who would be affected by these amendments. We do not know if other properties are similarly situated.

I asked the State Gaming Control Board if they had a list of licensee with grandfather status that expired so we could examine whether other properties would be affected either in Clark or Washoe Counties. We do not know if there would be properties involved operating in the neighborhoods before the imposition of the neighborhood gaming laws. My opposition and my Association's opposition is due to the uncertain environment of the potential effect and unintended consequences of this bill and its proposals.

SENATOR CARE:

I also had the question about what properties might be affected. The language in the amendment says, "after making a finding that the cessation of gaming operations at the establishment was the result of circumstances beyond the control of the person who was licensed." I was a reporter for the National Broadcasting Company affiliate when the Control Board yanked the license of the Aladdin one evening after a meeting at the Las Vegas Convention Center. An owner can lose a license and argue that the loss of the license was beyond

their control. Employees, without their knowledge, were engaging in activities that caused the loss of the license. Could the amendment be read that way?

MR. BIBLE:

That could be the case. I do not know the entire business situation at this particular property. Senator Schneider was kind enough to give me the name of the proposed operator in whose licensing hearing I participated during the 1990s. If I interpret Senator Schneider's testimony correctly, he would hold some form of lease with the current owner and therefore he would become the gaming rights holder. That is not a defined term in NRS, but you could read that if he is licensed and they lost their license for something beyond the control of the person who is licensed at the establishment, they would potentially be eligible for requalification.

SENATOR SCHNEIDER:

I suggest the employees of a licensee are the same as the licensee. He is responsible. I would argue that is not beyond his control because the employees are under his direct control. This has to be something outside of his control.

MR. BIBLE:

When I was a regulator, I also took that position. The corporation is responsible for the conduct of its employees, and that could affect their licensure status. Employees may do something for some other reason.

SENATOR CARE:

Such as engaging in conduct outside the scope of employment?

MR. BIBLE:

Circumstances he was not controlling may be a labor dispute situation where things sometimes get a little crazy.

CHAIR AMODEI:

We will close the hearing on S.B. 212. We will open the hearing on S.B. 299.

SENATE BILL 299: Establishes provisions relating to crimes against unborn children. (BDR 15-730)

SENATOR WARREN B. HARDY II (Clark County Senatorial District No. 12):

This is potentially a controversial issue, and I want it to be clear for the record what my intent is in bringing this bill forward. Thank you for taking the time to consider this important matter. As each of you know, I am unapologetic about my pro-life convictions, and that may have led to some misunderstanding regarding my motives for bringing this bill forward. Please be assured, it is not my intention to write social commentary on reproductive rights. This is a bill about criminal justice. This bill has been correctly referred to the Committee on Judiciary, not the Assembly Committee on Health and Human Services. I introduce this bill solely and singularly to address the tragic circumstances of an individual who was robbed of the right to be a mother by the criminal actions of another person.

In a moment, I will introduce Donna Saling whose daughter and her unborn child were the victims of a drunk driver. Her daughter was seriously injured, but tragically, the child she was carrying was killed. This is a woman who had every intention of carrying her child to full term, giving birth and raising, nurturing and caring for that child with her husband. There is no controversy in this case. Her desire was to be a mother, and that was taken from her.

The drunk driver who robbed her of that right will shortly be charged with battery with substantial bodily harm. I want to repeat that, battery with substantial bodily harm. Is it any wonder this family does not feel justice is being served? We, as a state, can and should do better than that.

It was not my intent to ask the Legislature to create a new definition of an unborn child or somehow change the dynamics of the abortion debate. In fact, it is my sincere hope to avoid that as a distraction from the central issue at hand. It is my intent to create recognition in this instance that a crime was committed and the pain and heartbreak caused by the commission of that crime is worthy of a charge fitting that crime. I have spoken to individuals in preparing for this hearing on all sides of the abortion debate. I appreciate the unqualified compassion each and every person I spoke to has shown for this family for their general willingness to help us find language that maintains the balance of that peripheral debate.

Unfortunately, it is not possible to address this circumstance without touching on the tender issue of fetal viability. As written, this bill may be overreaching

and need a narrower draft to accomplish my goal; I would welcome any amendments.

There is statutory precedence. The law in certain, very limited circumstances recognize a fetus without regard to its "viability." I refer the Committee to NRS 176.475 which addresses the circumstance of a pregnant woman who has been sentenced to death in this state. The germane portion of the law reads, "If the female is found to be pregnant, the judge shall enter an order staying the execution of the judgment of death." It is clear by this citation that in certain narrow circumstances, the law of Nevada recognizes an unborn child without regard to its viability. Surely if we recognize in law an unborn child in any stage of development, in these circumstances, we ought to extend that same recognition to an unborn child of a family who had hoped to love and care for the child they were anticipating as part of their family.

In this spirit, I plead with concerned parties on all sides of this debate that if this language is too broad or has consequences unintended by the sponsor, please let us combine our intellect, expertise and most importantly, our compassion to find more suitable language to ensure one of our fellow citizens, who suffered a tragedy most of us cannot even begin to imagine, is provided the small satisfaction of knowing that Nevada law recognized the depth of the wrong that has taken place in her life and the life of her family. Mr. Chair, I respectfully request the Committee advance this bill for the full consideration of the Senate.

I have a proposed amendment ([Exhibit L](#)) that might be a first step toward better addressing what we are trying to accomplish. I want to make sure the Committee understands I am wide open to anything else that helps narrow this debate to this circumstance.

DONNA SALING:

February 12, 2006 changed our lives forever. My daughter, who was five-months pregnant, and my son-in-law were hit by a repetitive drunk driver. Two witnesses said he was off the road and had already run two red lights. My daughter was seriously injured and two days later, her son Joshua died from blunt trauma to the head. My daughter had to give birth to a stillborn child. She was told she would have complications if she ever got pregnant again.

The drunk driver had over three driving under the influence (DUI) offenses and just recently got out of jail for one. He was driving on a suspended license. He had choices and my family had none.

The law needs stiffer penalties towards crimes of this nature on unborn victims, whether they be from DUI, domestic violence or any other crime resulting in the death of an unborn child. Senate Bill 299 needs to pass. The life-changing experience that happened to us can happen to anyone at anytime. No parent or grandparent should have to bury their unborn child.

SENATOR HARDY:

The individual is going to be charged with battery with substantial bodily harm.

CHAIR AMODEI:

Mr. Wilkinson, you had been asked to provide information on this issue in other states. Could you briefly synopsise the information provided to Senator Care?

BRAD WILKINSON (Chief Deputy Legislative Counsel):

You have a memorandum from Dan Yu who is a deputy in our office ([Exhibit M](#)). Thirty-four states have some form of statutory provision regarding fetal homicide. Those statutes take a variety of approaches at what point an unborn child is considered a victim of a crime, and those statutes range anywhere from the moment of conception until viability. Several states such as West Virginia and South Carolina have provisions similar to proposals in the current bill providing a pregnant woman and the embryo and fetus she is carrying in the womb constitute a separate and distinct victim for the purposes of certain crimes of violence.

CHAIR AMODEI:

That memorandum will be made available to the public.

PATRICIA A. GLENN (Nevada Right to Life):

I am president of Nevada Right to Life and present my written testimony ([Exhibit N](#)) in support of S.B. 299.

MELISSA T. CLEMENT (Nevada Right to Life):

I am with Nevada Right to Life and submit my written testimony in favor of S.B. 299 ([Exhibit O](#)).

KATHLEEN J. ENGLAND (Chair, Council of Advocates for Planned Parenthood of Southern Nevada):

I am a practicing attorney in southern Nevada and also the chair of the Council of Advocates for Planned Parenthood of Southern Nevada. I come before this Committee to discuss and oppose S.B. 299. First and foremost, I extend my personal condolences to the family with the horrific story of their injuries and loss of their wanted child. Like them, Planned Parenthood wants every wanted child to be brought into this world.

Senate Bill 299 does not protect women. It is about abortion and creates a debate we do not need. If we need to protect pregnant women, let us determine how we can better ameliorate the laws we already have protecting victims of crimes.

Bad facts make bad laws. In the horrific situation in southern Nevada, the alleged drunk driver has not even yet been charged under our statutes. You need to hear from the people who enforce these statutes and the people who defend people who are charged to find out what is wrong. Do we need enhancements? Do statutes need to be changed? We do not need this broad-brush approach, which is nothing more than defining a fetus of a pregnant woman separately from her. This constitutional battle does not need to be fought.

We need to find out the problem and address existing laws to get that problem solved. If our laws are not strong enough, then let us enhance them. We can look at other state laws. Mr. Yu from LCB provided you with a briefing paper ([Exhibit M](#)) according to the National Right to Life Committee. Other states have better legislation than anything suggested in the briefing paper. Maine passed laws in their First Special Session of the 122nd Legislature called "An Act to Protect Pregnant Women from Violence" and "An Act to Protect Motherhood." These Acts specifically address identifiable problems and correct criminal statutes to include enhancements that recognize the commission of an act of violence on a pregnant woman. If it injures her fetus or causes her to have a stillborn child or a miscarriage, it needs to be specifically set forth in a statute, and there should be criminal penalties.

You need more clearly stated exemptions in this statute before you begin to think it can be constitutionally applied against perpetrators of crimes against women. An exemption would have to be any persons, not just medical doctors,

who assist in the conduct of a legal abortion or you could have an overzealous prosecutor prosecuting someone for conduct that is legal in Nevada. It would also be wise to insert knowledge and intent requirements in legislation of this nature. It would be difficult to use a statute like this if it cannot be proved the person knew or should have known the person upon whom they were committing violence was indeed pregnant.

SENATOR WASHINGTON:

Will you explain your interpretation of section 1, subsection 2 of the original bill?

MS. ENGLAND:

Subsection 2 of the original bill says, "The provisions of this section do not apply to conduct committed against an unborn child if the conduct involves a lawful medical procedure performed by a physician in accordance with NRS 442.250," which is the abortion statute. There may be loopholes; it may not cover legal conduct and encompass all exemptions.

SENATOR WASHINGTON:

What exemptions are you talking about?

MS. ENGLAND:

The North Carolina statute and the two Maine statutes use specific medical terms instead of using the term "unborn child" about which there is a raging debate at this legislative level in Congress, before the U.S. Supreme Court and in many, many state supreme courts.

SENATOR WASHINGTON:

The sponsor of the bill was explicit in assuring us this bill has nothing to do with abortion. Subsection 2 is written well enough to explain that provisions of this section do not apply to the conduct committed against any unborn child if the conduct involves a lawful medical procedure performed by a physician in accordance with NRS 442.250. I am not sure I follow your testimony so I wanted to put that on the record.

MS. ENGLAND:

There are constitutional questions in S.B. 299 about the term "unborn child," with no exemption about the conduct of the pregnant woman. The Nevada Supreme Court has said it is inappropriate to prosecute a woman for the

delivery of drugs in utero. You need good information to carefully craft legislation which addresses this problem for Nevada women. We abhor violence in any way, shape or form, and we would like to see this legislation done right. I will be happy to present you with all legislation not included in the National Right to Life's briefing paper provided to LCB on this issue about how other states have specifically addressed these exemptions and their use of medical terms to tackle the problem of violence against all women, but especially pregnant women.

CHAIR AMODEI:

If you have an opinion on an appropriate amendment for this Committee to consider, we would be happy to receive it from you.

JESSICA BROWN (President, Nevada Chapter, National Organization for Women):

I am the president of the Nevada Chapter of the National Organization for Women (NOW). Our hearts go out to the mother of the victim of the drunk driver, but we oppose this bill and respectfully ask you to vote no. There are serious problems with violence against women and child abuse in Nevada that need to be addressed. The language of S.B. 299 exploits these serious problems for an entirely different purpose and introduces backdoor legislative language its sponsors know is intended to undermine the constitutionally and legislatively protected rights of Nevada's women. The sponsors purposely oppose certain freedoms of Nevada citizens, and that language can be found on the National Right to Life Website. The rights of Nevada citizens, are supported by the Nevada Constitution as the right of women for reproductive choice.

In the 34 states with laws similar to this bill, there have only been two convictions, both as additional counts to far more serious domestic violence or homicide convictions. The problem of violence against Nevada women is real. Nevada NOW was told by members of the Las Vegas Metropolitan Police Department that only 16 officers are specially trained to handle domestic violence cases of which they get about 120 daily. Domestic violence cases usually occur after repeated battery. Perhaps this lack of police support contributes to Nevada having the second highest rate of death in domestic violence instances per capita in the country. Prevention programs are rare.

If the sponsors propose a bill increasing support for law enforcement agencies to hire more domestic violence specialists, increase penalties for convictions of domestic violence against women, broaden laws protecting the identities of

women who bring sexual or domestic violence charges or enhance protection for children victims of domestic violence, the sponsors will have the support of Nevada NOW.

SENATOR CARE:

I object to testimony from Las Vegas about the purpose of the sponsor's bill. I have known Senator Hardy for several years. I do not question his purpose in bringing the bill other than what he testified to here this morning.

I am particularly interested in the mens rea issue and if North Carolina and Maine have these enhancement statutes. I do not know if a mens rea says the perpetrator is aware the woman is pregnant. I would like to see anything you may have.

MS. ENGLAND:

I will be happy to provide information. A critical issue from the prosecution standpoint is proving that mens rea, the criminal intent, in order to go forward with these statutes.

BETTY PARDO, PH.D. (League of Women Voters, Las Vegas Valley):

I am a director and past president of the League of Women Voters, Las Vegas Valley. We would like to go on record as being strongly opposed to S.B. 299.

DAVID HOFF (The Reverend Father, Rector, St. Paul's Charismatic Episcopal Church):

I am a priest of St. Paul's Charismatic Episcopal Church in Henderson and am in favor of S.B. 299. It would improve Nevada law by making it clear there are two victims. Offenses and penalties for violence should not only apply to death or injury to the mother but also to death or injury of the unborn child. Nevada mothers and their unborn children need the added protection of S.B. 299. This bill states the unborn child is a separate victim, and it makes a clear exception for abortion. If Planned Parenthood took its name seriously, they would see that a woman who planned her parenthood would cherish this protection.

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

I am representing professional peace officers in Nevada. I am also speaking on behalf of our men and women of the police force. I have 26-plus years as a detective with the Reno Police Department in major crimes working homicides about these types of cases. Senate Bill 299 is about the victims of crimes. It is

not about abortion. We support the concept of what Senator Hardy is trying to accomplish with this bill and ask that you support S.B. 299.

PATRICIA ELZY (Planned Parenthood Mar Monte; Planned Parenthood of the Rocky Mountains):

I am the director of legislative affairs for Planned Parenthood Mar Monte in Reno and present my written testimony in opposition to S.B. 299 ([Exhibit P](#)).

ELLEN SPIEGEL:

My name is Ellen Spiegel, and I speak on behalf of myself. I am a citizen of Henderson. My heart goes out to the Saling and Hansen families. I understand their feelings and the tragedy they have suffered. That being said, I am opposed to S.B. 299. Sometimes things are done with good intentions, but there are unintended consequences, and I fear something could happen with this bill. I am troubled that a fetus is granted legal status distinct from its mother and that the bill is overly broad and does not define an unborn child or include any discussion of viability.

JANINE HANSEN (President, Nevada Eagle Forum):

I have lost two unborn children and know the difficulty, tragedy and heartbreak that loss can bring into people lives. I support Senator Hardy's bill. We need to recognize not only the humanity and victimization of the woman but the humanity of the child. It has been proven that a fetus has separate deoxyribonucleic acid at 20 days. It is important to recognize these are little people who can have crimes committed against them. We ask you to support this bill recognizing crimes can be committed against the unborn. With that recognition, we help the woman who suffers when her unborn child is victimized as well as herself.

DON NELSON (President, Nevada LIFE):

I will read my written testimony in support of S.B. 299 ([Exhibit Q](#)).

DAVID VIDIMOS:

I will read my written testimony in support of S.B. 299 ([Exhibit R](#)). I also support the proposed amendment.

BRUCE NELSON:

I am a DUI prosecutor and ask you to please consider the DUI offender whatever you do with S.B. 299.

Senate Committee on Judiciary
April 6, 2007
Page 30

R. BEN GRAHAM (Clark County District Attorney; Nevada District Attorneys Association):

Our primary interest is in a neutral stance so we may review whatever the Committee comes up with to make sure it meets the needs that Senator Hardy and the Committee seek.

COTTER C. CONWAY (Washoe County Public Defender):

We oppose the bill as written. I agree with Senator Hardy concerning the need for some changes in the law. The broad stroke this particular legislation encompasses is not appropriate. It has a number of unintended consequences including those dealing with many charges around any intent required under a normal circumstance. Senate Bill 299 changes the definition of a fetus. We can address the concerns of Senator Hardy with amendments to include not just the willful killing but possible killing involving actions under the DUI law. I ask this Committee to consider a more narrowly tailored approach.

CHAIR AMODEI:

Do you intend to submit any proposed amendments or alternative ideas to address the issue?

MR. CONWAY:

I do, and I will get one to you by Monday morning.

LYNN CHAPMAN (Nevada Eagle Forum):

I am state vice president of Nevada Families and I am a mother. As a mother, my main job is to protect my children. It should not matter whether my child is born or not yet born. Sometimes, moms need help in the protection of our children. If we cannot protect them and something happens such as violence, we need justice. Please protect moms and children and please pass S.B. 299.

SUSAN J. MEUSCHKE (Nevada Network Against Domestic Violence):

I will read my written testimony in opposition to S.B. 299, ([Exhibit S](#)).

SENATOR JOSEPH J. HECK (Clark County Senatorial District No. 5):

As Legislators, we often sign on to legislation as cosponsors and leave it to the primary sponsor to come and present it. However, in this case, I felt compelled to come and testify on this bill since I signed on as a cosponsor. I urge you to support S.B. 299 because in my medical career, I have had the unfortunate opportunity to perform what is called a perimortem cesarean delivery

three times. I remember that number because it is not a procedure you ever want to perform. It is when the mother is dead and you are trying to save the child. All three of those cases came from victims of violent trauma. It is hard enough going to family members gathered in the hospital emergency department to tell them we could not save the mom but then also telling them we could not save the unborn child.

This legislation is not about abortion rights. This is about crime and punishment. It is about justice for all involved. For those reasons I urge your support.

NANCY PODEWILS (Secretary, League of Women Voters of Northern Nevada; League of Women Voters of Nevada):

The League of Women Voters abhor violence in general and domestic violence in particular, but the way S.B. 299 is written, we cannot support it. We would be glad to participate in drafting amendments to make it more salable and appropriate.

JOSEPH A. TURCO (American Civil Liberties Union of Nevada):

Senate Bill 299 repeals a good law. It is a good law because of its criminal intent requirement. The bill has a fatal flaw which might run afoul of our Nevada Constitution. The American Civil Liberties Union of Nevada opposes S.B. 299.

RICHARD R. ZISER (Coalition for the Protection of Marriage; Nevada Concerned Citizens):

You have a letter stating our strong support for S.B. 299 ([Exhibit T](#)).

JASON M. FRIERSON (Clark County; Clark County Public Defender's Office):

I reiterate the concerns expressed in opposition to the bill. While precedence is in Nevada law with respect to prison inmates and the death sentence and the recognition of a pregnancy, our concern is knowledge of the existence of a pregnancy. Intent is a particularly relevant issue.

CHAIR AMODEI:

If you are aware of existing statutes in other states dealing with intent in a way acceptable to you, we would appreciate getting that information.

Senate Committee on Judiciary
April 6, 2007
Page 32

CHAIR AMODEI:
We will close the hearing on S.B. 299.

We are adjourned at 12:07 p.m.

RESPECTFULLY SUBMITTED:

Lora Nay,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____