

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session  
February 12, 2013**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 9:06 a.m. on Tuesday, February 12, 2013, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Tick Segerblom, Chair  
Senator Ruben J. Kihuen, Vice Chair  
Senator Aaron D. Ford  
Senator Justin C. Jones  
Senator Greg Brower  
Senator Scott Hammond  
Senator Mark Hutchison

**STAFF MEMBERS PRESENT:**

Mindy Martini, Policy Analyst  
Nick Anthony, Counsel  
Linda Hiller, Committee Secretary

**OTHERS PRESENT:**

A.G. Burnett, Chair, State Gaming Control Board  
Peter C. Bernhard, Chair, Nevada Gaming Commission  
Morgan Baumgartner, Nevada Resort Association

**Chair Segerblom:**

I will call the meeting of the Senate Committee on Judiciary to order with a presentation from the State Gaming Control Board Chair, A.G. Burnett.

**A.G. Burnett (Chair, State Gaming Control Board):**

I will give you an overview of the State Gaming Control Board and the Nevada Gaming Commission. Peter Bernhard, Chair of the Nevada Gaming Commission, is also here to testify from Las Vegas.

I must first acknowledge a great loss to the gaming community. University of Nevada, Reno (UNR), Professor Bill Eadington passed away last night. Dr. Eadington was the director of the Institute for the Study of Gambling and Commercial Gaming at the UNR College of Business. In addition to being an economics professor, he was a respected analyst of the gaming community. He researched gaming both as an economic force for the State as well as a creator of social challenges. Since joining the UNR faculty in 1969, Dr. Eadington was a well-known voice in northern Nevada and throughout the investment community and indeed a colleague to us. He was always very good to work with on behalf of the Gaming Control Board and the Gaming Commission. We extend our sorrows and sympathies to his family. This is a great loss to the gaming community.

**Peter C. Bernhard (Chair, Nevada Gaming Commission):**

Professor Eadington is an icon in the academic gaming world. He put on some wonderful conferences to spread the word about how powerful the gaming industry is for the State of Nevada throughout the world, both from the operating side and the regulatory side. He was a great ambassador. We will miss him greatly.

**Mr. Burnett:**

I have submitted a PowerPoint presentation ([Exhibit C](#)).

Nevada has a two-tiered oversight system for regulating gaming in the State. The State Gaming Control Board regulates gaming. We have three full-time Board members appointed by the Governor. We also employ 407 full-time staff members working in Carson City, Elko, Las Vegas, Laughlin and Reno.

The second part of the two-tiered oversight system is the Nevada Gaming Commission. This is the policy-making body for gaming in the State. It is also the judge and jury in disciplinary matters. The Commission is comprised of five part-time members appointed by the Governor, who also appoints the chair. Peter Bernhard is Chair of the Nevada Gaming Commission.

The Board and Commission each convene monthly in public meetings, alternating between Carson City and Las Vegas. The Commission receives assistance in drafting and issuing regulations from the Board and takes recommendations from the Board on gaming matters. The Commission employs one person in the Carson City office.

Page 3 of [Exhibit C](#) shows the breakdown of the regulatory structure as well as the members of the Board and the Commission. As of June 30, 2012, we oversee and regulate 450 gaming licensees, 60 slot route operators, 350 manufacturers and distributors and around 2,000 restricted licensees.

The agency is divided into six divisions, shown on pages 6 through 9 of [Exhibit C](#). These include Administration, Audit, Tax and License, Enforcement, Investigations and Technology Divisions.

The Board's funding is shown on page 10. Around 60 percent of the funding comes from the State's General Fund. Other income sources include employee registration fees, investigation fees, gaming lab fees, publication sales, training fees, fines and copy charges.

The breakdown of State revenues and collection sources from gaming are itemized on pages 11 and 12 of [Exhibit C](#). Clark County produces the largest amount of revenue in the State at 86.8 percent of \$864.6 million in fiscal year (FY) 2011-2012. The rest of the income is from Washoe County, South Lake Tahoe, Elko, Carson Valley and other smaller sites.

Page 13 of [Exhibit C](#) shows a graph of gaming collections from FY 2001-2002 to FY 2011-2012. You can see that total tax and fee collections rose from 2002 to 2007 and then dropped off after the fiscal crisis in 2008.

**Chair Segerblom:**

Does this spike in 2007 indicate there was more gaming activity at that time?

**Mr. Burnett:**

Yes, the revenues derived from gaming activity were higher. In 2010, the drop stabilized and by 2012, we were realizing a small gain of 1.5 percent to 2 percent.

**Chair Segerblom:**

Do you have any idea if the decline shown in the graph on page 13, [Exhibit C](#), was due to casinos in California or to increased gaming all around the Country?

**Mr. Burnett:**

I think it was just a general hit. Overall, Las Vegas did not lose much capacity. It did initially when the recession hit in 2008, but the overall capacity and visitors coming to Las Vegas have remained somewhat steady. The amount of gaming play decreased a little bit, though. Monies going to food, beverage and entertainment increased. We witnessed an interesting dynamic in 2008.

**Chair Segerblom:**

Did other jurisdictions show a similar decline?

**Mr. Burnett:**

I am not sure overall, but if you include other areas, such as Macau, they did not experience the same decline because they did not have the same economic recession.

Pages 14 and 15 of [Exhibit C](#) illustrate what the gaming industry looked like in 1991 and how things have changed since then.

In 1991, gaming sites were mostly Nevada-based and under smaller corporate ownership. In 1991, Atlantic City and Las Vegas were the two main gaming destinations in the United States. That year, gaming machines and business transactions were simpler and not as technologically complicated.

In 2013, we have a wide variety of ownership structures including publicly traded and multilayered, multinational holdings. Slot machines now offer multigame, multidenominational games, and we have computerized tracking of casino and patron transactions. In 2013, there is also mobile gaming on handheld devices. Instead of two main gaming centers as before, gaming destinations are now available in many states and locations worldwide. Since 1991, Las Vegas has grown to a megaresort destination.

We are now on the verge of legalized intranet poker. Those licenses have already been issued. Licensees are now winding their way through the processes of approval for their software and technology-related items. A debate about interstate Internet gaming is also imminent.

Nevada remains the gold standard in gaming regulation, and other jurisdictions throughout the world look to us for advice, especially in regulation.

**Senator Hutchison:**

How has the internationalization of gaming affected the Board? Do you have agents stationed around the world or do you just travel there? Have you set up any international outposts?

**Mr. Burnett:**

We do not have the budget to have agents stationed around the world, but our global presence is felt, both by licensees and fellow regulators overseas. We have agents from our Investigations and Technology Division, who travel and are, at any given time, scattered throughout the world. We have excellent relationships with the regulators in Singapore, for example, and we attend gaming conferences around the world. Every culture is different, and these agents have to work with local culture and governments. Relationships and information is everything in this business.

**Senator Hutchison:**

Who pays to send these investigating agents around the world?

**Mr. Burnett:**

When a large company necessitates that kind of travel, we have the company file a revolving account, which the applicant has to keep on a revolving basis with the Board. Gaming agents can tap into that account as needed. When agents travel postlicensure for monitoring or other regulatory activities, the licensee will still have to pay.

**Chair Segerblom:**

When do you initiate an investigation into the fitness of a licensee? We read about companies being investigated by various entities, particularly China. Do you decide you need to look at something, or does that have to be filed with you by someone else?

**Mr. Burnett:**

We initiate those investigations. We are usually notified by the licensee of an issue. We also find out about a concern on our own. We will sometimes publicly open an investigation, and other times we do it privately. With a publicly traded or large gaming entity, there is one agent within our Investigations Division

assigned to monitor that licensee constantly. When an issue arises with an investigation opened by a foreign government or a federal agency, we investigate to make sure there has been no violation of Nevada gaming laws.

**Chair Segerblom:**

A Las Vegas licensee was recently fined for allowing drugs on the premises as well as some other violations. How do you learn of these transgressions?

**Mr. Burnett:**

We work extensively with the Las Vegas Metropolitan Police Department (Metro) and other agencies including the U.S. Drug Enforcement Administration and the FBI. Our Enforcement Division gathers intelligence and conducts covert operations in cooperation with those agencies. In the instance you referenced, we had been conducting a covert investigation for some time.

**Senator Brower:**

Historically, there has not always been close coordination and cooperation between State, local and federal law enforcement authorities. How is it going between these groups now?

**Mr. Burnett:**

Our relationship with all our federal partners is good. We have an extremely good relationship with the Internal Revenue Service's criminal investigation division. We both have concerns related to casino operations. We also have an excellent relationship with the FBI, the U.S. Department of Justice and the Offices of the U.S. Attorneys.

There have been times when we have tried to open up a dialogue with the U.S. Attorneys, and they were hesitant to talk to any outside agency. We respect that, and most of the time we can obtain information from them.

We travel to Washington, D.C., to meet with federal colleagues who sometimes ask for information, and as long as it is allowable pursuant to our statutes, we are happy to cooperate. As for other regulators around the world, we sign memorandums of understanding (MOU) to cooperate and provide information to each other. An MOU is not a legal document per se but is more of a formal gentleman's agreement in writing.

**Chair Segerblom:**

The question of fitness to hold a license is a vague concept. Is there concern that licensees could get so involved in the political process that their weight would tend to tip it to the point where they were running the process instead of just participating?

**Mr. Burnett:**

Yes, and if that would occur, it would be concerning. Our licensees are aware of those types of entanglements. The standard for suitability includes character, fitness, honesty and business integrity. All those things are weighed by both the Board and Commission prior to licensure, and these are standards that the licensee must maintain postlicensure.

**Senator Hutchison:**

Do you have any observations from a policy standpoint that you will be focused on this Session? We will be dealing with gaming issues in this Committee.

**Mr. Bernhard:**

We work closely with the Board in putting together the bill drafts we think are important when the Legislature meets. From the Commission's perspective, interactive gaming is an important topic.

I have never had interference with any State political figures trying to influence Commission decisions relating to licensees. That policy has been followed by governors, Legislators and other State officials for decades.

**Chair Segerblom:**

I want to open the hearing on Senate Bill 9.

**SENATE BILL 9**: Makes various changes relating to the regulation of gaming.  
(BDR 41-328)

**Mr. Burnett:**

This bill makes changes to our gaming statutes. Sections 1 through 4 revise definitions. Section 5 changes requirements regarding the Consumer Price Index (CPI) in relation to gaming taxes. Sections 6 and 7 amend certain requirements regarding ownership interests held in partnerships and limited liability companies (LLC) holding gaming licenses. Section 8 reiterates existing regulations regarding independent testing laboratories.

**Chair Segerblom:**

Is this a cleanup bill?

**Mr. Burnett:**

There are areas of cleanup, but there are regulatory purposes behind some of the changes too.

Section 1 amends *Nevada Revised Statute* (NRS) 463.014 by changing the statutory definition to add "wagering credits" to the definition of methods used by cashless wagering systems. This is a cleanup item since cashless wagering systems manufacturers are already licensed pursuant to statute. Many years ago, when this statutory definition was enacted, race and sports systems were not making use of wagering accounts and credit technology. Now they are, and this change in section 1 would require the manufacturer of a system that utilizes wagering credits to be licensed. The providers of these types of services are already licensed in Nevada, so we do not anticipate this capturing anyone new.

Section 2 of S.B. 9 makes changes to NRS 463.0157 to include certain information technology staff as "gaming employees." These individuals are regulated and must apply for registration in Nevada as required by NRS 463.335. This statutory change would clarify that barbacks and bartenders are not considered gaming employees as long as he or she does not work with gaming activities of a licensee. Industry employees who work in food and beverage services and who may touch a gaming device in the course of their work would still be classified as gaming employees.

**Chair Segerblom:**

Like in a small pub setting where one employee is doing everything?

**Mr. Burnett:**

Yes.

**Chair Segerblom:**

Once an employee is registered as a gaming employee, is that forever?

**Mr. Burnett:**

If he or she changes location or place of business, it would be necessary to notify the Board and reregister as a gaming employee. If employees have incurred a lengthy criminal record, their registration may be objected to.

The employees can appeal negative decisions through hearing examiners. A further appellate process can take them all the way to the Nevada Gaming Commission.

**Chair Segerblom:**

Once employees are registered, are they registered for their entire career?

**Mr. Burnett:**

Yes, unless they are convicted of a felony or were notified that they have a problem in their background discovered since they were initially registered. Then the Board or Metro can object to that registration.

Section 3 of S.B. 9 changes NRS 463.0161 to clarify the definition of "gross revenue." This definition specifies that, in poker tournaments held by interactive gaming licensees, any compensation received—which could be defined as a net profit—would be taxed. We estimate the ratio of tournament play to cash gains for interactive gaming outside of Nevada is approximately 30 percent to 70 percent of gross gaming revenue. This contrasts with the ratio of about 10 percent to 90 percent of the total amounts wagered. Land-based slot and poker tournaments are not taxed for several reasons. Most reasons are historical and pertain to costs associated with bringing people into a tournament, advertising for the tournament and awarding prizes. In the interactive gaming spaces, those costs are not high. The concern is if this section is not clarified, licensed interactive operators could host poker tournaments only and avoid paying any tax.

We are considering amending NRS 463.0161, section 3, subsection 1, paragraph (c) to clarify that we are not interested in taxing items which are unfair to tax. We are only interested in taxing the net profit received by an interactive operator, much like it is already taxed in the inter-casino linked system (ICLS). We will get back to the Committee on some proposed language changing the flow-through section to include interactive tournaments with the ICLS regarding cash or the value of noncash prizes awarded that are not losses.

Section 4 clarifies NRS 463.01963, changing the definition of "wagering credit." This refers to cashless wagering systems, clarifying that race books and sports books also utilize wagering credits.

Section 5, subsection 3, clarifies NRS 463.159 so the State Gaming Control Board and not the Nevada Gaming Commission makes the determination per statute of any increase or decrease in annual gross gaming revenue taxation. This is now required to correspond to the Consumer Price Index. The Commission makes this change, and as the CPI fluctuates on a yearly basis, the Commission goes through the process of noticing the change on a public calendar and modifying the regulation to accommodate the change. We feel it would be easier and simpler if the Board could do this on an administrative basis and provide notice to the industry through a letter or other notification.

In section 6 and section 7, the bill also clarifies NRS 463.569 and NRS 463.5735, respectively, to avoid matters where a person or entity which has acquired a 5 percent or less limited partnership interest or 5 percent or less interest in a LLC must be thereafter registered with the Board. That section came from the 2011 Legislative Session, S.B. No. 218 of the 76th Session, and we find it is cumbersome for our licensees. The proposed changes would specify that registration with the Board must occur prior to that interest being acquired, not afterwards.

Finally, in section 8, NRS 463.670 would be changed to incorporate regulatory requirements already enacted in Commission regulations for independent testing laboratories (ITL). After A.B. No. 279 of the 76th Session was enacted, and pursuant to enabling language in that law, the Commission enacted regulations as part of Regulation 14 that governs the ITLs. These were noticed and vetted according to the Commission's regulatory authority and processes and have been up and running for several months. The requested changes to the statutes simply formalize what is already in regulation.

**Senator Brower:**

To work as a valet parker at the Aladdin Casino in Las Vegas, I had to get a sheriff's card. Is that what we are talking about when we talk about a gaming employee?

**Mr. Burnett:**

I think it is different since various municipalities may require such a card. For example, the sheriff's office in Washoe County or Clark County may require a sheriff's card. The registration we are talking about in the gaming employee changes simply refers to a gaming employee.

**Senator Brower:**

In the various categories of employees under section 2, in subsection 1, paragraph (v), the category is "shill." What does that mean in the statutory context?

**Mr. Burnett:**

It is a historic term referring to some cases where to get a poker game started, the casinos would have one of their employees sit down at a table and start or help conduct a game to get it going with other patrons.

**Senator Brower:**

I would not have assumed that designation would be in statute. I did not know that was something casinos acknowledged doing, thus needing those employees to be registered in order to do so.

**Mr. Burnett:**

In my 14 years, I have never encountered that word or seen it in action.

**Chair Segerblom:**

I will close the hearing on S.B. 9 and open the hearing on S.B. 17.

**SENATE BILL 17**: Revises the deadlines by which certain gaming licensees are required to file financial reports and pay certain fees. (BDR 41-332)

**Mr. Burnett:**

This bill makes changes to various statutory sections specifying dates for reporting financial numbers to the Commission.

The proposed changes are to NRS 463.369 regarding expired vouchers and to NRS 463.370 regarding gross gaming revenue and license fees for licensees operating more than a month or less than a month. The changes also apply to gaming device revenues, interlinked systems and gross revenue reports. Changes are also proposed to NRS 368A.220 and the Live Entertainment Tax.

The State releases its numbers after it receives figures from gaming licensees. It does this later than other jurisdictions around the Country. We often hear complaints about releasing our numbers so late. In some cases, we release our numbers up to a month later than others do, and this bill will correct that. This bill is just an effort to move the timeline up so we release our figures in

accordance with other jurisdictions. In most cases, books for licensees close on the tenth of the month, so moving that date up 9 days would allow the investment community to get a better understanding of our numbers. It also would allow stock price fluctuations to occur on a less dramatic basis when the numbers are released later.

If there are complaints from the industry on this, we will not insist on doing it, but it will just put us in line with what other states do and enable the industry to have a quicker reporting function for its members.

**Chair Segerblom:**

You mentioned the expiration of tickets. Last Session, we passed a law that said if there is money left over from a slot machine ticket, it could go to the State. Has any of that escheat money come in yet?

**Mr. Burnett:**

That has been a successful program. I believe we have taken in \$1 million to \$2 million but do not have the firm number right now. Are you referring to the escheat of vouchers unclaimed by patrons?

**Chair Segerblom:**

Yes.

**Mr. Burnett:**

I will get you those numbers.

**Morgan Baumgartner (Nevada Resort Association):**

We are not in opposition to this bill. We have had conversations with Mr. Burnett about the impact of the bill and the goals of advancing the payments of some of the fees. We have entities with multiple properties, and our concern is trying to figure out the impact of moving those report dates on their internal systems. We hope to reach an agreement or understanding with Mr. Burnett.

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**Chair Segerblom:**

I close the hearing on S.B. 17 and adjourn the hearing of the Senate Committee on Judiciary at 10:04 a.m.

RESPECTFULLY SUBMITTED:

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Linda Hiller,  
Committee Secretary

APPROVED BY:

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Senator Tick Segerblom, Chair

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

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	3		Attendance Roster
	C	19	A.G. Burnett	Nevada Gaming Control Board Presentation