

**MINUTES OF THE JOINT MEETING OF THE  
SENATE COMMITTEE ON JUDICIARY  
AND THE ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session  
March 20, 2013**

The joint meeting of the Senate Committee on Judiciary and the Assembly Committee on Judiciary was called to order by Chair Tick Segerblom at 9:05 a.m. on Wednesday, March 20, 2013, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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.

**SENATE 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

**ASSEMBLY COMMITTEE MEMBERS PRESENT:**

Assemblyman Jason Frierson, Chair  
Assemblyman James Ohrenschall, Vice Chair  
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

Senate Committee on Judiciary  
Assembly Committee on Judiciary  
March 20, 2013  
Page 2

**STAFF MEMBERS PRESENT:**

Mindy Martini, Policy Analyst  
Nick Anthony, Counsel  
Lindsay Wheeler, Committee Secretary

**OTHERS PRESENT:**

Billy Vassiliadis, Nevada Resort Association  
Lorne Malkiewich, Nevada Resort Association  
Scott Scherer, American Wagering, Inc.; William Hill U.S.  
Sean T. Higgins, Nevada Restricted Gaming Association; Golden Gaming  
Joe Asher, CEO, William Hill U.S.  
Richard H. Bryan, Cantor Gaming  
Lee Amaitis, President and CEO, Cantor Gaming  
Paul Kraft, Wahoo's Fish Taco  
Gary Costello, Bounty Hunter Taverns

**Chair Segerblom:**

This Joint Committee is scheduled to discuss gaming in Nevada. Historically, the Legislature has played an important role in gaming. In the last 8 years we have not done much on this issue. We need to start to look toward the future as to where we are going as a State and to issues we should be involved with. I think we are in a more competitive atmosphere nationally and internationally. We want to protect our No. 1 industry. We want to do anything we can do to protect and promote that industry. An issue regarding restrictive and nonrestrictive gaming is the subject of today's hearing.

**Chair Jason Frierson:**

With the advancement of interactive gaming and technology, it is more important than ever to stay on top of developments and find ways to stay ahead of the game with a lot of work and conversations on how to adapt as a State. To reflect on what we are as a State and to determine what we want to be, it is important to hear the information so we may make informed decisions that take us to that place we want to be.

**Chair Segerblom:**

We have many people here today who know every facet of the gaming industry.

**Billy Vassiliadis (Nevada Resort Association):**

This is a very timely hearing. It has been 16 years since any discussion of gaming policy in the Legislature. There have been dramatic changes since that time in the Nation and this State in regard to technology and the economy. Going forward, it is critical that the Legislature restate gaming policy with a clear direction. There is a lack of clarity and certainty, and the level of investments, along with the amount of people employed, demands this Legislature give clear direction to regulators, government officials and the courts. Today is not about any particular piece of legislation. Today is to inform you regarding particular issues between restricted and nonrestricted licensees and to create some consistency between the two.

**Lorne Malkiewich (Nevada Resort Association):**

I will be presenting the history of restricted and nonrestricted gaming in Nevada. I will read from the presentation ([Exhibit C](#)) regarding this issue. The phrase "restricted/nonrestricted" was not in the legislation for years, legislation referred to operations that had 15 or fewer slot machines and no other games or gaming devices.

**Assemblywoman Spiegel:**

As for the term "incidental to the primary business," is that based on revenue or activities?

**Mr. Malkiewich:**

It was undefined at that time.

**Chair Segerblom:**

How was the number 15 determined?

**Mr. Malkiewich:**

I do not know why 15 was selected. That number has been in the legislation since 1967 and I do not believe it has changed.

**Chair Frierson:**

It is my understanding that grocery stores have a separate governing structure. Was that contemplated when the 15 was determined because of the incidental delineation regarding grocery stores?

**Mr. Malkiewicz:**

I will walk you through the history since 1990, when the Nevada Gaming Commission began setting forth the definitions of what can be incidental and what are appropriate establishments for slot machines; explaining limitations on small gaming operators, gaming enterprise districts and resort hotels; and continuing to 2011 when the rise of full-service kiosks began to erode the limitations of restricted licensure, [Exhibit C](#). At a meeting on September 22, 2011, the Gaming Commission discussed whether a restricted location can also have a full-service kiosk which can communicate with a central sports book and allow patrons to establish accounts, place wagers and withdraw money. Concerns were expressed that allowing a sports pool operation in a location owned by a licensee with a nonrestricted license could violate the one-license-per-location rule in *Nevada Revised Statute* (NRS) 463.245. The Commission feels that the Legislature should have the opportunity this Session to weigh in on the issue.

**Mr. Vassiliadis:**

I will now go through the policy, history and current conditions of the industry contained in [Exhibit C](#). Three gaming policy challenges need to be addressed. The licensing categories have become blurred. What can be offered at a nonrestricted location versus a restricted location is the most prominent challenge before this Legislature. The use of technology and how we handle this issue going forward, and mobile, remote and other devices need to be addressed. There has been a lot of infrastructure development and employment in traditional casino operations. That does not mean we want to get off the technology highway. We need to understand the impact of technology in relation to employment and investment. I think it is important to restricted licensees as well. It will be important to know what is expected and required. Historically, the amount of gaming allowed was proportionate to investment. As gaming developed, it was determined to be a great source of funds for education and infrastructure. It was determined that the privilege to game and hold that license was dependent on how much a person or entity invested in this State and how the community benefited from that gaming. The higher obligations were placed upon nonrestricted gaming companies. Taxation, regulation and oversight are required for the higher levels of investment. In Clark County, a majority of the room tax does not stay with the Las Vegas Convention and Visitors Authority, its original purpose. Seventy percent goes to other categories. The overall economic output is \$44 billion in southern Nevada. The Convention Center accounts for \$6.7 billion in economic revenue for Clark County.

Gross gaming tax last year was \$653,544,639, and the restricted licensee gaming tax was \$13,322,039, to give you a sense of the magnitude of investment. Live Entertainment Tax, also known as the casino entertainment tax, raises \$125 million. The gaming industry accounts for 91.5 percent of that amount. The total amount of gaming and incidental taxes of almost \$1.3 billion paid in taxes to the State is approximately 42 percent of the General Fund. The investment requirements have been significantly higher in the last decade for a nonrestricted licensee. These entities continue to be the main engine of the State. The investment is in the billions of dollars a year to stay competitive. Las Vegas as an international destination competes with other international destinations and is a primary business meeting destination. It competes with other destinations such as Orlando, Chicago and San Francisco. The stakes are high in order to compete legally and logistically. Tourism is the single most competitive industry in the world. There is an additional aspect of industry responsibility. The industry feels there are obligations to be met, based upon employing over 327,000 people in Nevada.

We feel there is an erosion of gaming standards in Nevada. It is obvious as to what comprises a restricted or nonrestricted entity. The incidental test is still required but hard to do. The test takes a lot of staff to conduct the audit and review. We are here to find a better, more simple way to determine and differentiate between a restricted and nonrestrictive license. One can look at the size of the bar and food served and number of people seated to make a determination. The incidental test has not been rescinded. You need to look at policy and in what direction to take this topic. The intent was that gaming in taverns in restricted locations would be incidental and secondary to the primary business. That is not how it happens anymore. We need to discuss the new definition of a restricted location. There need to be neighborhood casino limits. There are 85 locations for the Dotty's Casino chain. These locations call themselves casinos. It needs to be determined whether allowing these types of operations aligns with the legislative intent in regard to casino districts and limiting neighborhood casinos. The intent 16 years ago was to have casinos limited to a casino area and have neighborhoods consistent with schools, churches, parks, retail shops and the like. This is a policy that needs to be looked at.

Level of investment required also should be reviewed. Last week, there was an announcement regarding a new property to be built on The Strip. The investment is estimated to be between \$2 billion to \$7 billion. The investment for a neighborhood tavern/casino is approximately \$500,000 to \$700,000. The Legislature needs to

weigh the balance between the quality of gaming and the product in drawing tourists versus convenience. It is a balance of both the continued expansion of nonrestrictive amenities and restricted locations.

Sports wagering also plays an important role. The original intent was gaming would not be the primary purpose for nonrestricted licensee establishments. There is erosion of State policy and law. If a local government presumes the establishment is a tavern, by definition it is allowed to have gaming. Perhaps that is true, but there has been an erosion between the categories. The kiosks were approved by administrative decision. Does that issue of administrative approvals need to be discussed, such as what process the State Gaming Control Board and Commission have to go through to ensure your policies are properly administered, executed and oversight is fulfilled?

Technology has also progressed to a point where "we will because we can." The attitude is that because we can have remote, mobile devices and the Internet for wagering, we should. The honest answer is that we probably should, but we need to measure the impact. We are not saying to stop the world as it is. I do not advocate going back to how things were in the past, but there is an impact that needs to be measured. We need to assess it, acknowledge it and determine the downsides of technology to employment and industry in the State.

There has been a lack of direction for regulatory bodies. Last night, the City of Henderson ruled on restricted licensure and what incidental means. County commission chairs, county commissions, city councils, mayors, Gaming Control Board, Gaming Commissioners and courts have full attitude to determine whether it is incidental, gaming devices and so forth almost as they see fit. I think we have had talented Gaming Control Board and Commission members and public officials, but they do not have clear direction. The policies and standards of review vary from one jurisdiction to another. You can go across the street on Sahara from Las Vegas into Clark County and have a different set of rules. The Legislature has the final say on those issues.

I have heard the term protectionism used for the big guys. To some extent it is protectionism of 42 percent of your General Fund. It is protectionism of a policy that has guided decisions for the last 50 years, not because it is arbitrary, but because for that level of investment, employment and insurance and benefits, there needs to be protection with certainty and clarity.

The big guys versus the little guys: some of the little guys have 85 locations in Las Vegas alone with 8,500 machines, and some other little guys have 650 locations in Las Vegas. One of the little guys calls itself the world's biggest bookmaker. There is a lot of money at stake for everybody.

This is not a big guy-little guy issue at the end of the day. Really, this is not restricted versus nonrestricted; it is about establishing a policy and clear set of rules that everyone can follow. Some in the industry have approached the U.S. Congress about remote wagering. There is an absence of clear policy regarding remote wagering. Nonrestricted licensees are looking to protect their customer base and investment. In the absence of a clear set of rules and policies, they are engaging in protecting their businesses as well. This is not one versus the other, based upon the argument that those people who go to restricted establishments will not go to nonrestricted establishments. Many people will go to where they can bet. I do not know of a competition for that customer.

What is at stake is 327,000 employees, \$69.4 billion in investment as of 2012. We are asking for a clear and updated restatement of Nevada's gaming policy. There needs to be a framework that everyone can understand and follow. That framework needs to be guided by how much is invested, how many are employed and the contributions to public funds. A lot of public funding comes from gaming. Those needs have to enter into the equation when 42 percent comes from nonrestricted gaming. Nonrestricted gaming paid approximately \$1.3 billion in taxes last year. The net loss of Nevada's gaming industry was \$1.2 billion. Our debt for FY 2012 is almost \$30 billion, but we still actively invest in rooms, restaurants and arenas because we have to compete. The taxes still get paid and the industry continues to grow, but the fragility of the industry grows as well. This is a critical time for our industry and for you as state policy makers.

**Chair Segerblom:**

Chairs of the Gaming Control Board and the Commission are present in Las Vegas.

**Senator Jones:**

Nevada is a national and world leader in this industry. Do other states have these restricted and nonrestricted distinctions, and use the incidental test?

**Mr. Vassiliadis:**

The nature of the industry in other states is different than Nevada. Other states have limited licenses and locations, loss and bet limits, and other restrictions. I think we are unique in this situation.

**Assemblywoman Fiore:**

Does our new initiative to have Nevada online gaming make these arguments moot?

**Mr. Vassiliadis:**

No, this is a different issue. Online gaming is making Nevada competitive in the Nation and the world. Other states such as Delaware and New Jersey are moving forward. If we had not gotten into that venue, Nevada's losses would have been great. A discussion of technology, accessibility and convenience—whether through mobile devices or via computers or iPads—needs to be had. There is a significant difference between online gaming in which Nevada competes against others versus the issue of restricted and nonrestricted licenses. We are determining the playing field in Nevada.

**Senator Hutchison:**

I was struck by the \$1.2 billion loss. Has there been an evaluation regarding the kiosk and neighborhood gaming and that loss? Is there a direct attribution to that loss?

**Mr. Vassiliadis:**

I am not attributing that loss directly to kiosks and taverns. There has been approximately a \$115 billion loss since the recession began. That impact would be best measured in Washoe County or Sparks casinos and through the neighborhood gaming in Las Vegas.

**Senator Hutchison:**

Is there any resource to look to as we are making these policy decisions regarding what losses are attributable and if there has been an erosion of gaming revenue related to these resources?

**Mr. Vassiliadis:**

We will provide what we can on that issue. We will have to find some applied analysis.



**Assemblyman Wheeler:**

Thank you for the 327,000 employees and \$69 billion in investment in our State. When gaming was made legal, you guys would take a lions' share for our State. A lot of your own big, nonrestricted licensees started as taverns in the 1930s, 1940s and 1950s and now have grown. To me, competition is a good thing. Would this restriction being discussed today restrict growth and development in Nevada?

**Mr. Vassiliadis:**

We are not trying to restrict competition. We are trying to establish and define rules. Those clients of ours that started as small operators understood that there is a new standard to operate at that new, bigger level. An entity does not migrate to the newer, higher level. At a point, that entity decides it wants to be a full unrestricted licensee. By making that decision, the entity knows it has to build all the facilities to become a major entity. That entity has to meet the local requirements and follow the rules that have been established. Those entities have to make conscious decisions.

**Assemblyman Wheeler:**

I represent the rural areas and a person with a tavern trying to grow cannot support 200 rooms and those other requirements. Defining these requirements at such a high level throughout the State makes it difficult and restrictive. I think the county commissions should make those decisions for those areas.

**Mr. Vassiliadis:**

Historically, regulations and laws for unrestricted licenses apply to the two largest counties. We understand these requirements could not be met by many rural areas.

**Senator Ford:**

What is the role of technology in our gaming frontier? What do the experts in the field opine as to the appropriate role of technology?

**Mr. Vassiliadis:**

The opinions vary greatly. The determination of the issue needs to be that of the Legislature. The possibilities are as limitless as the development of technology is limitless. There has been discussion regarding using social media during jury selection. In the next 60 seconds, approximately 600 Twitter accounts will be activated, 1 million by tomorrow morning. The technological landscape is dramatically changing. We need to take a step back and evaluate the impact. If

everyone can gamble with smart phones from their homes, what is the impact on employees working at a casino? What happens to the investment required by Nevada? What happens to the amenities provided to the State by these entities? I am concerned about the implications technology will have.

**Senator Brower:**

I agree the industry needs clarity, and I hope we can provide that this Session. The 327,000 employees and \$69.4 billion investment—is that the entire gaming industry?

**Mr. Vassiliadis:**

That is also the travel and hospitality industry in Nevada.

**Senator Brower:**

If legislation offers clarity on these issues but that clarity helps the proliferation of restricted gaming, would that clarity undermine Las Vegas's investments and ability to attract tourists?

**Mr. Vassiliadis:**

It may undermine the quality of the product that Las Vegas has offered. I think it could undermine the position of Las Vegas. The kiosks have not dominated the sports betting because those kiosks are limited. It is a pilot program. If the ability to wager was spread across the Valley and not concentrated in one area housing the employment and investment, that could have an effect.

**Senator Brower:**

If a Dotty's Casino model is allowed to grow, it is not going to impact the influx of Asian tourists to Las Vegas. Macau might affect it, but a Dotty's certainly is not.

**Mr. Vassiliadis:**

I do not know if any one of these things is going to deter visitation or limit investment. I speak in terms of brands. What is the quality of that brand, the value, presence and presentation of that brand? It is made up of a lot of factors. I do not think those things in isolation do that. We need to ask those questions in the context of the entire industry. Looking at a Dotty's Casino one at a time may not have any one great impact on the industry, but in the aggregate, it may have a huge impact.

**Senator Brower:**

This conversation needs to take place. We need to clarify these issues in our minds before we can give clarity to the industry. For example, the new investment group we hope to see come to the old Stardust property. That group has the intent of building a top-rate location despite the ongoing proliferation of the restricted activity. It does not seem to be deterred.

**Mr. Vassiliadis:**

Nonrestricted licensees and properties vary greatly. Will a Dotty's or a kiosk affect the Bellagio or the Aria? No. However, John Ascuaga's Nugget, the Peppermill, the Atlantis, the Red Rock or the Orleans have invested a significant amount of money. The kiosks or whatever it might be will impact those entities. I do not think the right context is the Las Vegas Strip versus a Dotty's. We do need to recognize many properties, particularly northern Nevada properties, are servicing local populations and the blue-collar, medium-income population. Whether that is comprised of travelers or locals, the competition issue becomes more real.

**Chair Segerblom:**

Has the time come to consider a third type of license? We had the 15 model locations with 15 slots. Now we have 70 locations with 15 slots tied together by computer that pay \$250 per year versus a gross amount. It appears there is a new model and category; we should address whether this category is adequately paying and if we should try to regulate it as a new model.

**Mr. Vassiliadis:**

The times do call for innovative thinking, and I would defer to the Gaming Control Board Chair and Gaming Commission Chair regarding their opinions on adding another license category and the enforcement of such category.

**Scott Scherer (American Wagering, Inc.; William Hill U.S.):**

I have submitted my testimony for your review ([Exhibit D](#)) regarding account wagering and its history.

Account wagering allows a bettor to open an account with a licensed race book or sports pool and access that account through various forms of communications technology from anywhere in the State. The Control Board and the Gaming Commission have allowed account wagering since the late 1970s. Back in those days, a clerk at the sports book manually recorded the caller and the wager. In

1983, computerized bookmaking systems that included account wagering were introduced.

Gaming regulators expressly authorized account wagering and defined communications technology. They set requirements for establishing accounts, and making withdrawals and prompt refund requests in person, by mail, over the phone or using other forms of communications technology.

Account wagering in Nevada is regulated by the State and local governments. Local regulations cannot be of a lower standard than State regulations. It is fully taxed by the State as gross gaming revenue at rates applicable for nonrestricted licensees.

Accessing your account has progressed from the use of: landline phone, pager, floppy disk, cellular phone, smart phone, home desktop computer, laptop computers, tablet computers and various other communications technology. Nevada regulators have been adapting their regulations along with technology.

Sports-betting kiosks, in fixed locations like taverns and casinos, introduced in 2004 are considered superior to the other types of account wagering permitted for decades. Wagers transmitted through a fixed kiosk assures the transmission is originating the transaction in the State of Nevada. Wagers transmitted across state lines are violations of the Federal Wire Act. Wagers by minors are against Nevada law and kiosks are considered superior as they are primarily in bars and casinos where minors are not permitted.

These methods approved pursuant to the Board meet the technical requirements as associated equipment and must meet all regulations and technical standards. A person can be anywhere in the State and make a wager.

The policy and regulations are in place. A few quotes were attributed to me today. One quote was, "I don't think the Legislature has made a determination on that. I don't think it has been brought to them as to whether it violates the statute or not." Let me give you the full context of those quotes. As former Chair of the Gaming Control Board, Mark Lipparelli said, you have interactive gaming regulations coming forward. The Legislature has already said we want you to go forward with interactive gaming. In terms of a policy decision, that is more wide-ranging than this. Legislators have said we want you to go forward with posting centers, we want you to go forward with mobile gaming, and they have approved all of these

things. The ability to do phone wagering has been there for years. Kiosks have been there for years. The Legislators have not said that they think that violates NRS 463.245; this is the first of this type of an account wagering operation alleged to violate the statute. I do not think the Legislature has made a determination on that. You need to consider everything else I said in context of the full quote.

The second thing attributed to me is in regard to the July 1, 2013, date. I suggested that date as it is valuable to have a Legislative Session in case the Legislature wants to weigh in on the issue and not wait a full 2 years. People who are opposed may want to seek the Legislature's guidance. I was not suggesting that it was necessary; I was suggesting that I knew the other side would ask to address it at the Legislature.

**Chair Segerblom:**

Do you agree that the Gaming Commission did make that comment and intentionally put this on a 1-year or 2-year trial, that the Commission wanted to see what the Legislature said?

**Mr. Scherer:**

I was not suggesting the Legislature should weigh in but that you have the ability to do so. I do not think it is necessary. There are regulations in place. The Commission has adopted those regulations and has the authority to change those regulations as it sees fit. With regard to Chair Peter C. Bernhard's comments, he also asked the deputy attorney general at the meeting if the Commission were to approve the issue today, would there be anything contrary to the law. Deputy Darlene Caruso stated that the Office of the Attorney General does not believe it would. Later, the Commission Chair said anyone could submit documents to the Attorney General to make their argument as to why he or she felt it was not keeping within the law to approve kiosks. Almost 2 years later, that has not been done to my knowledge.

**Chair Segerblom:**

When the Commission authorized the program, with the 2-year trial period, did it limit the number? What happens on July 1? If the Legislature does not do anything, does it become a permanent program?

**Mr. Scherer:**

I am not sure what the exact date is in July. The approval for sharing revenue between Golden Gaming and William Hill will be terminated. Golden Gaming places the kiosks in bars or taverns and gets a percentage of the revenue generated through the kiosks. In order to do that, it needed an approval from the Commission. That approval will cease in July. We will either pull those kiosks out, apply for a new approval to continue the revenue sharing or change it to a flat fee. If there is a flat fee, there would not be revenue sharing and approval would not be required.

**Chair Segerblom:**

What happens if the Legislature decides we want to do an interim study and come back and revisit this issue in 2 years?

**Mr. Scherer:**

You could do that and the Commission would have an opportunity to weigh in. The Commission, by regulation, could address this issue through a policy standpoint as well.

**Assemblywoman Spiegel:**

I do not understand the difference between a slot machine and a kiosk now that we no longer have the one-armed bandits and they are all computerized.

**Mr. Scherer:**

A slot determines win or loss. Slots have random number generators, and appropriate numbers and reels are determined to show whether you win or lose. Nothing in the kiosk determines a win or loss. A win or loss is determined on the sport itself. A person is only able to communicate a wager to the sports book and then wait to see the outcome of the game itself.

**Chair Segerblom:**

The slot machines are typically owned by the institution. The kiosks are owned by William Hill or Cantor Gaming, and revenue is shared with that location.

**Mr. Scherer:**

There could be different ways. The kiosks at Golden Gaming are multipurpose kiosks. Golden Gaming has its own system and houses two separate systems. One is the William Hill sports betting with its own server inside the system. The other is a promotional marketing system. A person can select either the William Hill sports

betting or Golden Rewards, the marketing system. A portion of the kiosk is owned by Golden Gaming. The slot machines may be owned by the tavern itself or a slot operator who places those machines in exchange for a percentage of revenue.

**Sean T. Higgins (Nevada Restricted Gaming Association; Golden Gaming):**

I will read from my written testimony ([Exhibit E](#)) regarding policy in the gaming industry. I have also provided the Committee with charts and previous testimony ([Exhibit F](#)) regarding this issue. The members of the Nevada Restricted Gaming Association are operators of gaming locations that operate 15 or fewer gaming devices in those establishments. We are talking about setting policy.

**Senator Ford:**

I do not disagree that the money your clients invest is substantial. Do we go back to the historical policy with the amount of gaming allowed proportionate to the investment and the higher obligations for nonrestricted gaming companies taken into consideration? We are talking about people who are putting billions of dollars into the State.

**Mr. Higgins:**

The definition of a resort hotel is in NRS 463.01865. That statute set forth parameters to be met to have a nonrestricted license. The Nevada Resort Association asked for those limitations so they could limit competition, and those who came into the industry in the future had to meet those requirements. The nonrestricted gaming entities asked for those restrictions. The limit is 15 games, and that is the rule. Our investment is commensurate with the number of games we are allowed to operate.

**Senator Ford:**

In light of technological advancements, do we not have what is tantamount to more than 15 games? There is a larger impact now than historically. Should this policy be taken into account in regard to the current state of affairs?

**Mr. Higgins:**

At any given time, only 15 of those games can be exposed to the public for play. Those locations cannot have multiple games at once. They are limited to 15 only. Technology has not gone past that. I assume in the future that a patron may be able to walk into a tavern and a bartender will hand him or her an iPad or tablet to

play. Those locations would still be restricted to 15 games. I disagree that technology has allowed for more games.

**Senator Hutchison:**

The statute is clear on the 15-slot rule. What about the point regarding gaming being incidental to that primary business. Is there an erosion?

**Chair Frierson:**

I am not sure interactive gaming was even contemplated during the 1989 hearing. I am not sure the legislative intent considered those issues at the time.

**Mr. Higgins:**

The technology was different then. Whether it is 1989 or 2013, I can expose only 15 games for play. That has not changed. The kiosk issue will be addressed separately.

**Chair Segerblom:**

How do you justify a building, such as a Dotty's Casino, that only has slot machines being called incidental? What is the business there for those to be incidental?

**Mr. Higgins:**

The picture shown earlier is incorrect. The picture of the Dotty's Casino shows a nonrestricted license. None of Dotty's locations with 15 games or fewer have the term casino on their signage. A Nevada Gaming Commission regulation states an entity cannot mislead patrons with advertisements. I assume the Nevada Resort Association made a mistake when someone took that picture. When the photographer walked in and saw 30 games, that qualified it as a casino under Nevada law.

At the Gaming Commission during the 1990s, members were helping define items. There was no lack of clarity. During that time, the Commission was putting more definitional terms around Regulation 3.015. In 1999, alcoves were added to grocery stores specifically to curtail smoking. We worked on those definitions and regulations because they had a specific purpose. In 2006, the smoking ban took effect and had a devastating effect on our restricted licensees. The global economic recession has also had a substantial effect. At that point in time, the restricted gaming model had changed so much. Certain nonrestricted entities were



not pleased with those regulations. They took it upon themselves to go to local government in an attempt to have the definition of a tavern put into place. Clark County enacted legislation in 2011 regarding this issue. Those entities then went to the Nevada Gaming Commission. I helped come up with the definition for a tavern that is still in place. We thought this was the end of this debate. The definition required taverns to do certain things.

The Resort Association is here this Session to ask you to go well beyond what you have done in the past. The language in Regulation 3.015 is less restrictive than the language proposed in the bill presented yesterday regarding the definition of a tavern. The appropriate place to leave that definition is with the Commission. There is no reason to have the Legislature look at it; if so, this definition is the appropriate one. I submit that exceeds what the Legislature has done on these issues. The Gaming Policy Committee made recommendations to the Legislature. There were no recommendations regarding taverns or kiosks. This is an attempt to make it more difficult for restricted locations to be competitive. There is no proliferation of restricted gaming in the last 30 years. In the past 5 years, 245 restricted locations have closed, while 29 nonrestricted casinos opened.

**Senator Hutchison:**

You are stating that there are no unclear issues here. You believe the Legislature should have the Commission look at these policies as it historically has.

**Mr. Higgins:**

Yes, a definition of a tavern was a place with a bar that served only drinks. Over the course of time, definitions changed. What we thought of as being a tavern in the 1960s, 1970s and 1980s is not what we think of now. After 2006, when the smoking ban took place, there were certain models customers wanted and those locations grew. Those locations came onto the radar of the Resort Association and unrestricted gaming licensees. Those locations are coming into compliance. Any new locations built will be in compliance. The two Station Casinos were at the Henderson meeting last night objecting to two tavern licenses. Not a member of the general public, but the Station Casinos. That is telling.

**Senator Ford:**

I have a general preference for administrative agencies to take care of these types of issues. But it is my indication that the agencies want the Legislature to take action on these issues. Do you disagree with that?

**Mr. Higgins:**

I think we are discussing the kiosk issue wherein they left it open for you to take action, but I do not feel they were asking you to take that action. The Gaming Commission was anticipating someone asking you to take action. The Commission's full-time staff and laboratories have vetted these issues regarding meeting the minimum requirements. No one really cares about full-service kiosks except that you are able to withdraw money from your account. That is the long and short of it. Is not about any type of technology. That aspect alone is the issue.

**Joe Asher (CEO, William Hill U.S.):**

I will read from my written testimony ([Exhibit G](#)) and slide presentation ([Exhibit H](#)) regarding the kiosk issue.

**Senator Jones:**

I understand a guy sitting at Wahoo's Fish Tacos may not place his bet if the kiosks are gone. Do you have any statistics to show that guy may walk across the street and place a bet?

**Mr. Asher:**

The statistic I can show is from Delaware, using the expansion of the kiosks. Some of those kiosks are very close to the casinos in Delaware. One is at the edge of the parking lot of a major casino. It is the case on point. The casinos in Delaware were up 7 percent last year. Nevada was up 20 percent. Our kiosks were \$600,000 of the \$30 million increase in wins with the other \$29.4 million from the casinos. There is no evidence at all that this is a competitive threat to the big casinos.

**Chair Segerblom:**

The locations with 15 or less slots pay a fee per slot machine. They do not pay a percentage like the casinos. How do the kiosks pay?

**Mr. Asher:**

We are taxed the same—gross revenue gaming tax—whether the bet is placed from a mobile device, at the Las Vegas Plaza, or at a kiosk. The State gets its fair share.

**Richard H. Bryan (Cantor Gaming):**

It has been 36 years since I sat in the place you sit. I will read from my submitted testimony ([Exhibit I](#)). I remember the pressures I was under when I sat where you are. Pressures now are greater because of the State's growth. Our purpose today is

more limited than those you heard earlier. Our friends at the Nevada Resort Association state that their proposed legislation is not designed to impact or affect our business model. We appreciate that, but the devil is in the details. The draft we have reviewed has the unintended consequence of severely impacting our ability to operate. If you choose to process legislation affecting our industry, we will want to meet with you to ensure that legislative language does not adversely impact us. Legislative intent in a court of law is an elusive concept. We want to make sure that any legislation that occurs is clear in its language, that its aim is not to impact Cantor and its gaming operations.

**Chair Segerblom:**

Were you here when the distinction was made between restricted and nonrestricted?

**Mr. Bryan:**

I was not. Phil M. Tobin did so in 1931.

**Lee Amaitis (President and CEO, Cantor Gaming):**

I will read from my submitted written testimony ([Exhibit J](#)). Over the last five sessions, we have worked with the Legislature to enact various laws that have blazed a number of new trails in gaming. Cantor Gaming technologies company, in keeping with our growth needs, has spent significant investment dollars in developing account signups in both restricted and nonrestricted locations as allowed. Should the Legislature adopt our suggestion of remote account signups, paralleling interactive gaming standards, we would focus on such an opportunity. Our partners are both resort hotel casinos and taverns. Our culture is one of growth through technology within the boundaries of the law. We understand the difficulty in balancing these competing policies. In the last 4 days of the 2012 NCAA tournament, Cantor took over 128,000 wagers, a daily average of 32,000 wagers, or 45 wagers per minute. That is ten times the amount of any average weekend in the State. This would not have been possible without the combination of technology and account wagering as approved by the State Gaming Control Board and its respective laboratory.

**Senator Hutchison:**

Both you and Mr. Bryan mention concerns regarding unintended consequences of the proposed legislation in Senate Bill (S.B.) 416. What are those concerns?

**SENATE BILL 416**: Revises provisions governing gaming. (BDR 41-1104)

**Mr. Bryan:**

The draft language we have seen refers to NRS 463.245, subsection 2, paragraph (b). The language as framed says, "a person who has been issued a nonrestricted gaming license may establish a sports pool or race book on the premises of the establishment." The significance of the change is in regard to the first sentence. The new language says, "for an operation described in subsection 1, 2 or 5 of NRS 463.0177," and describes a nonrestrictive licensee. We are nonrestrictive licensees. Subsection 5 indicates a license for the operation of a mobile gaming system. The impact of the proposed legislation deletes all of the categories defined in subsections 3, 4 and 5 where we are included. Proposed language for S.B. 416, section 4, subsection 2 would limit it to only the subsection 1 and 2 licenses of NRS 463.0177, and only after Gaming Commission approval would we be allowed to operate. That is significant. It may not be the intended consequence, but this would directly impact us. The proponents state the intent is not to directly impact us, but it would.

**Senator Brower:**

In light of the Nevada Resort Association's expressed intent, I assume the request has been made to change the language and clear up these possible unintended consequences.

**Mr. Bryan:**

We have been in discussions with the Nevada Resort Association regarding these issues. We are part of growth in Nevada, have complied with the laws and invested a significant amount of money. We do not want to be caught in an unintended situation.

**Mr. Amaitis:**

We are protecting our primary business of mobile gaming. The nonrestricted licensees are our partners in these businesses. We want to keep account signups, the ability to operate and not have that ability restricted. The devil is in the details and the language is of concern.

**Senator Brower:**

A discussion on these topics is just not the same without Bob Faiss. Please give him our best.

**Paul Kraft (Wahoo's Fish Taco):**

We started the first Wahoo's Fish Tacos in Clark County in 2011. It is a 25-year-old company. We created over 72 new jobs this past year in Clark County. Sports betting is an additional offering to our customers. It is not the main piece of our business. We are about fresh food, cooked to order in a timely manner. We have the privilege of having a tavern restricted license at both of our locations. As a result, I am moving from southern California to Nevada in order to expand the business, and we hope to include sports betting at two more locations to drive additional business. It is an important component to our business. As a business owner, I do not make a lot of money off the sports betting aspect. It drives and attracts more people to my business and gives me the opportunity to retain and attract new business. It keeps patrons at my business longer. A patron who is watching a game at my location is not going to leave to go place a bet at a casino regardless of whether or not I have the capabilities. The point is I would not have 72 jobs if I did not have sports betting. It is a piece, but it is an integral part of my business. I hope to add 88 more jobs in Clark County in addition to the others already created. For the vendors and charities we work with every day, along with every aspect of my business, sport betting is an important component.

**Gary Costello (Bounty Hunter Taverns):**

Our industry of hospitality and service has been driven by one powerful concept: give them what they want, not what you have. I have over 30 years of operational management and experience locally and internationally. Our industry is driven by trends and technology involving customer behavior. I remember when casino sports books prohibited cell phones. Today, casino sports books promote online gaming, WiFi wagering, wireless gaming lounges and mobile sports books where customers can bet from their laptops, iPads and smart phones. Evolving technology is customer-driven. Give them what they want, not what you have is our philosophy. Gas stations and groceries have expanded with that idea and technology. New technology and adapting the philosophy of give them what they want has changed how we shop, gamble and do business. Instead of making three or four stops before home, we are now able to do it all in one place. In 1931, gambling was legalized in Nevada. In 1941, El Rancho Vegas opened and The Strip began transformation from hosting small gambling clubs to boasting casinos with luxury hotel resorts. Over the course of the next 70 years, Las Vegas hotels transformed from simple hotel casinos to five-star resorts with extensive convention centers, spas, top entertainment and the best chefs. The Wynn Las Vegas was the first to offer a luxury car dealership. Today, there is a market for a small tavern sports bar

that caters to a loyal, local customer base that enjoys the “Cheers” concept where everyone “knows their name.” It is away from the crowds and tourists, with easy front-door parking and familiar bartenders and friends to converse with. Our guests enjoy kiosk sports wagering. Kiosks increase our guest frequency and duration, where those patrons do not have to leave their friends to make a wager. Guests have been with us for 15 years, and they feel safe and comfortable in our environment. Kiosk wagering is convenient and practical socioeconomically. It is a step in technology that works. Casinos have online betting from any location in the State, ours is within our taverns where we can control and monitor traffic at a kiosk versus virtual online wagering. It has been likened to online banking. Anyone with a user name and password has unmonitored and unlimited access. We are in the business of giving customers what they want as our predecessors did 70 years ago. It is progress at its best.

**Chair Segerblom:**

Do you have a direct contract with William Hill? How does the kiosk work?

**Mr. Costello:**

We own and operate four taverns in Las Vegas. Each location has a kiosk. Golden Gaming is the in-between and places kiosks in our locations.

Senate Committee on Judiciary  
Assembly Committee on Judiciary  
March 20, 2013  
Page 23

**Chair Segerblom:**

I will open this hearing to public comment. Seeing none, I will now close the hearing at 11:49 a.m.

RESPECTFULLY SUBMITTED:

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Lindsay Wheeler,  
Committee Secretary

APPROVED BY:

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Senator Tick Segerblom, Chair

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

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Assemblyman Jason Frierson, Chair

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

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	2		Agenda
	B	11		Attendance Roster
	C	51	Lorne Malkiewich	Restricted and Nonrestricted Gaming in Nevada
	D	8	Scott Scherer	Written Testimony
	E	5	Sean T. Higgins	Written Testimony
	F	20	Sean T. Higgins	Exhibits for Written Testimony
	G	6	Joe Asher	Written Testimony
	H	8	Joe Asher	Sports kiosks in restricted locations
	I	2	Richard H. Bryan	Written Testimony
	J	4	Lee Amaitis	Written Testimony