MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Seventh Session
April 8, 2013

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:20 a.m. on Monday, April 8, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman William C. Horne, Clark County Assembly District No. 34

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Linda Whimple, Committee Secretary
Colter Thomas, Committee Assistant

OTHERS PRESENT:

Pete Ernaut, representing the Nevada Resort Association
John Griffin, representing the Independent Gaming Operators Coalition
Gregory R. Gemignani, representing Cantor Gaming
Barry Lieberman, Chief Development Officer, Gaughan South LLC
Sean Higgins, representing the Nevada Restricted Gaming Association; and Golden Gaming, Inc.
Jennifer Lazovich, representing Dotty's
Craig Estey, President and Founder, Dotty's
Steve Des Champs, Chief Financial Officer, United Coin Machine Company; and representing the Nevada Restricted Gaming Association
Keith Lee, representing W.C.W. Corporation; and William Hill
Randolph Townsend, Member, Nevada Gaming Commission
Lisa Mayo-DeRiso, Private Citizen, Las Vegas, Nevada
Kimberly M. Surratt, representing the Nevada Justice Association; and Private Citizen, Reno, Nevada
Elizabeth Schuler, Private Citizen, Reno, Nevada
Eric Stovall, Member, American Academy of Assisted Reproductive Technology Attorneys
Israel "Ishi" Kunin, Member, American Academy of Assisted Reproductive Technology Attorneys
Chris Frey, Deputy Public Defender, Washoe County Public Defender's Office
Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office
Steve Yeager, Deputy Public Defender, Clark County Public Defender's Office
James "Greg" Cox, Director, Department of Corrections
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada; representing Washoe County Public Attorneys' Association; and the Washoe School Principals' Association
Sean Jones, Detective, Reno Police Department

Lea Tauchen, Senior Director of Government Affairs, Retail Association of Nevada
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office
Kristin Erickson, Chief Deputy District Attorney, Washoe County District Attorney's Office
John T. Jones, Jr., representing Nevada District Attorneys Association

Chairman Frierson:
[Roll was taken. Protocol was explained.] Good morning, everyone. We have three items on today's agenda and a work session. I anticipate two of those three items to be lengthy, so we are not going to go in order. We will hear the bills before we do the work session out of respect for the folks who are here to provide testimony on those bills. I will open the hearing on Assembly Bill 360, and invite Assemblyman Horne up to introduce the bill.

Assembly Bill 360: Revises provisions relating to gaming. (BDR 41-24)

Assemblyman William C. Horne, Clark County Assembly District No. 34:
The purpose of Assembly Bill 360 is to address the eroding clarity in the difference between restricted and nonrestricted gaming licenses. I know the Committee received a long history on restricted and nonrestricted gaming in the state a couple of weeks ago in your joint hearings. This bill will address some of the issues highlighted in that hearing.

As you know, technology is rapidly changing the world of gaming in a way we never anticipated. It is the purview of this body to review legislation that will help guide the future of our state. Sometimes that means passing new laws such as Assembly Bill 114 to pioneer online gaming, and sometimes that means updating our old laws to have fair and consistent policy.

Existing law defines a restricted license as a state gaming license to operate not more than 15 slot machines at an establishment in which the operation of slot machines is incidental to the primary business of the establishment. As a result of this lack of clarity, we have had establishments with restricted gaming licenses behaving like, and directly competing with, nonrestricted gaming establishments. There are some establishments operating with a restricted gaming license that are simply slot parlors. They have no bar, no food service, and often only one employee per shift. Gaming is not incidental to their primary business. It is their primary business and they do not pay their appropriate share of gaming taxes.

Nonrestricted licensees pay gross gaming taxes, room tax, live entertainment tax, general taxes, local taxes, as well as several slot machine taxes and fees, while restricted licensees pay annual tax, quarterly license fees, general taxes, and local taxes. In gross gaming taxes alone, nonrestricted licensees pay $653,544,639 per year while restricted licensees pay $13,322,039 in total taxes.

I had the Legislative Counsel Bureau Research Division do a cursory analysis, looking at the gaming percentage fee and slot licensing fees alone. Over a 12-month period ending in September 2011, the average monthly slot machine win at nonrestricted establishments in Nevada was about $3,400 per machine.

Hypothetically, a nonrestricted establishment with 150 slot machines would win about $510,000 per month on which the establishment would pay a gaming percentage fee of about $30,900 per month or $371,000 per year, plus a slot license fee of $212,000 per year, for a grand total of $583,000 per year.

In comparison, the owner of 10 restricted locations with a total of 150 slot machines would not pay a gaming percentage fee and would only pay slot license fees totaling about $101,000 per year.

This bill, along with my amendment, will clearly delineate the line between businesses with restricted and nonrestricted gaming licenses. By creating clear definitions of the two licenses and their requirements, we will eliminate confusion, protect the quality of gaming in Nevada, and provide increased fairness in the treatment of these businesses across municipalities.

This bill provides that a restricted license may only be granted at certain establishments if the establishment contains (1) a minimum of 2,500 square feet of space available for patrons, (2) a permanent, physical bar with eight of the fifteen slot machines embedded in the bar top, and (3) a restaurant which has seating available for at least 25 and is open 12 hours a day.

I chose these requirements because they already exist within Clark County ordinances. These are not arbitrary regulations. The Nevada Gaming Commission established these qualifications for a restricted gaming license and Clark County subsequently implemented them. The Gaming Commission also approved a two-year trial period for sports-betting kiosks. I believe Mr. Ernaut will be presenting that amendment, which is a friendly amendment. It was intended to be in this bill initially, and I am more than happy to have that amendment placed on this bill.

I believe these requirements are fair and should be consistent statewide, which is why I am introducing this legislation. I would now like to go over my amendment (Exhibit C).

For purposes of taxes and fees imposed on a person, including but not limited to an operator of a slot machine route, anyone who controls directly or through an affiliate more than 500 slot machines in the aggregate shall be deemed to be a licensee of a nonrestricted operation and must pay all fees and taxes imposed upon a nonrestricted operation. I think it is fair to say if a business owns over 500 slot machines, which would mean owning over 30 restricted gaming license locations in Clark County or Washoe County, they should be taxed as other businesses whose primary business is gaming.

There will be those who disagree with my position on this issue and will be opposing the bill today. I have spoken with those parties and have scheduled a roundtable meeting for this Wednesday, April 10.

This concludes my presentation of A.B. 360, Mr. Chairman. I am open for questions.

Chairman Frierson:
Are there any questions from the Committee before we have Mr. Ernaut come up to present the amendment?

Assemblyman Wheeler:
When we were in our joint session, Senator Segerblom had an off-the-wall idea of having a third gaming license, something between restricted and nonrestricted. In your research for this bill, have you looked into that at all and if that may be part of the presentation that is coming?

Assemblyman Horne:
It is something that I contemplated when drafting this bill. I thought that it may get too complicated. In this regard, I think it is a little clearer. It is still keeping the basic to nonrestricted and restricted, and you only have a games threshold in defining it. It is basically saying that if you are going to compete with the nonrestricted gaming establishments, you should have the same tax requirements as they do. I think that it is a lot clearer delineation, both in the licenses and the policy which we set at the Legislature. I understand there is some discussion about creating a type of license that falls between nonrestricted and restricted, but this is the way I chose to go.

Assemblywoman Fiore:
Looking through this bill, there are so many renovation requirements. As I am listening to you, it seems like you want to calculate every machine in each individual location as one, such as over 500 machines if a location has 30 or 15. Am I hearing you correctly? You want to lump each and every business into one?

Assemblyman Horne:
I am not sure I understand your question. As to the renovations, this is not retroactive. The existing businesses are not going to have to tear out and put in bars to comply. This is going forward. I am not sure I understand the other portion of your question.

Assemblywoman Fiore:
For example, one location has 15 machines and another location has 30 machines. What I heard you say is, when a company has—you used the word "accumulative," but it is what I am gathering from your testimony—more than one location accumulatively, and has a certain amount of slot machines, they are individual businesses according to the Internal Revenue Service code. Am I correct?

Assemblyman Horne:
This is to address those businesses who have—the term I used was aggregate—that combination. All of their machines added together reach 500 or more machines. They would fall under these provisions and be required to pay the same taxes as a nonrestricted gaming property would have to pay.

Assemblywoman Fiore:
Just so I am clear, is this legislation that is before us coming from the Gaming Commission that originally approved the way everyone is doing business now? What has this originated from?

Assemblyman Horne:
That particular change is a policy change. It is not from the Gaming Commission. The language dealing with nonrestricted property—the 2,500 square feet, the 15 machines in a bar top—was done at the Gaming Commission which the Clark County Commission adopted. The 500 machines and the tax, that is my language, and that is a policy change. You will hear some people talk about this is an anticompetitive piece of legislation. The reason why you have nonrestricted and restricted is because they are supposed to be two different things. They are not supposed to be competing. Restricted properties are not supposed to be able to do the same things that a nonrestricted gaming property does and enjoy taxes that are not the same as

the nonrestricted gaming. That is a change, just like in other changes when we talk about the kiosks. These are policy changes that we have to contemplate because the nature of gaming in our state is changing rapidly. It is changing in methodology—everything from mobile gaming, holding devices in your hand, and being able to go up to a kiosk—with all of the different online betting and online poker. As a legislative body, it is our responsibility to look at not only these types of laws, but all laws. When our culture changes, our environment changes, and we need to change our policies to reflect it. That is what this bill attempts to do.

Assemblywoman Fiore:
As change occurs, and as I read this bill as a businesswoman who constantly fights regulations and rules where the small business community suffers the consequence, I am not sold on it. It seems that we are reprimanding a successful small entity, if you understand what I am saying.

Assemblyman Horne:
I do not consider this as any type of reprimanding a business. I think it is important to note—this came on my radar screen at the end of the last session when there was the big fight about Dotty's. Since gaming is the number one employer in our state, it is important that we have clearer, bright-line rules on what each licensee is allowed and not allowed to do. With the change of gaming in our state in recent years, that line has become blurred. It is not as clear, and when it is not as clear and you start having changes, that invites ongoing litigation between parties. I think that as a businessperson, whether you are a big or small businessperson, you want clear rules where you know what you can and cannot do. You do not want that inconsistency, and you do not want the uncertainty of how you can operate. I think currently that is what we have. Because of the importance of gaming, I think it is even more incumbent upon us to look at our current gaming laws and how they apply to the various gaming entities in our state. That is what this bill is attempting to do. It is not attempting to punish anyone.

Assemblyman Martin:
Under the existing law, the term "incidental," meaning the operation of the slot machines is incidental to the main operation, is there an actual accounting definition of incidental? Is it 10 percent of the business, 15 percent of the business, or is it just not defined?

If this is meant to be towards taverns, restaurants, and so forth, would it affect the gas stations and the supermarkets that all have 15 gaming licenses as well?

Assemblyman Horne:
Incidental is one of the things that I think we need. We can come up with various definitions and accounting ways of defining it, but a regulatory body should be able to come in and inspect the premises and see whether or not you meet that criteria. That would be the easiest way to do it. You come in and you look around and you see whether or not it meets certain indicia of that type of licensee. As to your other question about the gas stations, no, this is not going to affect those properties.

Assemblyman Duncan:
Would you take me through the reasoning? In looking at the requirement that these businesses will have to embed eight of their machines into the bar—I am thinking about this. If we are allowing 15 machines in the establishment, what is the difference by having eight in the bar and seven or three elsewhere? What is the reasoning behind doing that?

Assemblyman Horne:
It is what is being done right now in Clark County. I took this from their regulations. That is basically designed to have an investment, in my opinion, and the gamers can talk to this better than I can. It requires them to make a sufficient investment into their business and helping the community, not to have them particularly open up a 500-square foot bar, shove a whole bunch of machines in there, and have people coming in and betting alone. We want a more significant buy-in. The machine-to-bar—where you put the machine top in there—I cannot even tell you when that was first established or when that provision was adopted. I believe that is the reasoning why it was done, to have them show more of an investment. You have one type of property where they come in and invest a billion-plus to build a hotel/casino and all the amenities that go along with it. Theoretically, across the street, you can have a restricted business come in and basically open a warehouse, if you did not put a regulation in, and stuff it with machines. They have not made the same investment that the nonrestricted gaming property has made, and they are paying less in taxes on that business model. It has morphed into what we have today, which is competing directly with the nonrestricted gaming property. I think it is inappropriate. I am not saying that you should not have restricted gaming properties and they should not have a niche, but I do not think that the two should be competing against each other.

Assemblyman Duncan:
Geographically, how far does it extend? I know we have these types of things in northwest Las Vegas. Right now, how far do the current restrictions geographically extend?

Assemblyman Horne:
You are asking me about the nonrestricted gaming properties?

Assemblyman Duncan:
Yes.

Assemblyman Horne:
They are throughout Clark County. I do not know if there are any other provisions other than the requirements on the distances from schools, et cetera, that are in there. I do not think there are any other restrictions other than that. I think that one of the gaming representatives could address it a little more clearly.

Assemblyman Duncan:
Then your intent is basically that the smaller businesses that are in North Las Vegas, or 10 to 20 miles away from the Strip, are competing with the big gamers downtown and they are siphoning off business and they have not made the proper investment? That is the reasoning for extending this to the whole state?

Assemblyman Horne:
In some regard. Also, I will remind you that this has the 100,000-population threshold, so this is basically Clark County and Washoe County. The one thing on the bars is the tavern-type expansion, and the other thing is the number of machines that you have. That would be throughout the whole state, regardless of where you are located. If you have 500 or more machines, that provision would apply to you, so they are two different things. Yes, in regards to restricted gaming, I believe they are expanding into a scope which has been historically enjoyed by the nonrestricted gaming properties.

Assemblyman Frierson:
Are there any questions of Assemblyman Horne before we have Mr. Ernaut come and make his presentation?

Assemblywoman Fiore:
Whose impression is it that the laws have become blurred?

Assemblyman Horne:
I would say it is my impression by the litigation that I have seen in recent years between the two licensing entities—nonrestricted businesses and restricted businesses—and what I have seen in the expansion on the types of gaming, such as online gaming, mobile gaming, and kiosks being in certain locations. All of these things. When Dotty's first came on the scene, I do not think

anyone anticipated the number of properties they would have. In 2005, Cantor Gaming came up with the idea of having handheld gaming devices, and no one anticipated what it would be like today. As early as last session when I introduced the legislation on online gaming, no one imagined that we would be where we are this session, with the bill passed by both houses unanimously in the same day and signed by the Governor. These are what have given me the impression that the lines are getting blurred.

Assemblyman Frierson:
Could we have Mr. Ernaut come up and go through the proposed amendment?

Pete Ernaut, representing the Nevada Resort Association:
I would like to address a couple of questions so we can make sure we have some of the facts more straight. As to Mr. Martin's question about the convenience stores, understand that convenience stores and liquor stores are limited to seven machines. As to Mr. Duncan's question about the machines being embedded in a bar, that is more of a question towards evolving into mobile gaming, and does that make a lot of sense to embed machines in a bar? Let me extrapolate your question out. The reason we had the embedded machine requirement in a bar was to get some of these establishments to build a bar in the first place, and that goes to the difference between a slot arcade and an actual tavern or bar. One of the problems that were created over time is that there was a presumptive test which essentially said that if you were a tavern or a bar deemed by any political subdivision, any local government, you were then able to have 15 machines. Unfortunately, there were a lot of different criteria for what is a tavern or bar in different local entities. The essence of this whole thing was to say we should have a minimum quality standard that if you are going to have 15 machines, we do not create a race to the bottom that simply puts people in the position of trying to wrap the bare minimum investment around those 15 machines. I wish I had a more eloquent answer for you about the embedded machines, but it was really to get them to build a bar in the first place.

I am here today to discuss the Nevada Resort Association's (NRA) amendment to A.B. 360 (Exhibit D). My remarks may stray slightly from the amendment to the existing bill and testimony, but I will try to be clear and point that out as I go. I also understand there is going to be an amendment from Cantor Gaming that is going to deal with a slight technical oversight in our bill as it deals with nonrestricted mobile gaming licenses, and I want you and the Committee to know that that is a friendly amendment and that we support it.

In every session, it seems there are a few issues that take on a life of their own. As the days click off the calendar and patience gets a little thinner, high drama

tends to cloud the real issue and make things into something they are not. Today, that is certainly the case with the amendment in front of you. A few weeks ago, you heard a presentation from the opponents on the issue saying this was anticompetitive, it was David versus Goliath, or a false alarm.

This morning, I would like to take a few minutes and cut through all the rhetoric and focus on exactly and accurately what this amendment does and, just as importantly, what it does not do. The amendment, coupled with the underlying bill, presents two very specific matters of public policy: (1) clarifying the bright-line between nonrestricted and restricted gaming licenses, and (2) codifying the minimum quality and investment standards for bars that offer gaming. Our amendment addresses the first issue, and the existing language in A.B. 360 addresses the second.

It is imperative to this discussion that all of you are familiar with the difference between nonrestricted and restricted gaming licenses. I would like to point out that there are some exhibits (Exhibit E) that were handed out to the Committee that have the pertinent statutes blown up to almost flash card level so you can follow back and forth between the existing statute on nonrestricted and restricted licensees, because it is very important to give you that basis for this bill.

Current statute in *Nevada Revised Statutes* (NRS) 463.0189 says a restricted licensee—which is a fancy term for a bar or tavern in this case—can have "not more than 15 slot machines and no other game or gaming device at an establishment in which the operation of slot machines is incidental to the primary business of the establishment." Fifteen slot machines. Period. Gaming cannot be the primary business. Sounds simple enough. Unfortunately, as we talked about, the erosion of the clarity of both those points of what a bar and tavern can have in terms of gaming machines and whether or not gaming is "incidental" to the underlying business is at the heart of this debate.

Here is our position. On the matter of kiosks, we believe sports book kiosks are de facto sports books. Just like any race and sports book in a casino, you can establish an account, look at the posted odds, make a bet, and collect money. Why is that important? Because, according to statute, if an establishment has even one slot machine and a sports book, it would require that establishment to have a nonrestricted gaming license.

Our language would simply seek to remove any ambiguity in the interpretation by doing two things: specifically define the operation of a sports book kiosk as a sports book, and add "race book or sports book pool" to the items specifically excluded in the definition of restricted licenses.

On the issue of minimum standards for bars and taverns that is the so-called "Dotty's issue," we believe the law means what it says. Slot machines should be incidental to the primary business. To ensure that slot machines are incidental to the primary business of a bar or tavern, both A.B. 360 and S.B. 416 provide minimum standards for bars and taverns to qualify for restricted licenses. If you meet these standards, the slot machines are incidental to your business.

There was a question that was asked earlier about the definition of incidental. Unfortunately, that is what brings us here today. That has evolved quite a bit. When it first began it was more of a financial test, but as years went by and the financial auditing capabilities of the Gaming Control Board waned, that got more into this presumptive test. The basic public policy behind this now is in describing how many square feet, a bar, a restaurant—it is trying to define from a critical mass standpoint, what is the appropriate minimum investment that we deem, as public policymakers, to be that standard of quality we demand for those folks who have a bar or tavern and offer gaming.

So why is this important? Resort gaming is the lifeblood of our state. It provides more revenue and employment to our state than any other industry by a wide margin. The stakes are high when dealing with matters of public policy that affect our industry, and this issue is no different. As Assemblyman Horne said earlier, you are going to hear, and have heard, that this bill is anticompetitive. The simple fact of the matter is, the public policy of this state since 1967 says there should not be competition between these two classes of licenses. It is the entire essence of why the state made a distinction between nonrestricted and restricted licenses in the first place.

We also have a number of examples in other industries of the unintended damages that can occur when competition between different classes of licenses are allowed on an uneven playing field. Years ago when mobile telephones burst onto the scene, they were able to compete with our existing phone companies, although the state required those same phone companies to have things like landlines, fiber optics, and wires. So the infrastructure was stated as a state policy for one competitor, but not for the other. Before the state could turn around and level that playing field, some of our phone companies had lost over 40 percent of their market share. Again, competition on a level playing field is a good thing, but when it is not on a level playing field, it can have devastating consequences.

A similar story I could tell you is when satellite burst onto the scene, cable television was required by the state to have that same infrastructure. Again, it was an uneven playing field, and before the state could address those issues,

most of the cable television companies who were unable to compete lost a huge market share. Make no mistake, the NRA believes competition is good, as long as it is fair and between the same level of player. Nevada's resort casinos are in one of the most fiercely competitive industries in the world. We eat and breathe competition. In these two cases, however, the level of investment required to compete is not even close.

You will probably hear today, if you have not already, "What is the harm? It is only $600,000 in revenue from these kiosks," or "There are only a few kiosks. We are not harming them." This is not Joe's Bar against the Bellagio. I will tell you, it is not a David and Goliath issue. Many of these companies are much greater in size than a number of the members in the NRA. A number of the members of the NRA are also local casinos. It is not just the argument that it is a small bar 15 miles from the Strip. Is it going to hurt the Bellagio? It hurts the small folks to begin with, but when the doors open a crack, the next session and the next session and the next session you will be dealing with this. If you think about it for a minute, the argument that it is only $600,000 in handle makes no sense. Do you think these people got into this business only to drive $600,000 in handle? Of course not. That is just where we find ourselves today. Where will we find ourselves two years from now? Four years from now when there are 2,000 kiosks, or 3,000 kiosks? When the handle is $15 million or $20 million? What will we do then?

I know none of you relish the thought of shutting these things down or pulling kiosks out of bars, but I would contend the decision will only grow and get harder and its effects more pronounced. Which, of course, is the whole issue of the slippery slope argument. Now, having sat in those chairs a few years back, I totally understand how skeptical one can become sitting across from a lobbyist and hearing him talk about the slippery slope argument. But in this case, the slope is not a potential; it is an absolute certainty. The specific business model of the companies opposing the bill is the proliferation of kiosks. So if action is not taken this session, the issue will not go away. It will grow and become more complicated. If you think about it, if you say it is okay to have these sports-betting kiosks in bars, then what about two years from now when they come back and ask for a blackjack table, or a virtual poker room? How does it stop? On the kiosk side of things, if they say, "Well, it is okay in taverns, then why is it not okay in a Starbucks? Why is it not okay in a Wal-Mart, or a movie theater?" You get my point. This will not stop. It will only continue to grow and change. I would contend that now is the time, while it is small, to make this decision because technology will demand that you do it.

We are all entrepreneurs, and entrepreneurs are funny people. They love risk, they push the envelope, they grow, and they innovate. We applaud that.

William Hill and Golden Gaming are good companies. Like us, they are on the cutting edge of technology and innovation at a time when technology and innovation are redefining gaming itself. Their pushing the envelope does not make them bad actors; quite the contrary. It is what entrepreneurs do. However, as public policymakers, it is imperative you decide what is and is not beyond that envelope, and what is and is not fair competition, given the vast difference between our entry fee and theirs. I think you understand the stakes.

How did this happen? In a word, technology. Innovation and technological advances in gaming are happening on a daily basis—literally, not figuratively. Regulators are inundated with applications on a daily basis for the next cool thing, the next mobile gaming vehicle, the next app, or the next kiosk function. So the rapid advance of technology in gaming is driving this issue and almost requires your action to set the rules and to decide the standards before the system is overwhelmed with a new set of loopholes, new challenges, and more regulatory erosion.

The funny fact is, the kiosk will be like the eight-track tape in two years, so it is not about the kiosk itself. It is what it represents. It is simply the catalyst that brings this public policy decision before you today. Bars are allowed 15 slot machines. Period. That is the law. If you leave this door open a crack, kiosks will be the first of a thousand new machines and a thousand new technologies you are going to vet before this Committee and before the Gaming Commission. We believe that policy exists today. Fifteen machines, period. This amendment simply looks to strengthen that issue, and that is the decision before you.

What is a kiosk? I have heard the argument that a kiosk is the same as a cell phone. What is the big deal? You can make a bet on your cell phone right now. What is the major difference? One major difference is that it does not pay. A ticket does not come out of the cell phone that you can cash with a bartender five feet away. Cashier functions are more than competitive issues; they are enforcement issues. The state holds any employee that performs cashiering functions in a nonrestricted location to a higher level of regulatory scrutiny, yet with kiosks every bartender in the state is now deputized to perform these functions. You do not have to be an expert in gaming policy to understand handling of cash is the absolute bone marrow of enforcement and operational integrity. Allowing kiosks to pay significantly dilutes one of the more important enforcement matters in all of gaming—handling money. The cashiering functions strike at the heart of competitive issues, and that is the benefit that is realized from investment and gaming is the action; not just the bets, but the cashiering. When you take the money out of the casino, you export all of the benefit or reason for investment.

So what is a kiosk? Is it a game? A gaming device? Is it associated equipment? Well, it is not a coffee machine, and I can assure you it will not knit you a sweater. It takes bets and it spits out a ticket that you can cash. While it may not technically fit the definition of a game or gaming device now, it clearly is some kind of gaming instrument. So what is it? We think it is a de facto sports book. Why? Because it performs every single function a real sports book does. You can establish an account, look at posted odds, make a bet, and you can collect money. I may not be the brightest guy, but I think common sense would dictate the absurdity of the argument that a sports book kiosk does not perform the same functions as a sports book, and therefore is not a sports book. Why is that important? Because if it is a sports book, it is not allowed in a bar.

The last argument you are going to hear today is, "This does not belong in the Legislature. The Gaming Commission should decide this." If it is not the job of the Legislature to create public policy on the rules and standards for the state's largest industry, what would be? Rulemaking should absolutely be set in statute for uniformity of application and enforcement at best, and to avoid exactly the situation that brought us here at worst. Also, please make sure you know that kiosks in bars have never been approved by the Gaming Commission or the Legislature. They are approved by administrative approval, and that approval is not subject to Gaming Commission oversight.

The only time the Gaming Commission has discussed the issue of the kiosks themselves was in 2011 when a revenue-sharing agreement between Leroy's—a company that William Hill acquired—and Golden Gaming required approval. Only then did the members of the Gaming Commission even find out these types of kiosks had already been approved administratively and were already in many bars. Though they could only decide the matter that was before them, which was the revenue-sharing agreement, they purposely sunsetted that approval of those revenue-sharing agreements for July of this year, specifically to give the Legislature the opportunity to weigh in. I assure you they did not pick July by accident. This is exactly where the decision belongs.

To close, I will say what I said in the beginning. Despite all the hysteria, there are two very simple yet important public policy decisions here today. One is to clarify the bright-line distinction between nonrestricted and restricted licenses. The law is 15 slot machines. Period. The other is to codify in statute the minimum quality and investment standards for bars that offer gaming, as gaming cannot be the primary business in our neighborhood bars. On behalf of the Nevada Resort Association, we respectfully ask for your support.

Assemblyman Duncan:
If the worry here is that gaming which is going on in these entities is not incidental, how is it that right now you cannot have over 15 of these devices in the taverns or bars? Is that not the line right there? I heard you talk about how these guys are entrepreneurial and they are doing great things and they are innovating. Is that not the line right there, that there are 15 machines and it is not going to go beyond that?

Do you have any numbers for these entities that are operating under this model that the gaming which is going on in these entities is greater than the alcohol or food sales? Are there examples out there where that is the case?

Pete Ernaut:
The 15-slot machine line should be the bright-line, but here is how it happens. This is no one's fault. If I owned a bar or tavern, I would be trying to push the edge of the envelope too. Kiosks were first adopted and approved to go into small casinos, rural casinos, or grandfathered licenses. All of us know a small neighborhood casino from the past that did not quite come up to the standard of building 200 rooms and those were grandfathered in. The kiosks were allowed to go into those entities, but they were nonrestricted entities so they could have a virtual sports book without having to do the investment. That was the original purpose. Now, like anything technological, these kiosks have grown in functionality. At first, you could look at the odds—that is if you could even make a bet—but then the functionality came that had cashiering functions. Then the functionality came that you could sign up on the kiosk itself. So these things grow and will continue to grow. How that gets around the 15-machine bright-line is because it is deemed associated equipment. That will be the argument; that it is no different from a cell phone. It is a communication device. The problem is that it has an orange bill, webbed feet, and it quacks, but they are going to want you to believe it is an eagle. It does everything a sports book does, but it is deemed associated equipment. That is the blurred line. There are other ways around this through associated equipment or the definition of incidental, and that is why we are seeking to draw that line a little more vividly.

I do not think there is any doubt that with the slot arcade model, the so-called Dotty's model, or Jackpot Joanie's—there are a number of similar business models—that gaming is the primary business. If you walked into one of these establishments, you would notice there is no food and, in many cases, no bar. There are 15 machines and one employee. I think common sense would dictate that the primary business is gaming and if gaming was not there, there would be no reason for anyone to go in. Conversely, if you take a company like Golden Gaming—who builds PT's Pubs—you see that there are 20 big

screen TVs, there is a big bar, there are 15 machines, there are three or four bartenders, there is a full kitchen staff, there is a menu, there is a pool table, and there is a dartboard. There is no one on earth who would not say that is a tavern. That is the point. That is what we should be trying to codify as a minimum standard. Maybe not all of them will be as nice as PT's Pubs, but there certainly should not be a race to see how little we can invest to wrap around 15 machines. I think that is where the slot arcade model drove this policy.

Assemblyman Wheeler:
You were saying that the main difference between a cell phone and a kiosk is the cell phone does not pay. I am wondering what is to keep someone from printing a bar code on a cell phone and taking it to the bartender. The cell phone could pay. If no one has done that yet, let us get together and do it.

I represent a very diverse district. I have Stateline, which of course has some resort hotels, and I also have Virginia City, which has some pretty nice little casinos and bars. I am stuck in the middle on this one right at the moment. Assemblyman Horne said this was for counties of 100,000 or more, which would only affect Washoe County and Clark County. I do not see that in the bill, and I am wondering where that is.

Pete Ernaut:
I surely do not want to correct the earlier testimony, but I believe there are two differences in between the language that is in A.B. 360 as it deals with the Dotty's issue and Senate Bill 416. In S.B. 416, it is limited to Washoe County and Clark County, and I believe in A.B. 360 it has statewide application. It would be the position of the NRA that our intention is to only apply to Washoe County and Clark County.

Assemblyman Wheeler:
That opens a new can of worms for me on A.B. 360. I am wondering why we want to do a statewide program like this when some of the smaller places like Minden, Virginia City, and places that I am very familiar with, would actually benefit from not doing this.

Pete Ernaut:
I am not sure which portion of the bill you are speaking to. Are you speaking to the kiosk issue, or to the minimum standard issue?

Assemblyman Wheeler:
The minimum standard issue mainly at this point. We will get to the kiosk a little later.

Pete Ernaut:
The bill language that we brought to the Senate in S.B. 416 would not apply to the rurals. The version before you today, A.B. 360, does. That is not our language. We certainly applaud the effort of bringing these issues together, but that would be an issue not only for Assemblyman Horne, but for this Committee to decide. I can only state our position, and that is it should only apply to Washoe County and Clark County.

There is a whole other reason for it too. A number of Dotty's and those types of businesses in the rurals actually operate as nonrestricted licensees in old grandfathered locations. It is an apples and oranges comparison to begin with. You do not have the same taxes, and you do not have a lot of the same issues that you have in the bigger counties.

Assemblyman Wheeler:
There are a lot of casinos that I have seen in some of the smaller counties, as far as the competition angle that you were talking about, who start out with 10 machines—let us take Sharkey's for instance. I realize that they are grandfathered in now, and so are some of the others. There are other businesses that started out like that and built themselves up to 20 to 30 machines before these laws were in here, and are now pretty good-sized places. Does this bill not stop that from happening?

Pete Ernaut:
I do not believe it does. Right now, regardless if you pass this bill or not, they are still limited to 15 machines. I remember Sharkey's when it was a much smaller place. I remember the Peppermill when it was a coffee shop in Reno. But what happened? There came a point in that business model when they decided to put the proper investment forward to apply and be approved for the next level of licensure. Those who were able to grow—again, the rurals are a little different story. Clearly, as someone who grew up in Elko, I understand the challenges that the rural counties have for tourism and gaming, and the requirement should be a little more flexible there. But it comes down to an issue of standard in quality as well. It really strikes at the heart—and I think this will be an issue that all of you will think about at some point. What is the basis of our gaming regulation? Is it standard in quality, or is it convenience? Convenience opens up—in your terms—a whole other can of worms too, when you talk about underage gambling and problem gaming. There is a fine line here that needs to be drawn that starts to encroach on quality of life issues and sociological issues that we have debated in this body for many years, whether it is neighborhood gaming or problem gaming. I would be very, very cautious to believe that the basis of our gaming regulation, whether it is for restricted licensees or nonrestricted licensees, should be one of convenience.

Chairman Frierson:
Are there any other questions for Mr. Ernaut? [There were none.] I invite those who are here to offer testimony in support of A.B. 360 to come forward now.

John Griffin, representing the Independent Gaming Operators Coalition:
The Independent Gaming Operators are an association of tier-three small gaming operators in the south, north, and in the rural counties. Easy examples are Casino Fandango, Tamarack Junction, the El Capitan, and places like that. We are here in support of the bill and the amendment. For small gaming operators, we are the David to the Goliaths of some of these companies that are doing some of the innovations and expanding into these areas that Mr. Ernaut talked about. These operators have been getting attacked by the blurring of this bright-line. We are here today to tell you that the bright-line matters, and putting the bright-line as a policy choice by this body in place matters. It matters particularly to some of the small gaming operators. Though I recognize that the bill seeks to only apply to Clark and Washoe Counties, our members would be fine if it expanded across the state, as in smaller counties. A lot of the smaller licensees are nonrestricted licenses anyway, like Dotty's. We are fine if it applies statewide, but I am going to use the Casino Fandango for example because it is easier for the Committee to see in the Casino Fandango in Carson City rather than trying to pick and choose from different facilities that you may be familiar with.

The Casino Fandango started in Carson City as a nonrestricted licensee. They took an abandoned Supply One building and converted it into a casino. At the time it started there were 15 employees. Also at the time it started, there was a bright-line. There was no such thing as Dotty's. There was no invention of a kiosk. It started in an abandoned Supply One building; converted it, 15 employees. Today, it has gone through a number of different expansions. It has gone from one restaurant to four. It has doubled in size on the gaming floor space. It has added a $10 million movie theater to the benefit of the Casino Fandango's customers and the people of Carson City. There is no other movie theater, as you all know. By the way, the $10 million investment in a movie theater does not necessarily generate a nice return for the owner of the property. It has added a $20 million-plus Courtyard Marriott with 200 rooms. In its present form, it now has 350 employees from its original starting point of 15. If there were not a bright-line, or if we were further down the slippery slope that has started here with Dotty's and kiosks and everything, you have to ask yourself, ten years ago would the owners of the Casino Fandango put in a $10 million movie theater? Would they have put in a $20 million hotel? Would they have put in four new restaurants if, as is today, there is a Dotty's directly across the street, and there is a Dotty's one mile south on the way to Minden, and there is a Dotty's two and a half miles away across from the

Gold Dust West on Highway 50? If there were kiosks in the sports bar, or the bar that is located across the street or down the road, would the Casino Fandango have made those investments in that case? That is the crux of the problem for our membership and it is the crux of the problem for the small gaming operators. They pay a myriad of taxes from net before taxes, to property tax, to sales tax, to gross gaming tax, to slot license tax. They are doing business the right way as originally contemplated under the definition of nonrestricted licensees. They pay their way to do it, they invest in the community, in their employees, and their people, and if the line gets blurred, those types of investments and those types of situations are not rewarded, and we go to a situation where you wonder if they will ever be made again by some of these smaller operators.

Chairman Frierson:
Are there any questions from the Committee? [There were none.] Is there anyone else here wishing to offer testimony in support of A.B. 360? I encourage folks to come forward now both in Carson City and Las Vegas.

Gregory R. Gemignani, representing Cantor Gaming:
As Mr. Ernaut mentioned in his remarks, our amendment is friendly and we have confirmed with Assemblyman Horne that our amendment has the support of the bill sponsor.

We seek a minor change to the language of the NRA's amendment to avoid decimation of Cantor Gaming's race and sports business, and we seek to preserve the status quo. Cantor Gaming otherwise has no other position regarding the other provision of A.B. 360 or the amendment, and we support the bill.

Under NRS 463.245, the general rule is that there can only be one licensee per nonrestricted location, with a few exceptions. The statutory exceptions include race and sports books, mobile gaming, and inter-casino link systems which are wide-area progressives; for example, the overall casino may be operated by one company, but mobile gaming can be operated by another. Specifically, NRS 463.245, subsection 2, as it is currently enacted, permits a third-party nonrestricted licensee to operate the race and sports book at an establishment if they already operate some other form of nonrestricted gaming. In 2009, Cantor Gaming was licensed by the Nevada Gaming Commission to operate the race and sports book at the M Resort Spa Casino pursuant to NRS 463.245, subsection 2, based on its nonrestricted mobile gaming license at the same location. The amendment proposed by the NRA seeks to change NRS 463.245, subsection 2, to limit the types of nonrestricted licenses upon which a race and sports license can be based. It does this by adding a reference to

sections 1 and 2 of NRS 463.0177, which do not include mobile gaming. They only include forms of nonrestricted gaming that includes slot machines. We are asking to amend the NRA's amendment to include a reference to NRS 463.0177, subsection 5, to list the acceptable NRS 463.0177 subsections that are already listed. We believe this request is reasonable as all it does is maintain the status quo that permits Cantor Gaming to continue to offer race and sports book operations at nonrestricted locations as it has done since it started offering a race and sports book to their operations.

With the acceptance of this amendment and provided that there are no other new amendments that will adversely impact Cantor Gaming's operations, Cantor Gaming is prepared to support this bill. I know this is technical, and I apologize for the dry nature of this presentation, but Cantor Gaming has committed more than $200 million to Nevada operations, the majority of which has been committed to race and sports book operations in nonrestricted casino resort hotels, and this is an issue of paramount importance to Cantor Gaming.

Chairman Frierson:
Are there any questions from the Committee? [There were none.]

Barry Lieberman, Chief Development Officer, Gaughan South LLC:
Gaughan South LLC is the operator of Michael Gaughan's South Point Hotel and Casino. I am here to testify in support of A.B. 360 as well as the amendment proposed by the NRA to that bill. The South Point Hotel and Casino was built at a cost of approximately $600 million. Mr. Gaughan has added a new tower, additional restaurants, and a new race book that is separate from our sports book. The South Point employs over 2,000 people. The full-time employees have excellent health benefits for them and their family at truly reasonable costs. The employees also have a 401(k) plan that Mr. Gaughan generously provides matching contributions for.

The reason why Mr. Gaughan is willing to spend the money on improvements to his property and for the welfare of his employees is because of what traditionally has been a very stable and understandable business and gaming structure within Nevada. The South Point has a nonrestricted gaming license which allows it to operate, among other things, an unrestricted number of slot machines and table games, a poker room, a bingo room, a race book, and a sports book. The South Point vigorously competes against other nonrestricted licensees such as Station Casinos, Boyd Gaming, the M Resort, and the Silverton. What Mr. Gaughan has never expected to have to do is compete against restricted gaming locations. As Mr. Ernaut told you, a restricted license has always been defined to mean an establishment with not more than 15 slot machines and no other games or gaming devices at the establishment. That is

in NRS 463.0189. This statute does not allow for kiosks in restricted locations and it does not allow for mobile gaming operators to operate in restricted locations. It does not allow for sports books or race books to be operated in these restricted locations. As Mr. Ernaut said, having a kiosk where someone can open an account, deposit money, make a wager, and then withdraw money in the form of a voucher is a sports book. They can call it what they want, they can say, "Oh, you cannot get winning bets paid there," but that is what it is. That has traditionally been the province of a nonrestricted gaming operation for good reason. Mr. Gaughan has asked me to testify before you today so you will understand why it is important to draw these bright-lines between nonrestricted locations and restricted locations, and what the amended A.B. 360 is intended to do.

The opponents of the amended A.B. 360 like to cast the debate in terms of nonrestricted licensees as the big guys, and the restricted licensees as the little guys. However, I hope you see through this façade. The South Point is run by Michael Gaughan. He has been here forever, as you know, opening the Royal Inn in the 1970s, building the Barbary Coast, then building the Gold Coast, the Orleans, the Suncoast, and finally the South Point. Boyd Gaming eventually bought most of these properties, so now Mr. Gaughan has one hotel that he is running.

Michael Gaughan is more than willing to compete vigorously with the William Hills and the Golden Gamings of the world in their capacity as nonrestricted licensees, or operators of race or sports books. What Mr. Gaughan does not expect to have to do is compete with de facto sports books or race books in restricted locations, or slot parlors across the street from our hotel where there is no investment at all being made, and where there are simply 15 slot machines, a portable bar, sandwiches available, and premixed mixed drinks available. That is not what the Nevada gaming model is. If the Legislature passes A.B. 360 as amended, Mr. Gaughan will not have to worry about competing on an uneven playing field. He can concentrate his efforts on continuing to improve the South Point, taking care of his employees, and competing against the other nonrestricted location operators in Nevada. We urge you to pass the amended A.B. 360 out of Committee. Thank you for affording me the opportunity to apprise you of Mr. Gaughan's position, and if there are any questions, I am more than happy to answer them.

Assemblyman Carrillo:
How many casinos does Mr. Gaughan currently own?

Barry Lieberman:
Right now he owns the South Point, essentially totally, and I believe he has a 25 percent interest in some of the Mesquite casinos.

Assemblyman Carrillo:
Collectively, how many machines does he have in South Point?

Barry Lieberman:
I believe currently the South Point has approximately 2,600 slot machines.

Assemblyman Duncan:
Does the NRA support the tax amendment?

Pete Ernaut:
We have no position on it.

Chairman Frierson:
Are there any other questions from the Committee? [There were none.] I now invite folks here in Carson City to testify in opposition to come forward.

Sean Higgins, representing the Nevada Restricted Gaming Association; and Golden Gaming:
I come before you today feeling a little like Bill Murray in "Groundhog Day". This thing just keeps coming up and coming up and coming up. It is the third time in four weeks I am sitting up here and discussing the same issue before you as a joint Committee, the Senate Judiciary, or you as a single Committee. Mr. Ernaut pointed out that this thing has really been blown out of proportion. Well, if we keep having hearings, it is going to continue to do just that.

Before I go any further, there is something I would like everyone to understand. There is currently Nevada Gaming Regulation 3.015, which was enacted less than two years ago. It places requirements on a tavern location of a minimum of 2,000 square feet, a 20-seat restaurant, a 9-seat bar, and a kitchen open at least 50 percent of the hours that the establishment is open. I am here to tell you, all of my members are happy and fine to live with that regulation, and we are today. You will hear testimony from Mr. Estey that he has opened locations that comply. During the Gaming Commission hearings, the NRA stood shoulder to shoulder with me and stated those regulations were adequate protection and were fine. Yet they are here before you today to try to put more stringent and stricter requirements in place. I would like to ask the question, "Why?" We cannot quite figure that out.

Before I get to the substance of the bill and the proposed amendments, I would like to focus on the public policy debate, because I will agree. We are here having a good and open debate on this issue, and we should. Assemblyman Horne and the NRA have framed this discussion in terms of enacting good public policy to protect the state's biggest industry. I think we should continue to have that debate. I truly encourage you to listen to the parties who are going to come up here, both the parties who have come before and my clients, and the facts surrounding their relative positions. I want you to remember that sometimes, after you have debated these issues and thought about what was best for the state of Nevada, maybe the best public policy is to do nothing; to leave the status quo. Just because some very powerful people, including leaders in this Legislature, bring proposed legislation before you, that does not mean you should act or have to act. I hope this Committee will keep that in mind when they are listening to this testimony. I respectfully disagree with Assemblyman Horne and the NRA that we need any changes to this. I think the members, at least the chairmen of the Gaming Commission and Gaming Control Board, would agree with me, and I will speak to some of the testimony they gave before the Senate Judiciary Committee.

I think about this a lot, and I have come up with several ways to say my clients vehemently oppose this language. Let us go through some of the facts. The restricted location can have 15 gaming devices—not 16, not 17, not 18. That is the bright-line rule, and that rule has been in place for many, many, many years. Chairman, this bill and the identical one in the Senate, is nothing more than a solution looking for a problem. The proponents have testified that so-called proliferation of taverns in recent years threatens the state's number one industry—casino gaming. Yet for the past 30 years, as I stated previously, the percentage of gaming devices at restricted locations, has hovered around the 10 percent mark. As I also pointed out to you, over the past five years, in excess of 240, almost 19 percent, of our locations have closed. Restricted gaming is not a serious threat to casino gaming. We compete against other restricted locations. This is a solution looking for a problem. The proponents will tell you that the entire NRA supports this. I counted one NRA representative here, other than their lobbyist, who testified against this bill. I would like to point out that when you passed the Internet gaming bill, the room was full of their representatives. This is a solution looking for a problem.

The proponents will say that these force-fitting kiosks will erode betting handle from the casinos race and sports books, yet last year, the handle and the win at nonrestricted race and sports books was up 20 percent while the kiosks were in operation. You have heard the other side question the integrity of the money handling at these locations. Every one of the employees at a restricted location

who handles the money has also had to be licensed by the Gaming Control Board, and I would present to you that it is actually more strict to have a person at a restricted location because they are required to get identification, to verify who the person is, and to verify they are over the age of 21. In a resort casino, you can walk up to a window, tell them what you want to wager, and get out. They are not required to ask you for identification; they are not required to ask you your name. I respectfully submit that it is actually more stringent at our locations. It is a solution looking for a problem.

The proponents have gone on and on about investments made by nonrestricted casinos versus the restricted locations; however, I am going to use the example that Mr. Lieberman just threw out there. His client invested $600 million in the South Point and 2,600 machines. That is an average investment of $230,000 per device. It is simple math. Someone could check to make sure, but I am pretty sure I am correct on that. My client, Golden Gaming, has spent upwards of $5 million at places, but let us just say they spent an average of $3 million for their 15 gaming devices. That is for their investment; for the land, building, and devices. That is $200,000 per gaming device. I am here to tell you that the disparity that the NRA says is there is simply false. They try to throw that out there over and over again. I would also like to point out that in their investment they have hotel rooms, movie theaters, bowling alleys, bars, and restaurants which generate revenue. Let us not forget—those all generate revenue. It is a solution looking for a problem.

With regard to the proposed amendment on taxation, I will repeat what I said in the Senate. First off, each location—for restricted locations limited to 15 gaming devices—is a separate license. Each location is normally taxed separately by the Internal Revenue Service. What you are saying is, again, restricted locations—you can be successful, but do not be too successful, because if you are, we are going to come after you. We are going to try to tax you differently. Remember, these restricted operators, whether they have one location or thirty locations, compete against similarly situated restricted locations, and that is something this Committee must keep in mind when you are looking at this proposed amendment on taxation. They are competing against other taverns, grocery stores, drug stores, convenience stores, and I will tell you, this would apply—someone mentioned it would apply to taverns. One of my clients, Terrible Herbst, Inc., is the largest convenience store operator in the state of Nevada. When I started with them in 1990, they had 20 locations. When I first knew the Herbsts in the 1970s, they had 10 locations. Now they have approximately 100. They grew a business. They were successful, but guess what? If this proposed tax amendment goes into place, they will be taxed cumulatively at all their locations at a

nonrestricted rate. I ask this Committee, where is the fairness there? This is a solution looking for a problem.

The proponents will also tell you that the Gaming Control Board regulators set this deadline for July of this year so that you, the Legislature, could take a look and decide on these items, and they wanted you to do so. I would respectfully submit that is not true. At the Senate Judiciary hearing last week, both Chairman Pete Bernhard and Chairman A.G. Burnett were there and were asked questions by Senator Aaron Ford and Senator Hutchison. I want to give you a couple of quotes. This is from Senator Ford. "Does the Commission need us to answer this question?" The question was about a kiosk. Chairman Bernhard said, "Whatever you do, which may include the option of doing nothing, we will implement. If you don't act, we will continue to interpret." Senator Ford responded, "You don't need us to do this?" Chairman Bernhard, "We do not need, in the sense that it is absolutely essential, that we hear from you. We believe the statutes and guidances have been more than adequate for us to do our jobs." Senator Hutchison asks, "So is the law so unclear that the Gaming Control Board cannot reasonably regulate between restricted and nonrestricted locations?" Chairman Bernhard stated, "The existing law is adequate for us to do our jobs." Chairman Burnett states, "I concur." Words "reasonably regulate" ring with me, and what you have seen up to this date has been reasonable regulation.

Last but not least, the NRA brought up this nebulous administrative approval, and I am going to use Chairman Burnett's words again. He said, "Administrative approval is not a willy-nilly approval." His words, not mine. I think this Committee needs to take that into account. You have your chief gaming regulator from the state telling the Senate Judiciary that they do not need assistance, that they interpreted these laws, and that they reasonably regulate.

Thank you for your time today, and I am happy to answer any questions.

Assemblyman Duncan:
Would you respond to the argument that these restricted entities are essentially running the de facto sports books and how that is having an effect on the bigger casinos? I am curious to hear your thoughts about the way technology is going forward that somehow entities like Dotty's, or whoever, will be getting around the 15-machine limit. Would you respond to that argument as well? If that is, in fact, a threat—that there will be a threat of more than 15 machines operating—how do you see the interplay of technology in this discussion?

Sean Higgins:
About the 15 games, and this goes to part of requiring nine games to be embedded. The fact of the matter is that most taverns today have games embedded in their bars. Let us rewind to the 1960s and 1970s. They keep bringing up this argument of incidental. In the 1960s and 1970s, most taverns had a bar against one wall and ten standup machines against the other wall, a pool table, and a dart board. That was a tavern. They did not serve food. There were no seating requirements for a restaurant. Obviously things do change and norms do change but the fact of the matter is, no one claimed that was incidental at the time. The fact of the matter is, tomorrow you might be betting on an iPad in a bar. What we do not want to do is get stuck with nine games embedded into a bar just because someone thinks that is a good idea. Allow us to use the technology that is out there. Just speaking about the 15 games—any tavern will be limited to 15 games, whether it is an iPad or a game in the bar. But do not limit the technology we can use.

With regard to the kiosk, it is a communication device. The Gaming Control Board chairman did an administrative approval. His division looked at the device and basically said, "What this device does is communicate back to a sports book hub inside of a nonrestricted location." It does not place odds and it does not set odds. It does nothing. It allows you to communicate back to a sports book inside of a nonrestricted casino, which is the hub. That is all it does. It does not spit out a ticket. It spits out a receipt and says you made a wager. Now the only way you can get money out at a restricted location is if you walk up to the bar and you have an account, and you say, "I would like to take $100 out of my account." They require your driver's license, they are required to phone that into William Hill for verification, and then, and only then, can you pull money out of your account. You are not paid your winnings. There is no winning ticket.

I will bring up an example that I brought up in the Senate, and I have had subsequent conversations with people at the Gaming Control Board about this. If William Hill wanted to today, for convenience for their bettors, they could go into a strip mall and open a store front where bettors could redeem their wagers. You could not make a wager there. You could not do anything else. You could go in there and take money out of your account. There are neither Gaming Control Board regulations nor internal controls which would not allow that today. So I am here to tell you that that is what they are doing now. It is no different than it is in a bar. It is not a gaming device. There is not going to be a proliferation. My clients are happy limiting kiosks to tavern locations. You heard Mr. Ernaut say that they would be in 2,000 or 3,000 locations. We are happy to limit the tavern locations. We are not asking for anything else. It has not been asked for yet. We are happy to

limit it. He brought up the 21 table. A 21 table is certainly a gaming device. The outcome of the game is determined at that table by what happens there. That is not the case at a kiosk.

Assemblyman Hansen:
One of the issues that has been brought up is the gross gaming tax. They have to pay it; you do not. I have been doing a little homework on who pays what, and I notice you pay a lot more in slot license fees. I do not know if that is compensated or not. Are you not paying your fair share, and is there some way to try to make the playing field a little more level on the tax side of this?

Sean Higgins:
I will handle that briefly. Mr. Steve Des Champs, chief financial officer of United Coin Machine, is going to hit on that a little more. We pay six times more the quarterly fees than the nonrestricted do.

Assemblyman Hansen:
You are talking about the slot license?

Sean Higgins:
Yes. Six times more.

Assemblyman Hansen:
They pay $20 and you pay a minimum of $81, up to almost $541. Is that in compensation for the fact that you do not pay—I will wait for your guy to testify.

Sean Higgins:
Yes, there is a difference. I will tell you, in 2003 when we were here before this body and taxation was a big issue, the restricted locations offered up a tax increase of our flat fee. We have certainly participated in tax increases before, but the model is based on a flat fee, and I would say to try to change that midstream—and not just midstream, but 40 years into this—could have a devastating effect on this industry. If the intent is to put this industry out of business, that would be the first step and the first nail in the coffin.

Assemblywoman Spiegel:
You were talking about the taxation disparities and it got me thinking and wondering what your thoughts would be on there being an exemption if an entity came forward and showed that the gaming was truly incidental to its business, say, no more than 5 or 10 percent of total revenues?

Sean Higgins:
I would contend—and everyone here would agree with me—that the term "incidental" which has been there since 1967 and has been mentioned over the years, and I went through all the hearings in the 1980s, and the discussion was had about what was incidental and what the percentage of revenue had to be. I will use the big four—taverns, grocery stores, convenience stores, and drug stores have been allowed to have gaming devices and they are presumed incidental. I think that the best solution for this is not a tax. If you look at the Gaming Control Board regulations, there are seven or eight items, including one which is revenue, but that is not the only tax that they look at or can look at. If this body wants to take up an issue on this, it would basically be saying, in the future, if you meet the definition either set by this body or the Gaming Commission, these following locations are incidental: grocery store, convenience store, drug store, or tavern. We do not have to keep going around and around with this. I think it has been going on for 30 years and that would be the solution. The fact of the matter is that other locations that are not within those could still petition the Gaming Commission to be licensed and they would have to meet those tasks put in place by the Gaming Commission. But to simply talk about a revenue test at this date and time, I think, is something that anyone in the building who understands gaming would tell you would not be appropriate.

Assemblywoman Spiegel:
So you are saying that you would not be supportive of an exemption on that basis; is that correct?

Sean Higgins:
No, I would not. As a straight revenue test I would not be supportive of an exemption.

Chairman Frierson:
Are there any other questions for Mr. Higgins? [There were none.]

Jennifer Lazovich, representing Dotty's:
We are here in opposition to the original bill and all of the amendments. There has been a tremendous amount said about Dotty's. It has all been negative, and has all been untrue. I stand before you today, proud that we can finally tell you our own story. We have a story to tell, and it is a story that is a good one, and it belongs here in Nevada. We have loyal customers and over 1,000 employees who work for us and take what we do very seriously.

For each location that Dotty's has, they make a substantial investment in that location. It has been said that we just turn on some lights, plug in a bunch of

slot machines and that is it. That is not true. I would encourage you to go into locations that are in and around where you live. You will see that there is a bar, there is a restaurant, and there is seating. Our model is slightly different than what the regular tavern that we have come to know looks like, but it works for our customers. With regard to the bill that is before you today, the only entity in this entire state that has adopted a rule that would require embedded machines in a bar is Clark County; only places in unincorporated Clark County; not in any of the cities; and not anywhere outside of Clark County. That is the only place that requires machines to be embedded. In our opinion, that is a direct attack at our business model.

After Clark County adopted that ordinance, the Gaming Commission took up this issue, and there was a lot discussed when it came to what the investment should be and whether or not there should be machines embedded in the bar. Ultimately, as Sean told you, the decision was made by the Gaming Commission that there should be some kind of investment and there should be a line. He reiterated to you what that line was, but they rejected the idea that the machines had to be embedded in a bar. Now the bill that is before you today goes backwards to the Clark County rule after we have already had this issue vetted again for the state at the Gaming Commission, and the notion that we would need to embed machines in the bar was rejected.

Dotty's is a family-owned and operated company. Every single one of the people who own and operate Dotty's live in Nevada. They live in Las Vegas. We operate locations throughout this entire state. We have made a substantial investment in properties and employees throughout the entire state. I would like to introduce you to Craig Estey. He is the president of Dotty's, and he will tell you in his own words why our customers are loyal, why we have almost 1,000 employees, and how this bill unfairly targets our business.

Craig Estey, President and Founder, Dotty's:
If I may indulge you a little bit, let me tell you a story of how it came about, because for some reason my company's name comes up a lot whenever there is a problem in gaming.

I was originally appointed a distributor of the best-selling video poker machine outside of Nevada. Before that, I was not in the gaming business. This was in the early 1990s. I went out and had to learn the gaming business, so I traveled to South Dakota, Montana, and Nevada and got into locations and tried to really understand what was going on. Pretty soon, something started bubbling up that there was an unserved market in all three states. It was a market of female customers, primarily older female customers, aged 35 and above as a target area. It was that a traditional bar did not satisfy their needs. If an older

woman were to go walking into a bar, it would leave the wrong impression with the men that were in the bar. They would think that she was there to get picked up or to drink heavily. It was the wrong impression. Yet women had no place they could go to. Women had no place they could call their own. So a model started slowly coming together of a safe, clean, friendly, open environment where women and older couples could sit there and have a drink, have a sandwich, have a hamburger, gamble, which is doing the same things that are done in what people would think of as a traditional bar or tavern, but they could do it in a place where they felt safe. I bought six locations in 1995 and came before the Gaming Commission and got licensed. So the first doors opened in Nevada in 1995. In going through that licensing, I explained to the Gaming Commission what our plan was and what we were trying to do, and I still remember to this date, Bill Bible, who was chairman of the Gaming Control Board, came out and he said, "You know, we know what you're trying to do. It's a little radical. We welcome the competition. Go try to do it and see if you can do it." He sat there and said, "We wish you good luck, but we don't think you're going to make it."

So you pedal ahead a couple of years. We opened a few Dotty's. It took three or four years before I was profitable in the original stores. We kept refining it and making it better and better, and all of a sudden we started to get a group of customers and employees that became family, and the whole concept started growing. Maybe it was convenience or whatever. By the mid-2000s, I had some other businesses in other states, and I sold two of those businesses. They were both based in Oregon. With those sales I was blessed to have $20 million in cash. I liquidated a major business, so I decided, "Wait a minute; what am I going to do? I am going to invest in Nevada." So that seed money is why all of a sudden we started building more Dotty's within Nevada. The concept worked; the customers enjoyed it. We not only invested in Clark County and Las Vegas, but we are located throughout rural Nevada. I am not sure how many counties we are in; probably a dozen. We are in northern Nevada and rural Nevada. Today, as you heard from Jennifer, we are pushing 1,000 employees. We are not there yet, but we are almost there. I have 55 restricted locations in the state. People sit there and forget that I also have 24 nonrestricted locations in the state. In fact, one of the early testimonies coming up was that, "Gee, there's Dotty's across the street from Fandango and there's a Dotty's across the street from Gold Dust West here in Carson City." Those are both nonrestricted locations. What I end up doing—I am not sorry. I am doing a really good job. The customers love what we are doing. The business is not easy. Everyone seems to think that I am hard competition. The whole dialogue is about competition and here I am. If you go back, there are so many regulations already within the state of Nevada. I follow every one of them, and any one you change I will follow as it goes forward. I am not

going against it. But an interesting note that you should recognize is that the foundations of gaming in Nevada—a lot of big players, if they had to live by the rules that are in place today, could never have gotten started. Bill Harrah could not have had his bingo parlor in downtown Reno. It would not qualify under the regulations that are out today. Steve Wynn at the Golden Nugget in downtown Las Vegas did not have hotel rooms. It would not work. Jackie Gaughan at the El Cortez—he did not have 200 rooms. They had some smaller rooms, but it was below the requirements of today. I happen to own the location that John Ascuaga started. It is one of my nonrestricted locations. It is across the street from where the Nugget is now. Benny Binion at the Horseshoe in downtown Las Vegas, and even Frank Fertitta, Jr. at the Bingo Palace would not qualify for a nonrestricted license today with the regulations that are out there.

As I speak indirect to the proposed things, they all say that they are targeting Dotty's, but really, my average locations are over 4,000 square feet. We have a full kitchen in every single one of them. The state gaming requirement already requires a nine-seat bar in every tavern that has been built. That is the Gaming Commission regulation now. I do not agree technologically with the slot machines in the bar, and it is because technology is moving too quick.

I used to have this phone that I cannot even get turned on anymore. You cannot text on it, you cannot get emails on it, you cannot find the weather on it, you cannot do anything on it. And if we were forced to sit there and stay back with the older things—I am open to any questions or further clarifications I can offer.

Assemblywoman Dondero Loop:
I have a Dotty's and Jackpot Joanie's in my district, and I have passed many of them. Do you personally own all of these? Do you franchise them out? How does that work?

Craig Estey:
I am 100 percent owner of this business. I have three children in the business, but I am 100 percent owner and operator.

Assemblywoman Dondero Loop:
So if I go into a Dotty's, you would be the person who owns that?

Craig Estey:
Yes.

Assemblywoman Dondero Loop:
Are the Jackpot Joanie's or whoever owned by someone else?

Craig Estey:
They are a copycat operation, or they are trying to copy.

Assemblywoman Dondero Loop:
They are your competition?

Craig Estey:
Yes.

Chairman Frierson:
Are there any other questions? [There were none.]

Steve Des Champs, Chief Financial Officer, United Coin Machine Company; and representing the Nevada Restricted Gaming Association:
I have been involved in the financial and accounting end of the gaming business in various capacities over the past 25 years. For the last six years, I have been the chief financial officer of United Coin Machine Company which operates the second largest route operation in Nevada and has been in business here for over 50 years. I will focus my prepared remarks today on what I believe are the financial implications of the proposed amendments to A.B. 360.

Before getting into the specific concerns I have with the proposed amendment, I thought it would be helpful to provide a brief overview of the gaming route operations business model and the customers we serve. There are over 2,000 restricted gaming licenses today, which reflects thousands of small businesses that have been created by entrepreneurs and exist in the form of bars, taverns, grocery stores, convenience stores, and other approved sites. These entrepreneurs have each presented their business plans to the Gaming Control Board and the Gaming Commission, and subjected themselves to personal examination and have been found suitable to have gaming devices in their establishments. In many cases, these entrepreneurs are visionaries who seek to offer the gaming public something new, something different, and something that differentiates their locations from hundreds of other locations the gaming public has to choose from.

Chairman Frierson:
In the interest of time, I will ask you to submit your comments in writing, but try to summarize those to the Committee.

Steve Des Champs:
I understand. It appears the proposed amendment attempts to impose a gaming tax using nonrestricted rates on a certain subsection of the restricted gaming operators in the state, that being entities that control or operate more than 500 slot machines in the aggregate, whether those machines are operated in establishments for which restricted or nonrestricted licenses have been issued. These proposed amendments have several substantive problems, are being arbitrarily applied, are anticompetitive, antigrowth and, if approved in their current format, would likely be the final fatal blow to a group of gaming route operators that have struggled mightily during these troubled economic times. I will go quickly through these points.

First, and arguably most important, gaming licenses, be they restricted or nonrestricted, are granted to individual entities for operations at specific individual locations. Those individual locations pay fees and taxes to the state based on the applicable statute. This proposed amendment would create a new and overreaching set of taxation rules applied to slot route operators on top of what is already paid by the licensee at each establishment. This proposed amendment would arbitrarily determine that it is okay to grow your business from the ground up, but discourage a company from getting too big or subject to a different set of rules.

The pure mechanics of how this proposed set of taxes would be applied is extremely problematic. As written, the 500 slot machine count would be included with games that are included for both restricted and nonrestricted licenses. Knowing that nonrestricted gaming locations already pay gross gaming revenue tax, is it the intent of this amendment that the gaming revenues from those nonrestricted locations be taxed for a second time at the same rate, creating a situation of double taxation? We do not believe that that was the intent, but the current draft could be interpreted as such. On the flip side, consideration needs to be taken to the fact that restricted locations pay fees in lieu of taxes, and they do so at a rate significantly higher than nonrestricted locations. As an example, a restricted bar location with 15 games today pays $121 per quarter in fees compared to just $20 for a game in a nonrestricted location. It is six times the rate of the nonrestricted locations. As proposed, the amendment states that all taxes and fees would be applied as if the locations were nonrestricted, therefore entities with more than 500 games would expect to get a credit back for these overpaid restricted gaming fees.

To highlight the challenges of getting hit with this tax rate, I would offer a simple analogy. If you entered into a mortgage, as each one of you did when you bought your homes, you entered into a contract, and that contract was in the form of a mortgage. You decided that you could afford that home based on

your household income and expenses. Twenty years down the line, after you have been paying that mortgage, someone changed the mortgage rate. You would not find that that would be fair. We look at the changes in this tax rate along those same lines.

One additional point I would like to make is in terms of ensuring compliance with this tax. Although I would never speak on behalf of the Gaming Control Board or Nevada Gaming Commission, I would like to simply point out that the proposed bill as drafted may well require a significant expansion of the revenue audit function performed by the Board's staff.

Chairman Frierson:
I would ask that you not go there. I think the Commission can speak for themselves as far as any impact that it might have on them.

Steve Des Champs:
Fair enough. This proposed regulation is anticompetitive from the standpoint that route operators who operate fewer than 500 games would be taxed at a different rate than those route operators who operate more than 500 games. As a chief financial officer, I can tell you that in this case size does matter, and the route operator needs to operate a large number of games in order to spread our fixed overhead costs across a large number of games being operated in order to offer the lowest costs to our customer locations. It begs the question of how 500 slot machines was determined as the cutoff. Why not 250? Why not 300 or 1,000? To further point out some of the challenges this bill would present in terms of implementation, one might ask, "How would the 500 games be counted? Is it at the start of the year, is it at the end of the year, is it an average? What happens to a route operator who adds or loses accounts throughout a year? When would that be measured?"

I will close with one final point. While I wish there had been proliferation in these types of locations that included route operators, unfortunately, the opposite has been the case. As has been testified to previously, there have been over 240 taverns that closed during the recession, and while I believe the worst of the recession is behind us, I would caution you all that we are far from being out of the woods. Just this last month we were called to remove games at three tavern locations which were being closed, two of which had been in operation for more than 20 years. When asked why they were closing, the answers were virtually the same. The recovery has been too slow, the costs of operations continue to rise, and they were just throwing in the towel. Jobs were lost, less gaming fees were being paid to the state, and less sales taxes were collected. As route operators, we are trying to do our part with the

small businesses to help them survive in this competitive marketplace. The very last thing we can afford as a group is increased taxation.

Chairman Frierson:
Are there any questions from the Committee? [There were none.]

Keith Lee, representing W.C.W. Corporation; and William Hill:
I am representing two clients. W.C.W. Corporation is a small gaming corporation headquartered in Fallon. It does business in Fallon with the Nugget Casino, Fallon Nugget, and the Bonanza Casino. It also has restricted and nonrestricted operations in Lyon County, Carson City, and Washoe County. I also represent the William Hill company, from whom you have heard before in the joint meeting on these particular issues.

Very quickly, with respect to A.B. 360 and with apologies, Mr. Estey, on the Dotty's issue, W.C.W. opposes that. I have heard it said that the reason they need the embedded machines is because they want to make sure there is a bar. I suggest that there are already provisions for the bar in Regulation 3.015 which was agonized over for a year and a half and to which we all came somewhat grudgingly to a recommendation and an approval of it. So we have that. It is already in the regulation. I might say with respect to that, I also represent a client who is new to gaming and who has filed a gaming application for a Dotty's-type operation in Washoe County based upon, and in reliance upon, the regulation as it was adopted in full compliance with that regulation. Now with the proposal here to go forward, he would be out of compliance and it is unlikely he will be licensed in time. So there is reliance placed not only on by my client, but I suggest by many others on the gaming regulation that has been adopted and there is no reason to change it.

With respect to William Hill, and as you will recall the testimony that we gave before with respect to the balance and the amendment that is being brought forward on the kiosk issue, I will not go over that testimony again. It is in your minds. I want to remind you of several things. William Hill is, in fact, the largest betting sports wagering company in the world and we are proud of that. We have been licensed in Nevada for about a year, and in that year we have invested upwards of $50 million in the state of Nevada. We have over 400 employees, all of whom are under health insurance plans by us. If you will recall, when we had the presentation two and a half weeks ago, we had the slide where we had the stick kiosk man compared to the big guy. The increase in winnings year over year in sports wagering was in the $30 million range, the amount that is won by kiosk bettors was $600,000. We certainly do not make an impact, and we do not move the decimal point one point. We are not a threat to the big guys in any stretch of the imagination.

You will recall we also operate 100 nonrestricted sports betting locations, many with casinos, including the Fandango, which is a partner of ours here in Carson City. We have 14 of our sports betting operations with NRA members. We want to see them succeed. It is in our best interest that they succeed, so we work with them to help them succeed. We just invested $700,000 in the new Union Plaza sports book. Please visit that to see the commitment we have to the state.

We are talking about a different demographic here. I will give you an example very quickly. Two weeks ago, the first Saturday of March Madness, we went into a couple of these operations just to see what was going on. Folks and families were coming in for breakfast and they were taking advantage to go to the kiosk and bet. I would suggest to you that (1) it is not a demographic that is taking away from the casinos, and (2) that person, if he chooses to bet there, and does not have that opportunity, one of two things is going to happen. That person is not going to bet, therefore we will lose revenue, or they are going to bet illegally and, therefore, we will lose revenue. You will recall that we pay the gross gaming tax. We are a nonrestricted licensee. We pay the gross gaming tax on our winnings.

Mr. Chairman, I have some other points, but I know time is short, so I will stand for any questions.

Chairman Frierson:
Are there any questions for Mr. Lee? [There were none.] Is there anyone in Las Vegas to testify in opposition of A.B. 360?

Randolph Townsend, Member, Nevada Gaming Commission:
Perhaps for clarity, as you know, the Chairman of the Nevada Gaming Commission as well as the Gaming Control Board have stated their positions regarding any changes in gaming statute. It is quite clear, I believe, if you look at the numerous hearings on the position of the Commission. The purpose of my testimony today is to encourage, particularly our freshmen Legislators, since I believe we have the largest freshman class in the history of the Nevada Legislature, to read Professor Robert Faiss' book, *Gaming Regulation and Gaming Law in Nevada.* As you know, Mr. Faiss is the senior partner at Lionel Sawyer & Collins, and was the Chief of Staff to then Governor Sawyer when Governor Sawyer decided to restructure gaming regulation in the state of Nevada that continues to this day. It is a quick read, but it is extremely informative and helpful to those members who do not have the background that might help them as they move through the deliberations. To underscore our Commission Chairman, we do not take positions on these bills. Whatever action the Legislature takes, we will, of course, enforce at the regulatory level.

There were a number of things said here today, and perhaps I can bring some clarity. As they focus on the issues, some terms are thrown around, but I want to make sure the members fully understand.

The Gaming Control Board does not license anyone. The Gaming Control Board is the part of the 400 members or so that does all of the investigations, does tax and license, does enforcement, administration, and audit. After their deliberations, they recommend to the Nevada Gaming Commission for approval, denial, or an approval with a condition. The Gaming Control Board only does those things. The Nevada Gaming Commission is the final authority. In the case of a number of issues that come through the regulatory mechanism at the board level, we never see them. They are either issues that require more attention, the applicant decides to delay, or a number of other things that we may never see at the Commission level. Secondly, and in conclusion, the Board does not do any regulations. The Board may recommend to us a change in a regulation or a new regulation, but the hearings, the workshops, all of that is done at the Commission level and we, per statute, are required to make those adjustments or, in fact, rule finally on what the regulations would be. Hopefully that is helpful to you, Chairman, and I appreciate the time today.

Chairman Frierson:
Are there any questions from the Committee for Mr. Townsend? [There were none.] Thank you for that clarification.

Lisa Mayo-DeRiso, Private Citizen, Las Vegas, Nevada:
I am here before you today as a community activist on quality-of-life issues in southern Nevada. In 1997, a group of citizens, business leaders, and elected officials forged together to pass a state law, Senate Bill No. 208 of the 69th Session, that recognized the value of Nevada communities, neighborhoods, and placed restrictions on the proliferation of casinos in our local neighborhoods. The effort was based in an honest desire to protect neighborhoods, including schools and churches, from neighborhood casinos popping up on every corner and in every shopping center, and embedding in every local neighborhood hotel. We worked hard to get 12,000 signatures from voters to stop the proliferation of casinos into our neighborhoods. We are working to preserve the quality of life we wanted and expected for our children, grandchildren, and future generations. Thankfully, the Legislature was responsive to our voice.

I actually just found out about A.B. 360 and Assembly Bill 415 on Thursday of last week. These bills have a tendency to come quickly, and oftentimes the public really does not have a chance to be engaged in these conversations. Several times today both sides have used the term "public policy," that this

is public policy that we are enacting today, and I think the key word there is the public.

I have spent time and had conversations with our legislators—those of you who are elected by the people—on these issues, and it has only really been with the 800-pound gorillas in the room, and I would like to urge you to take citizens' viewpoints on this. Like most other laws you have passed, ultimately this law will impact the citizens and our neighborhoods.

I will tell you the problems I have with this bill when it comes to gaming and gaming in our neighborhoods. Section 0.7 of Exhibit D addresses the kiosk issue. We have two issues in this bill that seem to me like they should be in separate bills. We have the kiosk issue, which is one issue, and then we have the issue with the restricted gaming locations, but I will address them briefly.

The kiosk issue—I read it several times and I think I understand. This is my first reaction to the bill. All I could do was imagine my 14-year-old son or my 13-year-old daughter walking into our local grocery store to rent a Redbox movie and having a sports book wagering kiosk sitting right next to it. That is something I think we have to make sure does not take place as this technology advances and we start to add these types of things in our community. Our children deserve to be protected from gaming, which is an adult activity, at every possible avenue and at all possible cost. I personally think that this kiosk language is a little premature. I think that the gaming laws, when it comes to online gaming and gaming by a telephone or iPad, are in constant flux. While there are two companies—Cantor and Williams—who are here participating in this, I do believe that most of our Nevada Resort Association large, nonrestricted gaming companies are also going to participate in this new and probably lucrative environment. I would urge you to possibly hold off on this kiosk issue for those reasons.

The second issue, which takes place in Section 1, is talking about the restricted gaming locations. Most people who know me and have followed me—our group and the people we work with, Southern Nevada Residents for Responsible Growth—have always talked about location. Location is critical, whether it is a Dotty's, a tavern, or whatever it is, we need to make sure that the distances are respected and we do not have them piling up next door to each other in our neighborhoods around our children and families.

The problem I have with A.B. 360 is—I understand incidental to business. I clearly understand that. In this language, the incidental to business is all predicated on alcohol and the sale of alcohol. In the amended language, they use the term "alcohol" and "bar" eight times, and make it clear that if you want

to open a tavern with gaming machines, you have to serve a lot of alcohol. I do not think that is what we need to have in our gaming environment. We are forcing gaming and alcohol to have a direct relationship, and I do not think that is where we should be now within our communities and neighborhoods. Why can we not have gaming without alcohol? Native American casinos have done it and have done it for a while, and in many places do not even encourage alcohol. We also talked about—and it was talked about in great length—the investment quality. While I respect the great investments that our nonrestricted gaming hotels have put into this community, and they have done a beautiful job, I do not believe that quality equals serving more alcohol. Driving under the influence is among the most common criminal offenses in Las Vegas. Our two cities, Reno ranked second, and Las Vegas ranked eleventh in the 2010 *Men's Health* magazine list of America's drunkest cities.

Chairman Frierson:
I am going to have to redirect you to some extent because we are so short on time and I need to ask you to speak to the bill.

Lisa Mayo-DeRiso:
Okay, I am wrapping up. I think this has to do with the bill. The real question here is, do we need more gaming and more alcohol? I think if you pass these bills, I would like to see my request that you would put these bills aside. I believe that you need to go back to the public. You need to talk to your constituents and ask them how they feel about this bill. These bills will have an impact in our communities, and when we have bills like this where we take the control away from possibly the Gaming Control Board and the Gaming Commission, it becomes very murky. We, as citizens, try to fight these or come out against it, and it makes it very difficult. My request is for you to not pass. Do not pass these bills through your Committee. Thank you very much.

Chairman Frierson:
Thank you. Is there anyone in Carson City or Las Vegas wishing to offer testimony in the neutral position? [There was no one.] Mr. Horne, would you come back up for brief closing remarks?

Assemblyman Horne:
The purview of this body is to revisit existing policy and legislation and also implement new policies when necessary. It is our role to send direction to our regulatory bodies on what we want to do, and that regulatory body is charged with that direction and how to implement this. Nothing is more important in doing that than in the gaming industry. Mr. Higgins stated that sometimes we should do nothing. I would say that oftentimes doing nothing when an issue

has been brought before the body makes us derelict in our duties and responsibilities here.

You also heard that there was a comparison on the number in support of this bill from the nonrestricted entities that were present in the Internet gaming bill and not present here. I think that is an unfair comparison. Presence or lack of presence, they had representation here by the Nevada Resort Association.

It was mentioned that the Gaming Control Board and Gaming Commission stated that there was no need for any change for this type of legislation. I would point out that the operative word there is "need." Our Legislature directs regulatory bodies on what we believe is necessary for our state. While they may say, yes, we can do our function in the status quo, it is still appropriate for us to say, "We need a change. We want a change. Our Legislature has come together and we have made a decision that this is what we want to do in our state." Then that regulatory body makes that happen.

As for the sunset on the kiosk issue, I agree with Mr. Ernaut that that sunset date is not an accident, being a month after sine die. That is a direction to us. It is asking, I believe, implicitly, to make a decision. They could have convened as a body and made regulatory changes, et cetera. They did not do that. They put this sunset provision in there, and now we have an opportunity to address it. However we want to do that, we get the opportunity to address that issue and send that message to those regulatory bodies and say, "We have talked about this, we have debated it, we had a bill, and this is what we have decided to do." Even if that is nothing, that is okay. But we have had the debate and we have had the votes. Now they will have that message. I think it was purposeful that they set the sunset provision.

Lastly, the 500 machines. Yes. Currently that is going to affect six companies in my discussions with Chairman A.G. Burnett, one of which is Dotty's and then the five slot route operators. That is it. Whether this Committee believes that 500 is too low and it should be 1,000, or too high and should be 350, that is for this body to make that determination. I picked 500, and that is the scope of businesses that it will affect. By the way, those six entities, it affects 60 percent of that business.

In conclusion, I believe this is an appropriate discussion for this Committee to have. I think this is important for us to address. I think it is time we make the lines that have become blurred more clear, bright-lined, and concise so that the players on both sides of the licensing line know exactly what they can do

and how they can do it. This bill is not retroactive. This is for licensees after July 1, 2013. Thank you.

Chairman Frierson:
Thank you all for your patience and for providing us with information. In particular, thank you, Mr. Estey, for making yourself personally available to testify. I think this is the first as far as our informational hearings that we have had, so I appreciate your making yourself available. I am closing the hearing on A.B. 360 and will open the hearing on Assembly Bill 421.

Assembly Bill 421: Revises provisions governing parentage. (BDR 11-806)

Kimberly M. Surratt, representing the Nevada Justice Association; and Private Citizen, Reno, Nevada:
I am representing the Nevada Justice Association and myself as a private family law attorney this time. This is a bill that I have proposed and brought forward to this Committee, and I have a different level of interest and knowledge about it. I am going to ask for a little leeway, so instead of going right into the explanation of the bill, I have one person who is here to testify and because of how long the first bill ran, I would like for her to give her personal story real quick and get her gone. She has a birthday party to get to.

Chairman Frierson:
Priorities. Certainly, let us get her to the birthday party.

Elizabeth Schuler, Private Citizen, Reno, Nevada:
My husband and I are both only children and we always wanted a family. Upon moving to Reno, we found a doctor to help us with our dream and discovered with in vitro fertilization we could become pregnant. However, the shock was that I could not carry my pregnancies to term. After many losses and at 20 weeks being pregnant with twins and four pints of blood, I was informed that if I tried it again I probably would not live through it.

[Assemblyman Carrillo assumed the Chair.]

This is when I started reading about gestational carriers. We originally thought it would be a great idea to do this locally. In fact, we talked with a carrier and almost moved forward until they commented they were not worried about the contract. My business training was worried about the contract. That is when I found a reproductive attorney in Reno, and I found out a few other things. The Nevada laws are just simply too basic on the books for this situation. There are no procedural laws in place for guidance. I found out about a local family who was basically forced to adopt their child that a gestational carrier

delivered for them. I found out about a gestational carrier that started demanding additional financial returns after she became pregnant with the couple's child. They had no option but to comply. Both of these situations seemed like a horror story to me, and I was not ready to go through more trauma.

My husband and I were looking at spending a large amount of money already, and we did not want to have to deal with so many unknowns. We reluctantly faced that we would have to leave the state to carry out our dream. We were fortunate to find a couple in Modesto, California. The nice thing is that California has the laws and legal processes in place to protect both the couples trying to do this and the gestational carrier. So with Kim Surratt's legal support, we moved forward. Our carrier became pregnant with our son. We did not mind the five hours each way for a ten-minute doctor visit each month. We had no choice on the additional expenses and time this required. We got to know her family and she got to know ours. Three and a half weeks from the due date she called and said she was in labor. That was the day I realized the danger we were in. Just like today, there was a major blizzard on the mountains, and I had to get across them. We raced to Modesto and made it in time and Tristan, my son, and I were bonded at birth.

As our carrier recovered, she kept thinking about my comment that we did not want an only child. She offered to help us again. This time we became pregnant with twins. I know. My husband says God's joke on us. We already knew the perils of being pregnant with twins, and we spent even more time and more money going back and forth from Modesto. Twins typically come earlier, but our doctor stated we needed to make it at least seven weeks before the due date for safety.

[Chairman Frierson reassumed the Chair.]

Six days and six weeks before the due date, our carrier's husband called and said they were on the way to the hospital. Mike and I were in the car within 15 minutes. Our daughter, Tasha, was born within minutes of their arriving at the hospital; however, an emergency C-section was being performed to deliver our son, Trevor. We spent the time on top of Donner Pass, giving instructions to the carrier's husband as to our medical decisions. Our son was in potential peril and we had no cell service to even communicate with the hospital. When we arrived three hours after their birth, we discovered the hospital was not honoring our paperwork because we were not present at the birth. Our son Trevor had some potential medical problems and we were not permitted to make the decisions. Although I had our lawyer, Kim Surratt, on the phone, she was a long way away when I needed her. We also had our local

pediatrician and neurologist in Reno giving us support via phone. We all just wanted to bring our kids home to Nevada.

All turned out well as you can see by this picture [Ms. Schuler held up a family picture]; however, I would not want any other family to face the risks and the extra expenses we had to go through. This is why I ask you to pass Assembly Bill 421. We know the value and what it means to have a family. We know that if we had been able to have our children in Reno, the economy would have had the local money. We would not have had to spend the extra money, and when we had a long stay in the neonatal intensive care unit, we could have had our family and friends around to support us. Please consider passing this bill to help future parents have their children in Nevada without legal fears.

Chairman Frierson:
Thank you for sharing your personal story. Are there any questions of Ms. Schuler? [There were none.] I am glad we were able to accommodate you. Be safe going to the birthday party.

Elizabeth Schuler:
Thank you. The birthday party is for my son.

Kimberly Surratt:
We are bringing this bill for a couple of purposes. You heard the story that Ms. Schuler just gave. It is an issue of medical science outracing the developments of our law. Not uncommon, not something that anyone should be too surprised about, but we are lacking a lot of the procedural guidance, definitions, and assistance in our statutes that we need in order to accomplish parentage for these families who, as a last resort, are having to go to physicians in order to have children. I have presented letters to the Committee in favor of this bill. Two are letters from the Fertility Center of Las Vegas [(Exhibit F) and (Exhibit G)]. We have received support, not in a letter format, but we have received support from the Nevada Center for Reproductive Medicine, and you have a letter that has been submitted to you from the American Academy of Assisted Reproductive Technology Attorneys (Exhibit H). Mr. Stovall, who is seated to my right, and myself, are both fellows with that academy. In order to become a fellow with that academy, you have to have a sufficient number of cases and experience in the reproductive industry and be vetted in order to become a member.

The amendment that is in front of you (Exhibit I) was constructed by taking parts of the Uniform Parentage Act and the American Bar Association Model Act Governing Assisted Reproductive Technology. The reason both bills were

utilized was because I felt that our laws were so far behind and we were lacking so much in definition and procedural guidance that we were needing bits and pieces from both the Model Act and the Uniform Act in order to accomplish sufficient legal guidance for us in the state of Nevada.

We have two statutes that this bill is going to accomplish redefining and extending for us. Both of those, of course, are being repealed and are at the back of the bill. There is *Nevada Revised Statutes* (NRS) 126.045 which is our current surrogacy statute in the state of Nevada. It was put in place in 1993, amended in 1995, but it has sat since then. The year 1995 does not sound like a significant amount of time for most people when you are talking about law, but when you talk about the advancements in medical technology for the reproductive industry, it is a significant amount of time.

The other statute that we have in place is defined as the artificial insemination statute. It is NRS 126.061. That statute refers to sperm donors in our state. You will notice that these are the only two statutes being repealed. We do not have any other statutory authority in our state, which means we do not have any guidance for egg donation in our state. We do not have any statutory guidance for parentage on embryo donations either, although all the medical clinics in the state of Nevada are doing both egg donations and embryo donations in significant numbers. In fact, there are some statistics on the Internet that talk about worldwide between the 1970s and 2006. Most of the statistics in this area all end right about 2006. We are always about three to four years or more behind, but they say there were 300,000 to 500,000 successful births worldwide from frozen embryos alone, without even looking at egg donations. When you do not have any guidance in our statutory structure for who the parents of those embryo donations are, it gets to be extremely nerve-wracking, both for the clients and the practitioner, who has to constantly tell their clients, "I am sorry, I think you will become a parent at the end of this; I am not positive. I do not have a statute to point to. You just have to realize that there have been a lot of these and hold your breath and it should work out just fine." Unfortunately, that is literally how we do these cases. The two statutes that we have were extremely cutting edge at the time they were passed. We were at the forefront. We just have not kept up with medical science. Since then, in order to give us the additional new guidance that we need or any procedural guidance, when you look at our surrogacy statute, for example, there is absolutely no procedural guidance. It just says you can do it. It does not say how. It does not tell us if we get an order from the court, not get an order, are they the parents, what are the elements, what needs to be proven or not proven. That is the goal with this bill.

To be extremely brief so that we can jump right in to questions, I will go through the sections of the bill because I have been asked to do so. The first 15 sections of this bill are the definitions (Exhibit I). You will notice that the new bill refers to in vitro fertilization. Our artificial insemination statute in and of itself, just the definition of artificial insemination, is archaic. The medical industry is not using the term "artificial insemination" any longer. It is in vitro fertilization—that is the key term that we are referring to—and you will see that our donor definition includes eggs, sperm, or embryos, not just sperm as it was in the statutory framework before. In addition, it references gestational carrier versus the surrogacy statute that we have in place right now. There is some definitional difference there. Gestational carriers are how we refer to women who carry a child on behalf of someone else that they are not genetically related to.

Assemblywoman Spiegel:
Is there a reason why a relative could not be a gestational carrier, such as a sister or a mother?

Kimberly Surratt:
There is absolutely no reason why a family member could not be a gestational carrier. In fact, we see that happen in quite a few numbers. The revised bill that is in front of you for the statutory framework does not prevent family members from doing that.

The definitional difference of a gestational carrier is that a traditional surrogate is a woman who is using her own eggs in the process. That is often known across the United States as one of the higher risk areas to venture into versus the carrier carrying an egg or an embryo created by sperm and eggs that were not her own biological makeup. Later on in this bill, there is a provision that excludes traditional surrogacy, and I am at a loss on that one. I do not know how to sit on that issue in front of you. I can tell you when you look across the country that is the higher risk area. Everyone is very concerned about traditional surrogacy, although if you have statutory framework that allows it, you may do it.

What the general public will tell you, or people who are undergoing fertility issues will tell you, is that it is a lot more expensive if you are doing gestational carrier versus a traditional surrogate, because a traditional surrogate cuts out a step in the process because you only have to do in vitro fertilization, not create embryos with a donated egg or retrieve eggs from the intended mother to create the embryo to then transfer. It is an economic issue. It is also a policy issue that if anyone wants to ask me more questions about it, we can parse it out and decide. I am fifty-fifty on that issue. What is presented in front of you is to

exclude traditional surrogacy right now, because I feel it was closer in line with what our current policy was in our statute and to leave that policy issue in your hands for your decision making.

Sections 16 through 22 define the fact that when you utilize reproductive technology and you have consented to the use of reproductive technology and you have the intent to create a child through reproductive technology, you will, in fact, be the parent of that child. This is defined in more generic terms instead of just from donors having parental rights or no parental rights at the end of the day—it goes into eggs and embryos within the definitions.

I submitted to this Committee some amendment requests to the bill. One of those amendments is in section 20, where I have asked that the last words that say, "This requirement does not apply to a donor." We already have donor defined as not being the parent. The amendments that I have submitted to the Committee—I do not know for sure at this point that we do not have opposition today. No one has come forward to me, although I have worked with several national organizations and lots of attorneys. The amendments that I have proposed to my own bill are a result of those communications and really just a cleanup of the language to make it flow better, but there are no really substantive changes to the bill.

Section 22 covers the circumstances of divorce. So you have started your reproductive technology path, you may have had embryos created, and then you have a divorce. It talks about how you deal with whether or not you are a parent, if you withdraw your consent, and request that the embryos not be utilized, or that you will not be a parent if they ultimately are utilized without your consent.

Section 23 has the terms that are necessary in order to allow gestational carrier agreements to be permissible. It also goes on through section 24 and what it means if you have a gestational carrier agreement and you satisfy certain specific conditions. It means you are going to be a parent and you have sole legal and physical custody of the child. All of these unknowns that we did not have before where it just said "You can do surrogacy" and that was really almost our entire statute. This goes on to say you are actually a parent at the end of the day.

Section 24, subsection 4 gives us permission to go into the court to actually obtain an order, either before or after the birth of the child. Before is of extreme importance to attorneys who practice in this industry, mainly because it allows us to show up at the hospital with all of the roles of all the parties already

clearly defined and no ambiguity to it. It gives jurisdiction to any of our courts in the state of Nevada if the child was born in this state.

Section 25 allows these matters to be sealed and confidential matters. Anytime we are dealing with children, paternity, maternity, or parentage, it is common. We seal those cases. You do not want people sticking their noses into those files and having access to them down the road and knowing all of these private details about the parentage.

Section 26 has requirements for the gestational carrier herself. Again, these were taken from the Uniform Act on Parentage and the American Bar Associations Model Act. These are things that you often see and are the trends around the country—you want her to be 21 years old, you want her to have already had a child, that she have a medical evaluation, and the bill as I had it standing asked for a mental health evaluation. There has been more discussion since I even submitted this amendment to you about whether or not we want the word "mental health evaluation" versus "consultation," and the vote is in. I do not think you are going to get anyone to testify on this other than myself and proponents and we would like it to say "mental health evaluation" instead of just "consultation." We have to protect our clients somehow and we have to protect these carriers. If they are not mentally sound enough to be carrying a baby for someone else, we do not want them doing this. If you look at section 26, paragraph (f), that is the key provision. That excludes traditional surrogacy. It says that the carrier "did not contribute any gametes that will ultimately result in an embryo that she will attempt to carry to term." Again, that is a policy decision that I am really fifty-fifty on at this point and we can parse it out. If you were inclined, as a body, to allow traditional surrogacy, that would be the clause that we would take out of this bill to allow it.

Section 26, subsection 2, has the requirements for intended parents again requiring mental health evaluations. You do not want psychopaths showing up and doing this and getting into these types of complicated contracts with a carrier. You want everyone to be of sound mind. Section 26 has the requirements that need to go into the contract itself, such as it needs to be in writing, and it is done before the commencement of any medical procedures. There are a lot of key small terms in here that may not seem like a big deal to this Committee. They have been placed in there based on experience around the United States and worldwide with litigation and issues with fraud and other complicated misrepresentations. It is very important for all of this to be put in place before the medical procedures begin so everyone understands the contractual obligations that are in place. That section goes on to basically require that everyone have express written agreement of the circumstances, and it goes to the different parties that need to be a part of that agreement.

Under section 29, the gestational carrier, after she executes a gestational agreement, her marriage or domestic partnership after they sign a contract will not affect the validity of the contract. This is important because once she is pregnant, if there was a potential that she could get married and the new spouse could say, "Oh, this is not a surrogacy because I did not sign on to that contract," we would have a provision such as this one.

Section 30 talks about breach and how you can be in breach of the contract and what the remedies are for it. In section 32 we talk about reimbursement of expenses, and compensation is one of the last provisions of this bill. The reimbursement of expenses obviously is very critical. If a woman is going to carry your baby for you, she needs you to pay for the expenses associated with that. It is not cheap to be pregnant. It is not cheap to go to the doctor. The compensation provision is something that I want to be very upfront with this Committee. It is very upfront in this bill. The prior statutory framework we had said that you could reimburse her necessary living expenses. That, of course, became a form of compensation because you pay her rent, her cell phone, her insurance costs, her entertainment costs, childcare and, at the end of the day, she is still working a job and being compensated. There is a change in the language to actually say "compensation," but it puts in requirements in that it be good faith negotiations for that and that everyone have equal legal representation in doing so. One of the most important things in this industry is ensuring that the carriers are represented by their own independent legal counsel so that they have a fair voice, an open voice, and a part of the negotiations and conversations. I welcome any questions on this bill.

Chairman Frierson:
Thank you, Ms. Surratt. If we do not vet them all out today, would you—at least for my benefit and the Committee Manager's benefit, because this is a long and detailed bill—isolate the areas that you are on the fence about and communicate those to my staff so that we can have that policy discussion as we get ready for work session.

Assemblyman Hansen:
I guess I am out of date, but the part you are deleting concerns me. "Two persons whose marriage is valid under Chapter 122 of NRS may enter into a contract . . . ." That is being removed. The intended parent is basically anyone who claims to be a couple of any type that will be granted the ability to do this. I have no problem with all the medical stuff and contracts and all, but just the idea that we are going to be encouraging people to have children—I want to see a father and a mother, before they have children, legally and lawfully married. I have a little bit of an issue with just anyone who claims to be a couple making these contracts and then bringing these children into

the world under what I would say is less than favorable circumstances. You look at all the problems we have in society and so many of them boil down to all sorts of problems dealing with single parents and couples splitting up. While I am totally supportive of this overall concept, I have a real problem with deleting that.

Kimberly Surratt:
If you could please identify the exact section for me, because there are a couple of answers there.

Assemblyman Hansen:
It is under the "Text of Repealed Sections."

Kimberly Surratt:
In the repealed language?

Assemblyman Hansen:
It would be under your definition of an intended parent. I guess that is where I have a real heartache, especially in combination with what is being pulled out of the law as it reads right now in Nevada.

Kimberly Surratt:
To bring it really generic, it is an equal protection issue. It is inappropriate for someone to tell a single woman that she cannot become a mother simply because she is not married or in a domestic partnership. We have found throughout the country, and in different cases, that that equal protection argument has been upheld quite well. Medical doctors do not feel they can discriminate or tell a woman that they will not assist her with those medical procedures simply because she is single. That is the major reason for the change in this bill, which is to allow women to make their own decision, married or not, whether or not they can become a parent. They can do it with just a sperm donor under our current laws.

Assemblyman Hansen:
They do, unfortunately.

Kimberly Surratt:
They do, and they do it in mass numbers. This would just extend it so they also have the right to use a gestational carrier for the same purpose and not just sperm donation or discriminating between the different medical procedures.

Assemblyman Hansen:
Just a quick comment. I should apply equal protection to the unborn child that is being brought into this. There are three people involved in this party, and while we are talking about equal protection for one or two adults, it seems to me we are bringing someone else in that has no legal authority whatsoever under the law. I think we had better look at protecting the unborn innocent child who is being brought into what I would perceive in many cases to be less than desirable circumstances. Thank you very much.

Chairman Frierson:
Are there any other questions for Ms. Surratt? [There were none.] I will invite those who wish to provide testimony in support of A.B. 421 to come forward.

Eric Stovall, Member, American Academy of Assisted Reproductive Technology Attorneys:
I am an attorney practicing in Washoe County and throughout the state. I do these types of agreements on a regular basis, and I am here in support of this new bill. It is really new in a lot of ways. I remember back in 1993 and 1995 when the first surrogacy laws were passed in Nevada, and it seemed like science fiction to me at the time, and feeling it was just extraordinary that we could do this. When we see where medical technology has brought us now, the Nevada law is really archaic. A lot of times I am representing intended parents and gestational carriers that want to have this type of an agreement go forward, but they are really stymied by the lack of Nevada law that would allow them to do this. It is unfortunate when I have to counsel with my clients to tell them, "Well, we really do not know what any judge is going to do in Nevada because we do not have Nevada law that covers this particular area." That is the current state of affairs here. We have women in Nevada who want to be carriers for no other reason than to allow other people to experience having a family as they have had a family. It is amazing to me how often—and it is heartwarming to me how often—these women want to do this, and it is frustrating when I am not able to give them the assurances of how Nevada law works.

Additionally, I go in front of the court to discuss with the court how this agreement has come about and that we want the court to issue what we call a pre-birth order or a post-birth order telling the Department of Vital Statistics how the birth certificate should read and confirm that the intended parents are indeed the parents of this child by law. Our local judges want to do the right thing and they want to enforce the law and, as practitioners, we have to try to take them through this and show them, "Well, this is the law. We know it is archaic, but we need to have an order fashioned to allow the intent for the intended parents and the gestational carrier to be realized." We are forced to

try to practice law using duct tape and baling wire because our law is just so antiquated right now. Assembly Bill 421 is a bill that I think your Committee can be justly proud of and will accomplish so many things to bring Nevada into the twenty-first century.

Chairman Frierson:
Are there any questions? [There were none.] I see one person in Las Vegas who wishes to testify in support.

Israel "Ishi" Kunin, Member, American Academy of Assisted Reproductive Technology Attorneys:
I have been practicing law in Nevada for over 30 years. I want to add a couple of things. Through the years of watching assisted reproductive technology grow as an area of practice here in Nevada and seeing the limitation offered now by the statute that exists, I will often tell clients to go to California where they can be more assured of their rights being protected and their parentage being defined at the time of a birth. I am sending a great number of people to California to protect the families rather than try to make new law on the risk that their families are not going to be protected in Nevada under the current statute.

Kim has done an absolutely amazing job in this proposed amendment. She has basically taken the results of a multitude of Supreme Court cases across the nation that have already been forced to make decisions about a lot of the issues that are set forth herein, and placed them all in a statute to, in so many ways, lessen the insecurity and uncertainty that can come with the process of artificial insemination or in vitro that is definitely moving forward. With that, I absolutely support this bill. I think it is so necessary, so needed, and will ultimately protect those very families that have to go with this process.

Assemblyman Wheeler:
I have one question for Ms. Surratt. I want to get right to the nuts and bolts. Will this law protect parents from a donor or a surrogate coming back when a child is two or three years old and saying that that is their kid?

Kimberly Surratt:
In my opinion, absolutely yes; it will protect them. Can a surrogate or donor still show up and throw their hands up and jump up and down? Yes, but the parentage will already be an absolute nonappealable decision based on these statutes and the timeline.

Assemblyman Wheeler:
So the answer is yes?

Kimberly Surratt:
Yes. In a lawyer way, yes.

Assemblywoman Spiegel:
The way this is written, if someone was either a traditional surrogate or a family member, they would still be able to come back because they are excluded? Am I reading that correctly?

Kimberly Surratt:
That is not quite the right interpretation. They could not come back. The difference is that right now, if a family came forward and said they wanted to do surrogacy, the way it is written right now, they would have to use a carrier with either the intended mother's own egg or a donor's egg. They could not use the carrier's egg itself. So you can still use a family member to be the carrier, but the carrier being that family member cannot use her own egg the way it is written right now. You could delete that provision in section 26, paragraph (f), and allow traditional surrogacy, which would mean it would cut down on the cost for that family. The reason we look at that as being risky is once the surrogate has a biological link to the child, you increase the probability and odds that she will have a harder emotional and mental time with giving up the child after going through the procedure, and not just taking off with the child, than you would with someone who does not have a biological link to the child. That is the only reason that provision is in controversy. It is just simply that. The way it is written right now would, theoretically, increase the odds that no one is going to have a mental breakdown over it.

Assemblywoman Spiegel:
It comes back to section 10 that I was asking about before with the no genetic relationship. If someone is a sister and they are carrying, then there is a genetic relationship, or certainly if someone has their mother carrying for them, then there would also be a genetic relationship.

Kimberly Surratt:
That definition under section 10 is to bear a child to whom she has no genetic relationship. She would not have a genetic relationship to the child; her own personal, genetic, DNA relationship.

Chairman Frierson:
Are there any other questions from the Committee? [There were none.] Is there anyone who would like to come up and provide further testimony in support, either here or in Las Vegas? [There was no one.] Is there anyone to testify in opposition either in Carson City or Las Vegas? [There was no one.] Is there anyone wishing to offer testimony in a neutral position, either in

Carson City or Las Vegas? [There was no one.] I will invite Ms. Surratt back up briefly for any closing remarks.

Kimberly Surratt:
All I have to say is thank you to the Committee. [Exhibit J also submitted.]

Chairman Frierson:
With that, I will close the hearing on A.B. 421 and ask Mr. Ohrenschall to come over while I introduce the next bill.

[Vice Chairman Ohrenschall assumed the Chair.]

Vice Chairman Ohrenschall:
We will open the hearing on Assembly Bill 415. Thank you for presenting this important piece of legislation.

Assembly Bill 415: Revises various provisions relating to criminal justice. (BDR 15-804)

Assemblyman Jason M. Frierson, Clark County Assembly District No. 8:
Assembly Bill 415 is the result of conversations I have had with members of the Nevada Legislature, both Democrats and Republicans, over the last several months regarding ways to look at our criminal justice system and put public safety as its highest priority, but also in a way that saves money and also decreases recidivism. There was a conversation between myself and Senator Barbara Cegavske in particular about a movement called Right on Crime, which I believe is a rewording of what many of us have been talking about for years about being Smart on Crime. It is using our limited resources in a way that protects the public but has some vision and spends money in a way that decreases recidivism and increases protection to the public and focuses on those particularly violent offenses for using our resources to protect the public. I will point out, and I have significantly cut back on the number of examples I will give, but there are 27 states so far that are engaged in efforts to look at the criminal justice system to save money because of the increased incarceration rate over the past couple of decades.

Arizona's population in prison has doubled in the last three years. The state's prison population increased tenfold from 1979 to 2010. In 2008, Arizona became the first state to implement performance-based adult probation funding. Probation officers are trained to utilize motivational interviewing, which is essentially a method of therapy that identifies and mobilizes the client's intrinsic values and goals to stimulate behavior change. This is something that Director Cox, with the Department of Corrections, talked about wanting to

encourage our current parole and probation department to embrace. Although in Arizona they have implemented this performance-based adult probation system, Arizona's policymakers are still looking at additional options for improving their criminal justice system. I mention that to say that it is an important step, but there still needs to be more, and Arizona has recognized that.

Arkansas passed major criminal justice reform legislation, Senate Bill 750, which was signed by Governor Mike Beebe on March 22, 2011. It diverted a greater number of drug users to treatment and accountability courts. That piece of legislation put an emphasis on prioritizing prison space for violent offenders while utilizing community supervision alternatives for nonviolent offenders. In 2010, Colorado House Bill 1352 emphasized diversion to substance abuse and mental health treatment in cases involving low-level drug possession while increasing penalties for those selling drugs to minors. It was projected to save taxpayers millions of dollars by enhancing mandatory treatment options available in lieu of prison revocation for parolees who commit technical violations but not a new crime.

In 2012, Georgia attacked these challenges by passing major reform packages. Their package prioritized their limited prison space for the most serious offenders by creating a new system of graduated sanctions for burglary, forgery, theft, and simple drug possession. Low-level, first-time offenders are punished by using community supervision alternatives, and prison space is reserved for more serious and habitual offenders.

In 2011, Kentucky passed House Bill 463 which they called the "Public Safety and Offender Accountability Act" to reduce one of the nation's fastest growing prison populations. The first goal of that piece of legislation was to prioritize expensive prison space for the most serious offenders. The legislation did this in part by introducing graduated penalties that diverted minor drug offenders to probation and treatment while reserving limited prison space for the high-level drug traffickers.

I have several examples that say the same thing, so I will cut to the chase. It is expensive to be tough on crime, and it is even more expensive when it has absolutely no vision towards how effective it is in decreasing crime and protecting the public. I will briefly go through the bill and talk about some measures that I have voluntarily decided to take out of the bill in order to concede as something that will be more appropriate for longer term conversation. Several states have looked at these issues and studied them over an interim period with the help of some outside organizations in order to be thorough, and I think that is an important consideration. While initially the ideas

that are contained within A.B. 415 are ideas that were looked at in other states, I thought it was worthy to take some time with some of those measures to make sure that whatever we do, we do it right and effectively.

With that, I will go through the bill and its original proposals and highlight any of the changes that I am proposing to make. Sections 1 and 2 takes petit larceny out of our burglary statutes. In Nevada, burglary carries a sentence of one to ten years in prison, and the elements of burglary are that you enter a building with the intention of committing a crime. I have seen folks charged with burglary for shoplifting. Over the years, I have seen something as simple as a chocolate milk, but because they had somewhat of a background—and that particular case was a mental health background and several convictions—they were charged with felony burglary, one to ten years. I have a hard time seeing how a shoplift is ever worth the money that we expend to incarcerate someone for one to ten years. The bill proposes to take out petit larceny from burglary so that those situations are now covered.

Prior to receiving some concerns from law enforcement in particular, I had already put some thought into making some adjustments. One of the concerns that law enforcement had was the habitual offenders, the repeat offenders that continually commit these petty offenses, albeit expensive for the small business owner. Recognizing that, and also so that the Committee is aware, Nevada had what was called a petit larceny habitual—a misdemeanor habitual structure several years ago—and I believe it was Assemblyman Ohrenschall that proposed some legislation a couple of sessions ago to remove that provision. If my recollection serves me, the testimony at that time—I believe it was 2009—was that that provision was rarely, if ever, used. In my ten years in practicing criminal law, I had never seen it actually used. I believe the testimony was that it was rarely used anyway and again, at that time, it was not seen as a wise use of our limited resources to send someone to prison for what were essentially petit larceny offenses. I do not intend to revisit that piece of legislation which was repealed; however, we recognize the concerns of law enforcement in particular, and some of the intricacies, because it is not, as with many measures, a simple issue.

What I would propose to do conceptually in section 1, subsections 1 and 2, is define burglary as it currently exists, with the exception of a petit larceny that occurs at a commercial establishment during operating hours. This would take out anything from a car, to a home, even from a commercial establishment that was broken into and only a small amount was stolen. This would simply be the typical shoplift of something that was valued at a misdemeanor level. I would propose to amend A.B. 415 at the outset to only refer to those types of offenses. I would go so far as to revisit, at least in concept, the measure that

was repealed regarding the misdemeanor habitual and, as a middle ground, say that the person subject to this would have to have fewer than three convictions. I would propose—I believe it was three; it may have been five—previous with a misdemeanor habitual, but essentially, if someone commits a petit larceny in a commercial establishment during business hours and they have fewer than three prior petit larceny convictions, then it would not be considered a felony burglary, a one to ten year offense. I believe it strikes a balance of distinguishing between the habitual offenders and those that have had a lapse in good judgment and are not the kind of people we need to spend that type of money to protect the community from—offenses for which, quite frankly, some 20 or 30 years ago you were wearing a sign saying, "I am a thief," on the corner and being humiliated. That was your form of punishment. Now it is just easier for us to send those folks to prison. With sections 1 and 2, conceptually I would propose that amendment.

Section 3 allows the Advisory Commission on the Administration of Justice to essentially apply for grants and outside money. This is something I have spoken about with the current chairman of the Advisory Commission, Assemblyman Horne, and members of the Commission. This would simply give them an opportunity to seek grants and outside assistance to conduct a study. I know the Council of State Governments has conducted some studies and I have met with representatives of the Council. They are willing to come in and help us and provide some guidance and direction as they have done in several of the 27 states that have already engaged in a review of their criminal justice system.

Section 5 proposes to give good-time credit to category B felons. I would simply propose to remove that provision. I think that is one of the many things that is bigger than the limited amount of time on one bill that we would have the ability to review. With all of the different kinds of category B felonies that are out there, I think this is something worthy of referring to the interim. I would propose to strike the provisions of section 5.

Section 6 makes diversion mandatory for nonviolent, nonsexual drug offenses. Those offenses now are discretionary. *Nevada Revised Statutes* (NRS) 453.3363 provides for a diversion program for drug offenders. First-time drug offenders can participate in this program, and it is discretionary. I have had certain judges that simply disagreed philosophically with it as a matter of course, and refused to employ it across the board, and others did it in a way that was productive and exercised some discretion. I am open to any thoughts on the measure and any outside considerations of the different kinds of offenses and the kind of background that some of these individuals have. As I think I explained in every one of the examples, every single one of the 27 states that

have already engaged in this are looking predominantly at drug offenses for diversion. Those are three, four, or five times more expensive to incarcerate than to simply provide treatment for. Anyone who was willing and able to participate in a diversion program would have a greater chance of not only freeing themselves of that type of behavior, but it would also decrease the recidivism across the board.

Section 7 raises the minimum level of what would be considered drug trafficking. Again, this is another provision that I think would require a much more in-depth conversation, so I would be willing to strike that provision for the sake of having that conversation. I think drug trafficking is a misnomer. In Nevada, if you possess four grams of certain drugs, that is considered trafficking, but I think a layperson thinks of trafficking as someone with a truckload of drugs coming across state lines. I think for more practitioners in criminal law, four grams is for personal use, so at the very least I think it is a misnomer. I think it is something worth looking at, but I think it would take more work than we have time for in the limited session. I would propose to strike section 7 and allow that to be referred to the Advisory Commission as well.

Section 8 refers the matters that are contained in A.B. 415 and others to the Advisory Commission for a more in-depth conversation and to look at these measures with the hope that we would be able to employ help from the Council of State Governments and other organizations to conduct a detailed study.

The remaining provisions of A.B. 415 deal with authorizing Clark County to establish a community court pilot project for misdemeanors. It is important to note that these folks are at the gate. They are at a fork in the road where they are going to become a more serious criminal, or they are going to get some help and get out of our criminal justice system. It is not mandatory. It simply authorizes Clark County to establish this program. Over the last several sessions, both prior to becoming elected and after becoming elected, I have been working with stakeholders in the community about this very subject and what has been done in other states and other jurisdictions. I think it is something worthy of looking at. I believe cities already have the authority in statute to create departments of alternative sentencing, and I think this would give Clark County an ability to create a pilot project to evaluate whether or not it is even something that would be effective.

That being said, that is the bill. I think it is worthy of noting that I reached out to those whom I perceived as being stakeholders on this issue early. This included law enforcement, prosecutors, and retailers. Weeks ago, while there was no consensus, particularly amongst law enforcement and

prosecutors, there were many who were not opposed to the concept, and that was before some of the details of the proposed amendment that I have made are essentially concessions due to their concerns. The Retail Association of Nevada was also contacted weeks ago and had no opposition, which prompted my continued work on the matter and my adoption of some of the concessions. I was somewhat disappointed to learn within the last several days that it may not continue to be the plan. I do not know if what I am proposing in the way of conceptual amendments may change their position, but I do want this Committee to know that I thought it important to reach out to those stakeholders early, and I did just that. I think that what we have before us today, in particular the conceptual amendments, embody much of what was expressed as concerns, at least at that time. I continue to be convinced that exposing someone who shoplifts an item valued at a misdemeanor level to a prison sentence of one to ten years is an unwise use of limited resources, and it lacks the vision to prevent recidivism and actually redirect some of these folks that might be at a fork in the road. I simply do not believe that the costs outweigh the benefit to the community to continue operating in this way. That is the bill, and I would welcome any questions the Committee may have.

Vice Chairman Ohrenschall:
Sections 10 and 11 are about the community courts. I know that they are not in existence yet, but how do you envision them working as opposed to the other therapeutic courts that we already have? Are they going to focus on drug and alcohol treatment, job training, or mental health? Are they going to be similar or different? Would you give us a little more information?

Assemblyman Frierson:
I think the great thing about this concept is it allows the court to come up with what they believe will work. Several years ago, I asked, "Give me a program where I can create ten criteria whether it is drug counseling, family therapy, personal finance, et cetera." Some folks found themselves in a recurring crime situation because they were hanging out with the wrong folks and, if they did get a job, they had to go to a casino to cash their check—not that casinos are bad places—which exposed them to friends that were engaging in negative behavior and they were unable to even go open a bank account and avoid something that might be unnecessarily tempting to them. So personal finance for some of those folks, maybe parenting classes. I think the beauty of it is that it depends on the needs of the individual. This would give them the creativity to come up with something that could be crafted to address individual needs.

Assemblyman Carrillo:
I know that A.B. No. 142 of the 76th Session had raised the threshold from $250 to $650, and it seemed like after that happened, a lot of the retailers

started charging them as burglaries instead. How does this affect that? I know it essentially takes that away from them to use a burglary if they are going into a grocery store or some type of retail outlet. I want to hear more of how that would affect them to be able to do their job.

Assemblyman Frierson:
If someone has a habitual record of committing these offenses, I think that is something worthy of including in here. If they had three or more, they would still be allowed to be charged with a burglary. I think the major expression of concern by retailers that I recall is number one, the repeat offenders, and number two, the organized effort, which, Mr. Carrillo, you have a bill to address and tighten. Actually, I think these two bills to some extent complement each other because that bill proposed to take out some language that prevented them from being able to apply it, so this would not include organized retail thieves—for lack of a better way of putting it. If they have more than three prior convictions, they would still be exposed to felony treatment, and if they met the additional elements of taking with the intent to resell or redistribute or even turn it in for a refund, I think there are other pieces of legislation that would arrest that behavior. What I am looking at is the teenager who makes a bad decision—or not even a teenager, but the adult who in a hard time has a lapse in judgment, but is not who we are intending on or who we would like to send away for one to ten years for committing a burglary. For the folks who habitually do it, or break in, or sell it to someone else, or take it to a swap meet to sell, this would not be intending to include those individuals.

Vice Chairman Ohrenschall:
We have heard the statistics this session about how much it costs to keep someone at a Nevada Department of Corrections (NDOC) facility, and the state has to be prudent. We are not a money committee, but to have that used for someone who may have committed shoplifting, which obviously is not something we condone, but to use our state resources to house someone at an NDOC facility is imprudent. I am glad you are addressing that issue in this bill.

In section 6, the change from "may" to "shall" will let more people participate in drug treatment programs, is that correct?

Assemblyman Frierson:
That is absolutely true. The intention is to expose everyone who is salvageable to a diversion program if possible. I do not think that even under the existing language, if a court opted to give someone that option and they declined, they would be forced to, and I do not think that is the case here. It certainly is not the intention. If someone is given the opportunity to participate in a diversion program and they simply do not want to, then of course those are not the folks

who are ready for the kind of consideration that we are trying to—again, for those folks who are at a fork in the road.

Vice Chairman Ohrenschall:
Thank you very much. Mr. Frierson, is there any order you want me to call witnesses?

Assemblyman Frierson:
There is no order. I will say this in closing to the Committee. It is always interesting—I know that the Committee is aware that when we are dealing with criminal justice bills—and it is always touching, because you always have victims who you want to protect and you do not want to ignore, but it is also peculiar how something as simple as a misdemeanor can be expressed in terms of the most horrendous example you could possibly ever imagine as to why it is opposed. You often have a sex-assault victim or a senior citizen or a toddler used as an example. I think this effort is not designed to do that. I know the Committee is in receipt of a letter regarding a senior person who had their home burglarized. Of course, with the proposed amendment, this would not affect that situation. At the end of the day, we have got to be smarter with our resources, and I think being smarter with our resources not only includes avoiding sending people to prison, but it also includes providing some resources so these folks do not continue to revolve in our criminal justice system because that is just as dangerous to the community as slapping someone on the wrist for dangerous behavior. I appreciate the Committee indulging me in this effort and to at least have this conversation, and I look forward to continuing the discussion.

Vice Chairman Ohrenschall:
Are there any questions? [There were none.] Is there anyone in support of A.B. 415 in Carson City?

Chris Frey, Deputy Public Defender, Washoe County Public Defender's Office:
We support the entirety of A.B. 415 as drafted. Now hearing the amendments by the Chairman, we would also support those amendments. We think that perhaps it is prudent to refer some sections to the Advisory Commission for further study. I would like to confine my remarks to the provisions that will meet with opposition today. Those are sections 1 through 2, which eliminate the crime of petit larceny from the burglary statute, as well as the community court created under sections 9 through 11. I would like to briefly address the easier section, the community court. Our jurisdiction in Washoe County would wholeheartedly support this. Resources and infrastructure already exists in Reno Justice Court where a court compliance program is already run. In effect, it does everything that is envisioned under sections 9 through 11. The courts

are waiting for the authority to allow sentencing judges to defer the appropriate cases for diversion to allow an individual to keep his or her record clean and get a fresh start. Currently, there is no way to defer a misdemeanor sentence absent some sort of agreement informally between a prosecutor and a defense attorney. This would actually give the courts formal authority to divert those deserving cases and allow these people to restart their lives. We are in wholehearted support of the community court. We did offer an amendment that would expand the pilot project to Washoe County (Exhibit K). You will note that the bill as drafted limits it to Clark County and limits it to one justice court within that jurisdiction. We would like this to apply to Washoe County, especially given that a court infrastructure already exists. Indeed, I think it should be expanded to all jurisdictions in the state.

With respect to sections 1 and 2, this changes the burglary statute, which is a deviation from common law and, I think, from common sense. As it is written currently, the burglary statute criminalizes an individual who enters the premises with the preexisting intent to commit a felony or enumerated misdemeanor inside. One of those enumerated misdemeanors is a petit larceny. The upshot of this revision would be that shoplift burglaries would no longer be chargeable as a felony. They would be charged as a petit larceny. I think this makes intuitive sense and I think that, with the conceptual amendment offered by the Chairman, there would still be leverage over those who commit these types of offenses on a serial basis to be held to greater penalties.

I would like to address the letter submitted by the Reno Police Department's Repeat Offender Program team (Exhibit L). I think a lot of the points made in that letter have already been addressed by the conceptual amendments by the Chairman, but I would like to point out the two instances cited in the letter, the first being the victimization of an elderly person and the second a John Doe individual who was fraudulently printing receipts and going into stores and fraudulently returning items. I think those two situations are already handled under existing law. Notably, the invasion of the home is just that under Nevada law. It is a home invasion and is a category B felony punishable by one to ten years in prison. So the first instance cited in that letter would not escape felony liability with this revision to the burglary statute. It would be on all four, so to speak, with the home invasion statute.

Also, with respect to the instance of the John Doe who is printing fraudulent receipts, that is a burglary. If you look at the burglary statute, one of the predicate offenses is obtaining money or property by false pretenses. That is exactly what that conduct is. So it is not as though this provision will cause that sort of offender to escape liability; indeed, that offender is already within the scope of existing law.

To illustrate why sections 1 and 2 make intuitive sense, these are cases that we do see from time to time going to trial, even though our belief is that they never should. There is an instance in which Sean Sullivan had a jury trial. It was a shoplift burglary case, and the jury—12 peers, a fair cross section of the community—came back with an interesting jury note, and I think that it speaks to the common sense of these reforms in sections 1 and 2. I will let Mr. Sullivan go ahead and talk about that instance.

Vice Chairman Ohrenschall:
In your experience as a criminal law practitioner, have you seen many simple shopliftings from a commercial establishment during regular business hours being charged, not as a misdemeanor petit larceny, but as a felony burglary carrying one to ten years in the state prison?

Chris Frey:
The answer is yes. I think that I can speak on behalf of my office that the answer would be yes regardless of the attorney standing before you today. I did an informal survey of my colleagues and I asked them to assess what percentage of their burglary caseload consist of traditional shoplift burglaries. The percentages have varied from 10 percent for one attorney up to 80 for another attorney. I talked with two attorneys who have more than 25 years on the job at the Washoe County Defender's Office, and they estimated conservatively that it is typically and historically 30 percent of a burglary caseload. So it is something extremely common, and that is why I think this revision would have such an impact.

I have something to add with respect to costs. Petit larceny carries a bail amount of $500. That is something people can typically post in a cash form, or they can post bond for a fraction of that amount. That means that they are in and out of custody very, very quickly. Burglary carries a $20,000 bail amount. That means that that person is not going anywhere for the duration of the time that they need to sit in custody, which is typically two weeks, before their first court date. That is a real cost savings right off the bat when you look at sections 1 and 2. I will turn it over to Mr. Sullivan unless there are further questions.

Vice Chairman Ohrenschall:
Are there any questions for Mr. Frey? [There were none.]

Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office:
I am here today in support of A.B. 415. I do echo the sentiment and comments made by my colleague, Mr. Frey, and also by my colleague, Mr. Yeager, who

will speak. I was the trial attorney concerning the Washoe County Public Defender's Office exhibit, *State v. Kleven*, No. 11-0483 (Washoe Cnty. Ct. Nev. filed Mar. 31, 2011), (Exhibit M). This was a jury trial that happened last year. Initially, as the trial got under way, I had represented to the jury that we were here today and called upon a good cross section of the good members of the community in Washoe County, Nevada, to stand in judgment and decide the facts over $21.41 worth of groceries. After the trial had gotten underway, it came to my attention that, in fact, the grocery store in question was able to restock at least the bottle of brandy in question. We are talking about a package of meat and a bottle of brandy, the aggregated amount being $21.41. They were able to restock the bottle of brandy and then during my closing argument I made comments about the fact that that good cross section, that good jury, was there because my client stole $10 and change.

Afterwards, I had the distinct pleasure of actually talking to the jury foreperson who I met at my gym in Washoe County, and she seemed to think that there was a real disconnect in Nevada law concerning burglary. You could see the jurors' frustration with the note that they submitted to Judge Adams, the trial judge. They wanted to just simply convict of a petit larceny, but felt constrained or confined by Nevada law. They understood Nevada law, they understood the purpose of Nevada law, they were properly instructed by the judge, and as you may well know, there is no lesser included or lesser related offense of petit larceny or trespassing when it comes to the burglary statute as currently drafted. I have heard Mr. Frierson's comments in sessions, and I wholeheartedly agree with him. I appreciate his bringing forth these concessions and we are certainly willing to work with him and any other person. I just wanted to talk to what this juror question represents. I think it is a fair representation of what jurors are looking at when they look at a shoplifting burglary. I will be happy to entertain any other questions about the trial that I conducted with the State, or any other questions about sections 1 and 2.

Vice Chairman Ohrenschall:
In this trial, your defendant was convicted of felony burglary?

Sean Sullivan:
Yes, she was. She is currently serving 18 to 72 months on the category B felony. If I could just read into the record the actual jury note that was submitted on March 5, 2012. It states, "We think the DA is charging her more seriously than the circumstances require. Can we convict of larceny instead of burglary?" That was the actual note that was submitted by my jury to Judge Brent Adams. Of course, the jury was instructed on Nevada law and referred back to the jury instructions.

Vice Chairman Ohrenschall:
Very troubling. Are there any questions for Mr. Sullivan?

Assemblywoman Fiore:
You said your client is serving time for a $10 burglary?

Sean Sullivan:
That is correct. Ten dollars and change originally. The aggregated amount was $21.41, but a member of the grocery store security office was able to come and testify that they were able to restock a portion of the groceries that she was stealing, so they were able to recoup the losses. It ended up $10 and change and that is what she is actually serving time for. To be fair, she did have a criminal history. That did not come into play at trial, obviously, but she is serving time for about $10 and change worth of groceries that she took from this particular grocery store.

Assemblyman Hansen:
While obviously it was not part of the trial, give us a background as to what she did, other than the $10 thing.

Sean Sullivan:
Prior to going into the grocery store?

Assemblyman Hansen:
Prior criminal history.

Sean Sullivan:
Oh, her criminal history?

Assemblyman Hansen:
Yes. I am not interested in the $10 thing. I can see that is ridiculous, but I suspect there is more to it that would lead the judge to put this individual into a penitentiary.

Sean Sullivan:
It is a fair question. She had multiple petit larceny convictions, not only out of Justice Court in Washoe County, but out of Reno Municipal Court. In addition, she had two felony convictions. My understanding was that she already had a burglary conviction out of California. She also had a theft charge and I believe that was a felony conviction out of California as well.

Vice Chairman Ohrenschall:
Mr. Sullivan, if she had been prosecuted solely under the petit larceny misdemeanor, she would not have gone scot-free. She would have been eligible for six months at the county jail?

Sean Sullivan:
Correct.

Vice Chairman Ohrenschall:
The judge could have given her six months at the time?

Sean Sullivan:
That is correct.

Vice Chairman Ohrenschall:
In your experience, do you find that these stiff penalties for shoplifting have had a deterrent effect on shoplifters and that there is less of it going on because of these stiff felony penalties?

Sean Sullivan:
That is a good question. It is hard to say. I have been practicing law for the Washoe County Public Defender's Office for ten years, and it is a case-by-case basis. That is the best answer I can give. I think both the public defender and the district attorney will look at each case, but they will also delve into a person's criminal history before both parties proceed. I cannot answer if it has a deterrent effect or not, but I will say it is a case-by-case basis.

Vice Chairman Ohrenschall:
Are there any other questions for Mr. Sullivan? [There were none.]

Steve Yeager, Deputy Public Defender, Clark County Public Defender's Office:
I would like to adopt what my colleagues said. I do not have much to add other than this really is about using state resources and doing so in a way that makes sense and being smart on crime, so to speak. With respect to burglary, you have to keep in mind that the second an individual is charged with burglary rather than a petit larceny, the costs start to accumulate immediately. Typically in a petit larceny case, counsel is not even appointed. In a burglary case, obviously it is a felony so it is a case that they either hire a lawyer or one is appointed at county cost. So those resources start right away through the process, even if the case ultimately negotiates to something more favorable. There are costs built in at the moment that offense is charged. Obviously, we are in support of A.B. 415 as it relates to section 1 and 2.

With respect to the community courts, I did want to tell this Committee that the Clark County Public Defender's Office is taking steps right now to be able to implement something such as the community court. There are individuals in our office who are working with community partners and judges to be able to have that kind of program. They are working hard. They are hopeful that this body will see fit to authorize Clark County to do that. It is a good approach to try to get at the issue in the community where the crime is committed.

I want to note for the record that Ms. Vanessa Spinazola from the American Civil Liberties Union of Nevada (ACLU) wanted to be here this morning. She could not be here, but she wanted me to tell this Committee that the ACLU is also in support of A.B. 415.

Vice Chairman Ohrenschall:
Do you know if either the Clark County or the Washoe County Public Defender's Office has any data as to how many attorney hours and how much money is spent on defending shopliftings that are charged as felony burglary?

Steve Yeager:
I do not know of any data off the top of my head. Some of this is wrapped up in what we do normally, but as echoed by Washoe County, I know that we see these on a pretty regular basis. It is not abnormal to get these kinds of cases, and it is a strain on the system, not only on the public defender's side, but on the court's side and the prosecutor's side as well.

Vice Chairman Ohrenschall:
Are there any questions for Mr. Yeager? [There were none.] Is there anyone else who would like to testify in support of A.B. 415 here in Carson City? [There was no one.] Is there anyone in Las Vegas who would like to speak in favor of A.B. 415?

James "Greg" Cox, Director, Department of Corrections:
I would certainly like to echo Chairman Frierson's comments about good public policy and good public safety. In regard to the Council of State Governments coming in and reviewing the Nevada criminal justice system, I certainly would support that. As he has mentioned, I have also testified in numerous hearings regarding motivational interviewing and graduated sanctions as a means to help an offender and also provide for good public safety in the community. I know he mentioned several states including Georgia, Arkansas, and Texas. Texas specifically has done justice reinvestment. I think we need to continue to have these types of discussions. I believe the Advisory Commission on the Administration of Justice is one of the appropriate avenues to have these discussions. I know that Chairman Horne and that committee in

the future can look at these types of issues associated with the state, so I would certainly support us continuing to have dialogue on these matters.

Vice Chairman Ohrenschall:
We were talking about the cost of housing someone at an NDOC facility. Would you remind the Committee members what the daily, monthly, or yearly cost is to house someone at one of your facilities?

Greg Cox:
The daily cost is around $55 a day. It is what I call inclusive. The average cost a year depending on the custody level is about $22,000.

Vice Chairman Ohrenschall:
Do you know how many inmates you have at your NDOC facilities who are serving a felony burglary for something that was a commercial shoplifting?

Greg Cox:
No, I do not, but I can provide that data to the Committee.

Vice Chairman Ohrenschall:
I think the Committee would benefit from it. Are there any other questions for Director Cox?

Assemblyman Hansen:
There seems to be a perception that there are a lot of people in the state penitentiary that are there for nonviolent smoking pot, once or twice, something like that. I do not know if you are the person who can answer, but I am curious. Obviously, you have many, many years of experience in this area. We are concerned about costs, and I am wondering if it is that many people in there that should not be in there?

Greg Cox:
What I would say to that, sir, is that the law is the law in our state, and I am not trying to avoid answering it. It is simply the laws and they are convicted and sent to our system. Again, what I would echo is Chairman Frierson's looking at having the Advisory Commission on the Administration of Justice look at these matters, and then have them weigh in on that to determine who is in our facilities as a result of violence or what type of crime or criminal activity they may be conducting. I think that is the appropriate venue to ask that question and weigh in on it there.

Vice Chairman Ohrenschall:
Are there any questions? [There were none.] Is there anyone else in Las Vegas who is in favor of A.B. 415? [There was no one.] Is there anyone opposed to A.B. 415 in Carson City?

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada; representing Washoe County Public Attorneys' Association; and the Washoe School Principals' Association:
We are here today obviously on behalf of the law enforcement community and our officers in opposition to A.B. 415 as it is written. We respect Chairman Frierson's move to bring this forward and to have a dialogue on these sections. I have been in front of this Committee several times regarding similar legislation like this over the past several sessions, and do appreciate Chairman Frierson's conceptual look at removing petit larceny under certain circumstances in sections 1 and 2 of the bill. However, we have concerns with it, but we are more than happy to meet with him and talk to him about what he is talking about as far as the petit larceny removal in the basic elements of burglary the way it is currently written.

I would also like to address a couple of other points before I turn it over to Detective Sean Jones from the Reno Police Department, who is going to advise you of some of his concerns with this as well. I would like to go through the bill and tell you some of the areas that we are in agreement with Chairman Frierson on, and that is his removal of section 5. That is the category B felony, and his removal of portions of section 7 that dealt with trafficking. We obviously do not have a problem with the courts and with the study that they want to do on some of the sections that you have heard Mr. Frierson talk about. That was really the most important point. I would like to add a couple of things, and Mr. Frierson brought it up. That was about saving dollars, and obviously removing people from the system who should not be in there. We have a beautiful system in the United States, going through the whole process, where someone has a right to plead guilty or not guilty, and someone has the right to go in front of the jury of their peers and go through the courts and be found guilty. As you heard Mr. Sullivan's example, when it was explored a little bit further, it was not just the $10 example, it was what was there in the past. A lot of that you cannot bring up in court, unfortunately, at the appropriate time, when we would love to show the juries or the justices what exactly is the problem here and why this charge is being brought forward.

You also have other issues to bring forward in a basic shoplifting charge where officers on the street have discretion. They are not going to have someone come in there stealing a bottle of Coke or something and charge them with burglary. That is just not the way it is done. That is just my take on it, in all

my years of doing burglary. I did work burglary at the Reno Police Department, so I have a pretty good history with it.

Mr. Vice Chairman, our position is that we will work with Chairman Frierson on the conceptual amendments that he is talking about and offering this Committee to look at as far as the commercial petit larcenies go. We do need to keep petit larceny and the elements so when it comes to the other types that are not home invasions, like in the bill itself under NRS 205.065 where someone does enter a house, and as you saw in Detective Jones' report (Exhibit L), he talks about an urn being stolen and it is my understanding it was not a home invasion, but it is part and parcel to that. That is our concern with this bill.

Vice Chairman Ohrenschall:
Correct, Mr. Dreher. I heard Assemblyman Frierson state that the amendment he is working on would limit it only to commercial shoplifting during business hours. I think many of your concerns have been addressed, but I am glad to hear you are willing to work with the sponsor. Are there any questions for Mr. Dreher? [There were none.]

Sean Jones, Detective, Reno Police Department:
I am a detective with the Reno Police Department, and have been with the Department for approximately 11 years. I have 17 total years in law enforcement in northern Nevada. I would echo what Mr. Dreher just talked about in terms of being willing to work with Mr. Frierson with his proposed amendments; however, one of the concerns that we have with respect to commercial shoplifting is during normal business hours. I will give you an example. The situation that we ran into was not in my written presentation that you have before you.

This particular example took place approximately a year and a half ago. Let me back up. My specific job with the Reno Police Department is that I am a detective with the Repeat Offender Program (ROP). The Repeat Offender Program is comprised of detectives from several agencies in northern Nevada. Our mission is specifically to identify, arrest, and imprison for long periods of time those individuals who, by their actions, display a constant disregard for the laws of our community and the rights of others. So understanding that, this particular example took place approximately a year and a half ago. Members of my team were given a phone call by a Sparks police officer. This Sparks police officer responded to a local business who had in custody one of our repeat offender targets. I will refer to him as Mr. Doe, and not the Mr. Doe in the written presentation. Routine record checks were conducted by the responding officer. The officer was notified that Mr. Doe was a ROP target, and therefore he notified us that he had one of our targets in custody at a convenience store

for shoplifting. We responded out because part of our mission is to surveil these individuals to see if they continue to commit violations. In this particular case, Mr. Doe was given a citation and released from the store. Again, he committed a shoplift. After he was released from the store, we watched Mr. Doe make his way to a large convenience store, in this case, it was a Lowe's Home Improvement store. We followed him inside and watched Mr. Doe steal more property from this store. We continued to surveil Mr. Doe. After he stole property from this particular store, he and an associate of his drove to yet another store, in this case it was a pawn shop, and committed another crime. In this case, it was an actual burglary. I am certainly not here advocating locking up a first-time offender for stealing a candy bar. Our concern with the proposed language of the revision in its current form, and I understand there is going to be a provision, but in its current form there is no provision that deals with habitual criminals, and that is where we fall in.

Vice Chairman Ohrenschall:
I believe Assemblyman Frierson said he would be addressing that in a possible amendment for someone who has hit their third petit larceny misdemeanor conviction that they would be eligible for the felony burglary. I think that that is in the soup in terms of being addressed.

Sean Jones:
Thank you, Mr. Vice Chairman. I just wanted to make my point known. We are happy to work with Mr. Frierson. I urge the Committee members to understand that we are not dealing with the first-time offender. We are dealing with individuals who repeatedly steal. We believe there is a loss, and we also believe that the current language deals with these people. Furthermore, I would add that the systems are already in place to deal with that first-time offender. The system being the law enforcement that responds, the prosecuting attorney who looks at the case, and the judge who is ruling on the case. Those systems are in place to deal with that first-time offender.

Vice Chairman Ohrenschall:
We are talking a lot about the repeat shoplifter, the person who goes from one store, to the Home Depot, to the convenience store. Right now, under the law, they are eligible for that felony burglary charge, even if it is the first or second time. Are you finding that the current stiff penalties that we have in Nevada are having a deterrent effect? The folks out there obviously realize they can be charged for a felony, not simply the misdemeanor shoplifting. Are you finding that it is working?

Sean Jones:
I will go back to the example that I used with Mr. Doe. After Mr. Doe was arrested—and this will be a lengthy answer, so I apologize ahead of time.

Vice Chairman Ohrenschall:
Give us the short version, because we have another committee meeting at 12:30.

Sean Jones:
Okay. To answer your question, for our purposes in our repeat offender program, when we arrest and incarcerate these individuals, we are finding that if they are in prison, they are no longer committing crimes. So to answer your question, that is yes.

Vice Chairman Ohrenschall:
Thank you very much. Are there any questions for Mr. Jones? [There were none.]

Lea Tauchen, Senior Director of Government Affairs, Retail Association of Nevada:
We are opposed to A.B. 415 as it is currently written. Specifically, sections 1 and 2 have given us concern. As Chairman Frierson mentioned, early this session we met with him to discuss shoplifting and we very much agreed with him that we did not want to see a first-time offender who took a pack of gum or a chocolate milk be charged with a felony for stealing. After we saw this language, we were concerned about the middle ground, as I believed he called it, capturing the folks who are not the first-time offenders, but then do not steal enough to qualify for the organized retail theft statute that we are concurrently working on because of the intent to resell. With the amendments that we heard from the Chairman, I believe those would address our concerns, so we would be supportive of those changes.

Vice Chairman Ohrenschall:
I encourage you to work with the sponsor. Are there any questions from the Committee? [There were none.]

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:
We are here in opposition to the bill as it is written. We certainly appreciate the proposed amendments from Chairman Frierson, and it does take us a lot closer to being in support. We still have a concern with section 1, removing petit larceny, and only having that aimed toward the commercial petit larcenies. We believe that petit larceny—first of all, I would say that I would echo the

comments made by the detective earlier. When an officer goes out on the scene of one of these calls, he makes the decision based on the totality of the circumstances out there, and the elements of the crime have to be there first of all. The person has to have made a choice before they entered that business that they were going to go into that business and steal something. Then, in addition, the case goes to that officer's supervisor who has to look and make sure that all of the elements of the crime are there and that it is warranted to be charged as a burglary rather than a petit larceny. Then that case goes to the detectives, who look at that case and decide whether or not they want to submit it to the prosecutor's office as a petit larceny or as a burglary. Then, of course, the case goes to the district attorney's office and they ultimately decide whether or not the case should be plea bargained down to a petit larceny or submitted as a burglary, and then, in the example that was given to you earlier, the case went so far as to go before a jury trial where that jury found the elements of burglary were there and convicted the subject. I would just state that I believe the checks and balances are in place. In my experience as a law enforcement officer, I think it is by far the exception to the rule when someone gets a felony burglary charge for stealing a bottle of milk, as opposed to the folks who go in and know when they are entering the store what the threshold is and steal just under the threshold. They know they will probably be charged with a petit larceny rather than a grand larceny, hoping that they will not get a burglary charge. I would hope that this Committee would take that into consideration as we look at this in the future.

Vice Chairman Ohrenschall:
How does the Las Vegas Metropolitan Police Department define a repeat offender in terms of shoplifting? Is it three shopliftings or five? How do you define someone as a repeat shoplifter?

Chuck Callaway:
The officer in the field would do a criminal history check on that person, and I think that if they had more than three offenses, we would consider them a repeat offender. Our ROP section deals primarily with felony repeat offenders, so they would be looking at people who have not only numerous arrests, but convictions for felony crimes, they have been released, and then they go back out and continue to commit more crimes. I think where this would come into play for the officer out on the street would be where someone, for whatever reason, maybe they have a history of criminal activity, but it is not in the realm of burglary, and maybe they have some previous drug charges and they are trying to pay for their habit, so they make a conscious decision that they are going to enter a business and steal something from that business.

In my opinion, and under the current statute, they have committed a burglary. It is far different from the person who goes into the store to do some shopping and they look over and see an item they wish they had and they make a decision then to steal it. This person goes into the store with a conscious decision prior to entering the store that they are going to steal something for whatever reason to turn around and sell it for their drug habit or because they want the item. I think the Committee should know the difference between the shoplifting, the kid that steals the candy bar, and the person who goes in intentionally to steal an item from the business.

Vice Chairman Ohrenschall:
When you brought up the example of Mr. Sullivan's trial, obviously the defendant did have all the protections and went to trial. Notwithstanding the fact that the jury found her guilty of taking the brandy and package of meat, the note from the foreperson to the judge says that they found her guilty but they did not think she deserved exposure to the felony punishment. I think that jury would have rather seen maybe six months at the county jail or some fine like that. I think that is the issue we are getting at in terms of that exposure to possible felony status and all of the problems that someone gets. Obviously, the judge knows the history. The jury does not know the criminal history, but at sentencing the judge is privy to all of that information, so it is not like it is going to be a secret from the judge.

Chuck Callaway:
Yes, I understand that, and maybe the answer there lies in the judge having the ability to take into consideration those statements made by the jury and give a lesser sentence. I do not know. That is on the court side of things. I think taking the ability away from the law enforcement officer in the field to charge a burglary if the elements of the crime are there and the officer believes that it fits would be a mistake.

Vice Chairman Ohrenschall:
Are there any questions? [There were none.]

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:
I will echo the opposition brought forth, and thank Chairman Frierson for bringing this forward. I need to oppose it for the purposes stated. If you have the opportunity, Google something called Flash Robs or Flash Mob Robberies and those kinds of things. While they probably are not really robberies—they are more like a bunch of people going in and doing a series of petit larcenies—they will have a great impact to the business owners of our state. Even if one or two are caught, they are essentially just petit larceny. Look at that in consideration of this going forward.

Vice Chairman Ohrenschall:
Are there any questions? [There were none.]

Kristin Erickson, Chief Deputy District Attorney, Washoe County District Attorney's Office:
I am here on behalf of the Nevada District Attorneys Association. I originally signed in as opposition of A.B. 415 as written; however, after hearing Chairman Frierson's conceptual amendments, we now actually support the bill. We are also concerned with regards to burglary. We do not want to charge someone with a felony who does not deserve to be convicted of a felony, but we also recognize and appreciate Chairman Frierson's recognition that there are some people who this is how they make their living and they are habitual and continual petty thieves, and this is what they do. They go from store to store to store. We appreciate his recognition of that and look forward to working with him in addressing this very serious issue.

That is all I was going to say with regards to sections 1 and 2, but now I feel compelled to bring up a few more issues based on what was stated earlier. It is important to note that while the jury sent that note, the jury was not aware of the defendant's criminal history. Perhaps that would have changed their mind. Perhaps not. I also heard that it was Judge Adams who sentenced this person to prison. Judge Adams is one of the most respected judges in Washoe County. He is very well aware of the cost associated with prisons and the detriment of sending a person to prison. If he sent that person to prison, I wholeheartedly believe that that person deserved to go.

In addition, one more thing that you are not being told with regards to criminal history and shoplifting burglaries is, in this particular case, I believe the testimony was two felony convictions and a whole bunch of misdemeanor convictions. What you are also not being told is the arrest. Oftentimes, a person is arrested for petit larceny. They may have 10, 20, even 30 arrests for petit larceny, but they are not convicted of all of them, because it is a typical plea bargain where the prosecutor says, "Hey, you plead to this one petit larceny, and we will dismiss the other three." That is a very typical plea bargain. So the criminal history of convictions does not accurately reflect the criminal conduct of the criminal.

As I said earlier, we do support the conceptual amendments as indicated by Chairman Frierson. We have a couple of concerns in section 6. One is to changing the "may" to "shall". We would always prefer to give the judges more discretion. There may be some case where the person has three or four felony convictions and they have had opportunities at drug programs through Parole and Probation and they still have had a less than positive attitude with

Parole and Probation. We feel it is always good to give the judges more discretion.

With regard to sections 10 and 11, our only concern, basically, is that driving under the influence (DUI) convictions and domestic violence convictions be excluded, because those are enhanceable defenses, meaning if you pick up a second DUI or second domestic violence conviction, it is an enhanced penalty. Those are our concerns, and we support the conceptual amendments as indicated by Chairman Frierson and look forward to working with him in the off session.

Vice Chairman Ohrenschall:
So you support the bill with the amendments except for section 6, and in sections 10 and 11 you want exclusions on misdemeanor DUI and domestic violence?

Kristin Erickson:
Yes. Section 6 is just something to think about giving the judges the discretion.

Assemblyman Hansen:
There is a perception there are a lot of people in the state prisons who do not belong there because they are nonviolent offenders or they smoked pot once or twice and they are thrown in prison. I am curious. Is the perception really that what we are looking at is reducing costs while still protecting society? Are there people who are in those prison systems who frankly should not be there? You folks are the ones who set them up, the judges obviously have a lot of discretion, but is this an issue that we can address legislatively?

Kristin Erickson:
When you receive statistics such as how many people are in prison for shoplifting burglaries, I think it is important to ask the questions behind the question, meaning, what is their criminal history? That is extremely important, because last session we had a meeting consisting of myself, public defenders, the Department of Corrections, the Division of Parole and Probation, and Dr. James Austin regarding whether the appropriate people are in prison; this very topic. The Department of Corrections pulled 20 to 25 category B felonies at random to see if they all should be in prison. I think we were all in agreement at the end, going through each offender, that each one of those people were appropriately in prison. In fact, if memory serves me correctly, the person with the least amount of felonies that was in prison had five.

So they are given chances. They are given numerous chances. As prosecutors, judges, and defense attorneys, we are all very much aware that prison is

expensive. We most certainly do not want to send people to prison who do not belong there. If they can be saved, let us all try and help them and save them, but there are some people by their conduct that just—it is not appropriate. For those people who are sent to prison, I believe the checks and balances are in place on the prosecutor's discretion, the police discretion, and ultimately, it is the judge who sends them to prison. We believe that they are elected for the use of their sound judgment, and we believe the people are in prison who generally need to be there.

Vice Chairman Ohrenschall:
Are there any questions? [There were none.]

John T. Jones, Jr., representing Nevada District Attorneys Association:
I do not have a lot to add. I want to thank Chairman Frierson for working with the Nevada District Attorneys Association on this bill. The one point that I want to make is that we are in favor of reviewing sentences in terms of five or ten credits. There is a bill in the Senate now—Senator Cegavske's bill—that is also asking the Advisory Commission for the Administration of Justice to review criminal sentences in the state of Nevada, and we are supportive of these efforts and are willing to participate.

Vice Chairman Ohrenschall:
Are there any questions? [There were none.] Is there anyone else in Carson City who would like to speak in opposition of A.B. 415? [There was no one.] Is there anyone in Las Vegas who would like to speak in opposition to A.B. 415? [There was no one.] Is there anyone who is neutral in Carson City or Las Vegas to A.B. 415? [There was no one.] I will close the hearing on A.B. 415.

I encourage all of the stakeholders to please meet with Assemblyman Frierson and hopefully process something that will improve public policy. I think there are a lot of positive things in this bill, and I thank you for bringing this measure, Mr. Chairman.

[Chairman Frierson reassumed the Chair.]

Chairman Frierson:
Do you think we can do six bills in three minutes? I think we are going to have to not work these up, unfortunately, and kick them to tomorrow or Wednesday. I do not want to selfishly prevent people from being able to attend their other meetings.

[Also submitted but not discussed was (Exhibit J).]

I will move to public comment, if there is any. [There was no one.] I thank all of you for your hard work and patience, and we will adjourn today's Committee meeting on Judiciary [at 12:26 p.m.].

RESPECTFULLY SUBMITTED:

_____
Linda Whimple
Committee Secretary

APPROVED BY:

_____
Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 8, 2013 **Time of Meeting: 8:20 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 360	C	Assemblyman William Horne	Proposed Amendment
A.B. 360	D	Pete Ernaut	Proposed Amendment
A.B. 360	E	Pete Ernaut	Charts
A.B. 421	F	Kimberly Surratt	Letter from Fertility Center of Las Vegas
A.B. 421	G	Kimberly Surratt	Letter from Fertility Center of Las Vegas
A.B. 421	H	Kimberly Surratt	Letter from American Academy of Assisted Reproductive Technology Attorneys
A.B. 421	I	Kimberly Surratt	Proposed Amendment
A.B. 421	J	Kimberly Surratt	Charts
A.B. 415	K	Chris Frey	Proposed Amendment
A.B. 415	L	Chris Frey	Letter – Repeat Offender Program
A.B. 415	M	Sean Sullivan	Washoe County Public Defender's Case