

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session  
April 17, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:07 a.m. on Tuesday, April 17, 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 Steven A. Horsford

**COMMITTEE MEMBERS ABSENT:**

Senator Terry Care (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Marcus Conklin, Assembly District No. 37  
Assemblyman Ruben Kihuen, Assembly District No. 11

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Committee Policy Analyst  
Miranda Mahe, Intern to Senator McGinness  
Brad Wilkinson, Chief Deputy Legislative Counsel  
Gale Maynard, Committee Secretary

**OTHERS PRESENT:**

Michael Thompson, Director, The Council of State Governments Justice Center

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Dr. James Austin, President, the JFA Institute; Consultant, The Council of State Governments Justice Center  
Fred Osher, M.D., Director of Health Systems and Services Policy, The Council of State Governments Justice Center  
Jeremy Aguero, Applied Analysis  
Sean T. Higgins, Herbst Gaming, Incorporated  
Donna Anspach, Nevadans for Quality Education  
William Bible, Nevada Resort Association

CHAIR AMODEI:

We will start the Senate Committee on Judiciary as an informational hearing on the results and policy recommendations of the justice reinvestment report by the Council of State Governments (CSG) Justice Center given by Michael Thompson, Director, CSG Justice Center.

It seems the speakers are in a meeting with the Senate Committee on Finance. At this time, we will be in recess.

CHAIR AMODEI:

I reconvene the Senate Committee on Judiciary.

MICHAEL THOMPSON (Director, The Council of State Governments Justice Center): We have a project called justice reinvestment and it is funded by the U.S. Department of Justice and private foundations. This project has evolved from frustration voiced by our policy makers about unchecked growth in corrections spending. We attended a meeting with the corrections director from Michigan who stated that one out of every three people who works for the state of Michigan now works for the Department of Corrections. In Ohio, it is one out of every four.

We have seen no improvements in recidivism rates, and they remain high across the country. Can we do better given the amount of money we are spending? We are currently working with states such as Texas, Arizona, Kansas, Rhode Island and Connecticut. I will give you a brief overview as to what is happening in those states before I turn the remainder of my time over to my colleagues.

We have a PowerPoint presentation ([Exhibit C](#), original is on file in the Research Library). Page 6 shows four large states where incarceration has increased. In

Texas, the rate has increased to 4.6 percent; in New York, it is 1.8 percent. During that same time, prison population went down for Texas to 19 percent. Page 7 demonstrates that states that had a lower incarceration rate experienced a steeper decline in crime. This proves that you cannot correlate increased incarceration rates to decreased crime rates based on the data from some of these states.

In [Exhibit C](#), pages 11 and 12 show how Connecticut has implemented a number of options to put their prison population on a decline. Nevada is not alone, and the political dynamics are parties working together to find new approaches.

DR. JAMES AUSTIN (President, the JFA Institute; Consultant, The Council of State Governments Justice Center):

I will present an overview of where we are and options for Nevada. There is a large growth projection for the prison population. Nevada, as the fastest-growing state in the country, is projected to spend \$2 billion in construction costs and larger amounts will be spent for the operation of the prisons. If nothing is done, the situation will become critical.

Looking at page 20, [Exhibit C](#), Nevada's growth has increased to 54 percent in a ten-year period. The admissions into the prison system are causing the problems; page 21 demonstrates the admission stream into the prison system. The increase in prison population has grown since 2004. The slide on page 22 shows the increase for both male and female admissions for 2004.

Page 23 shows the demographic growth for the future of Nevada at a rate of 3.3 percent a year for the next ten years. Most states have an aging population; this is not the case for Nevada. There is room for substantial growth within the at-risk populations where these people are most likely to be arrested between 20-39 years of age.

Page 24 shows the projected growth of the male population from 13,000 to almost 20,000 in a 10-year span, and that will add almost \$2 billion in construction.

The female incarceration population is increasing at a faster rate opposed to male incarceration as seen on the graph on page 25.

Page 26 shows statistics on projected prison population growth. The question is what are the options and the issues facing Nevada. In order to change the admission growth, you have to change the sentencing policy.

SENATOR HORSFORD:

What are the reasons for the increase in incarcerations and the types of crimes being committed?

DR. AUSTIN:

They are committing Category B offenses.

SENATOR HORSFORD:

Can you elaborate as to which types of crimes are being committed?

DR. AUSTIN:

This will include assault, robbery, burglary and drug possession; this is what is driving incarceration rates. Any one offense does not appear to be driving the increase. Category B has always been the dominate offense group. More important are the mandatory minimums where judges do not have the discretion to deviate from a prison term. There have been comments from judges who would like to have discretion on the mandatory minimums. The law does not always reflect the nature of the crime.

CHAIR AMODEI:

Mandatory minimums grew out of what was perceived by the community and the Legislature as a lack of sentencing skill. It was enacted because someone felt that justice was not being served based on a certain crime.

You have identified probation violation and sentencing as areas for increase. Are there vehicles moving in this session in terms of amendments to implement the changes appropriate to your concerns? There is a limited amount of time left for session. Are there any suggestions to the issues to help you?

MR. THOMPSON:

We cannot speak to all the legislative vehicles out there because we are not familiar. But there is legislation to accomplish some of what we are seeking.

We can go through the policy options we have to present to this Committee. It appears that some policy options can be integrated in the legislative vehicles moving out of Committee.

CHAIR AMODEI:  
How do we make a change?

DR. AUSTIN:  
We are presenting three options today, and some of the options require a change in the laws. With the exception of how Assembly Bill (A.B.) 150 is crafted, it will have a huge impact. This one bill incorporates a number of these factors we have discussed.

**ASSEMBLY BILL 150**: Makes various changes pertaining to methamphetamine and other controlled substances. (BDR 40-667)

Assembly Bill 150 is being amended and I cannot tell you its final form. One of our recommendations is to get people out of prison faster who are low risk and complete programs. Pages 31 and 32 of Exhibit C give an overview of option 1. We have found that inmates completing these programs reduce the chance of a repeat offender. Statutorily, the program credits are not applied to the parole eligibility date, and the statute will have to be changed so it will come off the mandatory release date. The number of programs will have to be increased, and currently, Nevada does not fund many programs. Therefore, an increase in programs will mean a hearing at the Parole Board sooner or release under mandatory parole supervision. The implementation of these programs will reduce prison population.

CHAIR AMODEI:  
Is data available on the cost benefit of money spent on these programs and the overall costs for corrections? What is the net cost of programs when you consider keeping prisoners who serve longer sentences in hard beds with no programs versus additional programming with data justifying a cost savings?

DR. AUSTIN:  
We can compute data for Nevada.

CHAIR AMODEI:  
So, there is a cost savings.

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DR. AUSTIN:

Yes. Category E offenders are entering into the prison system at a large rate. Option 2 on page 34 in [Exhibit C](#) explains the policy element and would require a statute change to make Category E mandatory probation.

CHAIR AMODEI:

This is taking discretion away from the judges.

DR. AUSTIN:

Yes, it would.

SENATOR WASHINGTON:

Most Category E offenses have diversionary programs to prevent prison time and are at the discretion of the judge. I am not sure what you mean by statutory change.

FRED OSHER, M.D. (Director of Health Systems and Services Policy, The Council of State Governments Justice Center):

Statutory change will prohibit the offender from going to prison.

SENATOR WASHINGTON:

We already have a mechanism in place to divert Category E offenders from prison.

MR. THOMPSON:

The presumption is the kind of treatment needed is available but an obstacle in successfully implementing a number of these initiatives.

DR. OSHER:

We have heard from probation officers who are frustrated with persons who were given alternatives to incarceration with conditions of release that included participation in treatment programs that were not available. It is given as an option when the reality is that without access to care, they cannot meet the conditions and end up violating the terms of probation and returning to the system.

One of the reinvestments would expand access to community-based substance abuse and mental health programs.

SENATOR WASHINGTON:

Instead of mandates through statutory changes, it is better for us to put money into treatment programs, leave the diversion portion of the statute alone and allow the judges to send the Category E felons to those prevention programs instead of making it mandatory. Some Category E felons may need to be locked up.

DR. OSHER:

Mandatory or not, they are going to need treatment.

SENATOR WASHINGTON:

The cure is putting money into treatment programs.

DR. OSHER:

Yes, for some of those being returned on technical violations.

DR. AUSTIN:

You can save money on the probation violators. The Division of Parole and Probation, Department of Public Safety, report says 2,000 of the 5,000 prison admissions are probation violators. Some are classified as technical violators who serve their time and within a year or two they will be back. Option 3 has an overview on page 36 of [Exhibit C](#). This option provides incentives through program changes to reduce the violations by 30 percent and decrease prison population by 700 inmates.

CHAIR AMODEI:

If you could prioritize your options, what is your No. 1 priority?

DR. AUSTIN:

Yes. Probation violation is the biggest one.

SENATOR HORSFORD:

You indicated that 50 percent of the cases are probation violators. What types of violations occur?

DR. AUSTIN:

Generally, there are multiple violations such as absconding supervision, failing a drug test, failing to report, failing to pay fees, failing to report for treatment or being arrested for a misdemeanor.

The Division of Parole and Probation will not revoke someone solely due to not holding a job or not reporting for treatment; it has to be multiple violations. To solve these problems, more aggressive action should be taken by noting the warning signs and doing a better job of risk assessment. We need more programs, in particular, drug treatment programs.

The Division of Parole and Probation will tell you there is no place for detoxification in the state except for the jails. In order to get into treatment, you have to detoxify.

SENATOR HORSFORD:

A study done by the Legislative Committee On Health Care Subcommittee to Study Substance Services for the Treatment and Prevention of Substance Abuse ([Exhibit D](#), original is on file in the Research Library) confirms the lack of resources for substance abuse treatment and prevention programs.

DR. AUSTIN:

We received a copy of your report, Senator Horsford. Unless money is set aside to deal with this problem and get some programs, it will not go away. The No. 1 thing we recommend is that probationers earn 10 days off their probation for every 30 days they successfully complete a program.

It makes a lot of sense and has worked on your parole system, and the success rate went to 80 percent by passing a statute two years ago. Today, there is a 46-percent failure rate on probation. There is no incentive for a probationer to be productive or follow protocol. It does not get him off probation any sooner. We are trying to get statutory change that will allow an incentive.

MR. THOMPSON:

Page 7 of "Increasing Public Safety and Generating Savings" ([Exhibit E](#)) gives options to policy makers. Some of the estimates are modest. We modestly estimated that 20 percent of the prison population will be participating in certain programs. Page 8 also provides more insight on bed impacts.

CHAIR AMODEI:

We may have to videoconference the continuation of this because we want your input. We need to talk about the priorities identified in this report and bring ideas to our staff and put some hard proposals together.



DR. AUSTIN:

Senator Horsford has identified some of the problems. The resources available for community health and substance abuse are inadequate. The demand is high not only in the general population but specifically in the criminal justice population. People are on waiting lists for a month before they can access a care provider. This is a critical time to wait for any of our programs and could lead them to return to the street, use and return to the prison system.

There has to be a combined strategy between criminal justice, mental health and substance abuse treatment to decide how to access health care, especially if the condition of their release is court ordered and based on getting treatment.

SENATOR WIENER:

I have been working with therapeutic communities in prison. How many come out of the prison system with an active addiction that is not being addressed?

DR. OSHER:

One of the things we face is lack of data. We have a reasonable estimate of the mental health needs of the population; the 29-percent estimate coming from the Nevada Department of Corrections is twice the national average.

In our probation study, 43 percent of those individuals have significant substance abuse needs. It is reflective of what is in prison and an undercount due to screening and assessment methods. We have data from the Commission stating that 80 percent who have substance abuse needs do not get treatment. There is a public safety concern in letting persons out who have these issues. If there are no community-based set of alternatives, it does them no good. "Nevada's Opportunity to Improve Public Safety Through Effective Treatment" ([Exhibit F](#), original is on file in the Research Library) gives an overview.

SENATOR WIENER:

Programs that address these issues are substantial in curbing the recidivism.

DR. AUSTIN:

The recidivism rate back into the system is low. The problem is at the front end with the failure of probation and the courts unwillingness to take a chance with people. Reorganizing and working with probation is where the programs need the most attention. The prison population is 100 percent driven by the increase in admissions, not recycling people into the system on parole.

CHAIR AMODEI:

We have a limited amount of time left for questions.

SENATOR WASHINGTON:

As we develop the policy, we will need some numbers. Is it possible that legal staff can have guidance in putting together the actual numbers for treatment programs, dealing with Category E felonies for diversion and numbers from the Division of Parole and Probation as to the cost for implementing incentives?

SENATOR HORSFORD:

Most information provided by you is focused on the adult correction system. What about the youth system and are there any projections?

MR. THOMPSON:

We have not looked at the juvenile system, and they have a distinct set of issues. It is overwhelming dealing with the adult population. One of the frustrating issues is that your information systems are not as sophisticated as those elsewhere in the country. The best way we can be of assistance is to further unpack the available numbers.

SENATOR HORSFORD:

If the counties that oversee juvenile services could provide a similar report, there needs to be a discussion. We can try to change adults, but greater success will come from helping youth divert these systems. If there were a fourth tier on your graph, youth would prove to be the biggest savings overall.

Mr. Chair, if there is any way to include the county representatives in a future meeting with a presentation of their numbers, it would be appreciated.

CHAIR AMODEI:

We need information on what the challenges are and how to keep the savings from these programs in the Department of Corrections; otherwise, they will not have the funds to continue. We will close the informational hearing and open the hearing on Assembly Joint Resolution (A.J.R.) 5.

**ASSEMBLY JOINT RESOLUTION 5**: Proposes to amend the Nevada Constitution to authorize the Legislature to provide for a statewide lottery for textbooks, computers and other educational media for classrooms. (BDR C-921)

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ASSEMBLYMAN RUBEN KIHUEN (Assembly District No. 11):

I represent 73 percent of the state's population who support a state lottery. I have presented written testimony ([Exhibit G](#)).

CHAIR AMODEI:

Are there any questions from Committee members?

ASSEMBLYMAN MARCUS CONKLIN (Assembly District No. 37):

In the Assembly, there was much opposition to the lottery. In reviewing the data, I would like to go over some propositions and share my thoughts.

CHAIR AMODEI:

One moment, Assemblyman Conklin. Does anyone here have general questions before we continue with a counterpoint presentation? The lottery bill came before the Committee of the 73rd Session. The states most like Nevada's population were Kansas, Nebraska, New Mexico and West Virginia. I do not have any information from any other states except for Nebraska, New Mexico and West Virginia as to what is being done with the state lottery proceeds.

A handout ([Exhibit H](#)) has been provided to the Committee "Lotteries Funding Education." Is there any reason why profile information has been omitted from the states on page 5?

ASSEMBLYMAN CONKLIN:

I have not seen that exhibit, however you will see a presentation ([Exhibit I](#), original is on file in the Research Library) of "Lottery Projection and Impact Analysis." The research is extensive: I do not agree with the conclusions, but it gives a more comprehensive picture.

CHAIR AMODEI:

As I look through the bill, I see where the earmark has been for funding, but in terms of authorizing a lottery, there is not much detail for video lottery, Powerball versus Nevada only. If this is approved, there is no detail. What is your intent if approved?

ASSEMBLYMAN CONKLIN:

Terms on how the lottery might be conducted appear on pages 2 and 3 of A.J.R. 5 to amend Article 4, section 24, subsections 1 and 2 and add subsection 3 to the Nevada Constitution. The purpose is to say that a lottery

can be conducted in this state. It is a constitutional amendment; the only thing it does is take away the part of the Constitution which says you cannot have a lottery and detail how the money will be spent as explained in subsection 1, paragraphs (c) and (d).

CHAIR AMODEI:

Was there discussion from the opposition as to whether the existing State Gaming Control Board structure could regulate or require a lottery commission similar to other states?

ASSEMBLYMAN CONKLIN:

It was discussed briefly and points were raised by the Nevada Taxpayers Association and presented in conjunction with [Exhibit I](#). A point made in the study was the profitability of a lottery is estimated at 30 percent. Michigan, Illinois, New Jersey and Louisiana have higher than average profitability and are gaming states. We have the infrastructure for gaming; therefore, our cost for a lottery should be less. If A.J.R. 5 passes, it will be up to the Legislature to decide a separate administration for the lottery or combine it with the existing State Gaming Control Board.

We should use the existing Board to increase the profitability. We have experts in gaming, probably more than any other state in the nation, and we should take advantage of this existing infrastructure.

The report projects a negative state employment and income loss due to a shift in spending and lowers capital investment. No other state has shown a provable loss of jobs or income in gaming.

The gross number of jobs anticipated to be lost is seen on page 36 of [Exhibit I](#). There are 202,000 gaming jobs in Nevada. The lost jobs represent the hiring practice of a night lounge. This is not a reason to use as an argument to discourage a lottery.

The study argument that the lottery is a substitute for gaming is incorrect. When a person goes to a casino, they are playing a variety of games and the return on their investment is minimal. You are basically playing the game for the enjoyment and are involved in other activities. Your bet of \$1 on that game is not the equivalent of getting \$10 million playing the lottery. The only game in competition with the lottery is Megabucks.

Page 8 paragraph 5 gives projections on revenues and sales. These net proceeds will go to schools. This public choice gives them an opportunity to determine if they want a lottery and if they want the proceeds to go to education.

Another argument is that we are not sending the right message to our children. We could debate the findings of this report, but it does not address the bill before the Committee. The bill allows voters the choice of having a lottery with the proceeds going toward education.

CHAIR AMODEI:

Assemblyman Conklin, is there an analysis for what the better deal is for the state in terms of generating tax revenue? If we are going to make money through gaming to support the General Fund or education, is it better to create a lottery or invest in the CityCenter project in Las Vegas?

ASSEMBLYMAN CONKLIN:

Some of your concerns are addressed in [Exhibit I](#). All of this is predicated by the fact there will be a loss in gaming. There are several gaming states with lotteries, and none have claimed lost revenue due to the lottery. It is under the assumption that these are competitive forces and they are not the same.

What a person spends on a lottery ticket is discretionary. The discretionary spending at a 7-Eleven will be whether to buy a Big Gulp or a lottery ticket for a chance to win \$1 million. The direct impact is not on gaming, it is going to be spread through the economy of Nevada where things \$1 or less may be put aside to buy a ticket to help education and possibly win.

CHAIR AMODEI:

Is the answer to my question, no?

ASSEMBLYMAN CONKLIN:

It has been attempted, but there is no data conclusively proving a loss.

CHAIR AMODEI:

No, I am asking is it a better deal to generate revenue for the state to support education through building, employees, service industry and casino gaming or lottery? Which one is better? Do you have any analysis to support your claim?

ASSEMBLYMAN CONKLIN:

No, I do not. Mr. Chair, are you suggesting the state go into the gaming business?

CHAIR AMODEI:

I am suggesting that if you form a lottery and the money goes to the state, the state is in the lottery business. Whether you call it a tax or gaming or something else, the money under this proposal and by your testimony says Nevada gets it. My answer to your question is yes.

ASSEMBLYMAN CONKLIN:

I am not sure if I have an answer. I would add that a lot of states are looking at privatizing their lottery process. Illinois is considering privatization with a \$200 billion initial buyout plus \$200 million a year for the next 25 years.

The potential is limitless. We have the best gamers, gaming infrastructure and minds in the world. The lottery does not have to be in competition with gaming and is good for everyone.

SENATOR NOLAN:

At the beginning of this session, I dropped a resolution. I had two trailer bills to establish a committee to review and investigate many of the questions addressed in this Committee for A.J.R. 5. There is a place for the lottery and lottery and gaming can thrive together in Nevada. I met with several representatives of gaming and [Exhibit I](#) was prepared in response to an inquiry. I sent the report to two parties who deal in state lotteries and asked them to review the report. Based upon the review, the data provided was subjective because the report was contracted by the gaming industry.

However, although much of the information is factual, it is not conclusive. There is not enough data available to tell us if establishing a lottery would have a positive or negative effect on gaming.

SENATOR MCGINNESS:

Assemblyman Kihuen, you stated that 73 percent of Nevadans support the lottery. Was there a survey and where was it done?

ASSEMBLYMAN KIHUEN:

It came from a 1999 Gallup Poll by the *Las Vegas Review-Journal*.

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CHAIR AMODEI:

A letter ([Exhibit J](#)) from Donna Anspach with the Nevadans for Quality Education dated April 17, 2007, will be made part of our record.

MIRANDA MAHE (Intern to Senator McGinness):

At the request of Senator McGinness, I have done some research, [Exhibit H](#). While doing the research, I discovered that out of the 50 states, only 8 states do not participate in a lottery. The 15 out of 42 states that participate in the lottery devote a percent of their revenues to education and in those states, lottery revenues make up approximately 4 percent of the education budget. There are nine states that devote some percentage of their lottery revenues to education.

The median year for lotteries in these states to begin was 1989, and the mean overall amount for those lotteries to give to education was about \$9.9 billion.

I encourage you to look over each of the 15 states' percentages and overall contributions. I only profiled states that funded directly to education; therefore, Kansas was not included.

SENATOR CARE:

I would appreciate information on Kansas, Nebraska, New Mexico and West Virginia. The reason for naming these four states is because two years ago, our Committee brief said states that compare in population to Nevada and participate in single-state lotteries would be the aforementioned states. They all have independent state lotteries but participate in Powerball. It would be appreciated if you could update this information.

JEREMY AGUERO (Applied Analysis):

My firm was retained to review and analyze lotteries, specifically what productivity, economic, fiscal and social impacts a lottery in Nevada would have.

We were concerned about appearing biased, so we hired an independent panel of experts. They are listed in [Exhibit I](#) with the analysis.

Another handout given to the Committee ([Exhibit K](#)) is an analysis of revenue from a lottery versus construction of hotel-casinos and resorts.

Revenues that never make it to the General Fund and go directly to education will generate approximately \$160 million a year to support educational programs.

SENATOR HORSFORD:

If shifting sales are not from gaming revenue but from other revenue generators for gaming—such as lodging, food and retail which is about two-thirds of revenue in each of these casino properties, the lottery is not in competition with our No. 1 industry but with revenue projections within that industry. Retail is not a gaming business.

MR. AGUERO:

I have only looked at the construction of major hotels and casinos in southern Nevada. Money is spent on food and beverages in restaurants, taverns and convenience stores, and we shop different places. You are shifting spending out of somewhere.

SENATOR HORSFORD:

The money areas we are shifting are not gaming revenue but nongaming revenue. We do not tax those revenues in the same manner you do gaming. There is a need for education spending to increase. The debate has been framed as if lottery will somehow compete with Nevada's No. 1 industry. The research and information you present go to the point that if the money comes from anywhere, it would come from nongaming revenues.

MR. AGUERO:

I question that. We do not tax these specific sources: food and beverages are taxed at 7.75 percent, entertainment and shows are taxed at between 5 percent and 10 percent, all retail expenditures are taxed at 7.75 percent in Clark County and lower in other areas. With regard to avoiding taxation, it is not true.

In regard to not competing with gaming, anytime we introduce another gaming alternative, the likelihood is it will compete with other gaming opportunities. It is not the only spending place. You cannot guarantee all spending is coming from major gaming companies but not other gaming opportunities.

Pages 37 through 42 discuss the economical and fiscal considerations. There are significant social considerations and social issues. Pages 48 through 59



discuss these issues. In conclusion, the lottery will compete with other gaming strategies.

CHAIR AMODEI:

The topic of this hearing will continue at a later date.

SEAN T. HIGGINS (Herbst Gaming, Incorporated):

Everyone has talked about the lottery competing with gaming. Nevada has convenience gaming which includes taverns, convenience and grocery stores. Lottery tickets are sold in these types of places. Those lottery ticket sales compete directly with gaming in those locations, and gaming in those establishments is a large portion of their revenue. The small business operators are the ones who will lose.

No one contests the fact that education needs more money, but this is a bad way to get it. You will take money away from the business operator, put it directly into the state and not replace revenue. We oppose the lottery at this time.

CHAIR AMODEI:

Donna Anspach, we have a copy of your testimony, [Exhibit J](#), but if you have anything further to add, you may do so now.

DONNA ANSPACH (Nevadans for Quality Education):

There is nothing else I would like to add.

WILLIAM BIBLE (Nevada Resort Association):

The Nevada Resort Association is opposed to this measure. We are concerned about funding this measure that will create a competitive situation where the state becomes the competitor to the state's principle industry—gaming.

There was a study done, and our conclusion was that lotteries neither create a concentration of quality jobs nor generate economic development. Gaming creates jobs and has other positive effects on the community.

A question raised was where would it be appropriate to operate the lottery? The State Gaming Control Board is an appropriate place to start. There might be a conflict in licensing of places that compete with lotteries such as convenience stores.

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Regulation 14.040 of the Nevada Gaming Commission and State Gaming Control Board ([Exhibit L](#)) poses a conflict and imposes a minimum standard for gaming devices. Basically, it states that all gaming devices must pay out, mathematically, a percentage of amounts wagered not less than 75 percent. In effect, the state is regulating the price of commercial gaming on one hand; if operating a lottery, the store will have a different pricing position and that creates a conflict.

Page 16 of [Exhibit I](#) explains the productivity of existing lotteries. In these areas, it is more a social experiment and cannot make a valid comparison with Nevada and other jurisdictions in terms of competitiveness. There will be a drop-off in gambling and other revenues if you implement a lottery in Nevada.

CHAIR AMODEI:

We will continue the hearing on A.J.R. 5 on another day. I would like our legal staff to contact someone from the State Gaming Control Board to get their thoughts on their ability to regulate a lottery or if that is someone else's department. If there is nothing else to come before the Committee, we are adjourned at 11:05 a.m.

RESPECTFULLY SUBMITTED:

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Gale Maynard,  
Committee Secretary

APPROVED BY:

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Senator Mark E. Amodei, Chair

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