

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session
April 8, 2013**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 8:09 a.m. on Monday, April 8, 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
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Kathryn Butler, Student, William S. Boyd School of Law, University of Nevada,
Las Vegas
Garrit Pruyt, Student, William S. Boyd School of Law, University of Nevada,
Las Vegas
Evan Simonsen, Student, William S. Boyd School of Law, University of Nevada,
Las Vegas
Gregorio Silva, Student, William S. Boyd School of Law, University of Nevada,
Las Vegas
Ramir Hernandez, Student, William S. Boyd School of Law, University of
Nevada, Las Vegas

Senate Committee on Judiciary
April 8, 2013
Page 2

Lee M. Amaitis, President and CEO, Cantor Gaming
Randall E. Sayre, Cantor Gaming
A.G. Burnett, Chair, State Gaming Control Board
Regan J. Comis, William Hill, Co. dba American Wagering Inc.
Richard H. Bryan, Cantor Gaming
Anthony Cabot, Nevada Pari-mutuel Association

Chair Segerblom:

I will open with Senate Bill (S.B.) 409.

SENATE BILL 409: Makes various changes relating to gaming. (BDR 41-1054)

Senator Ruben J. Kihuen (Senatorial District No. 10):

Senate Bill 409 makes technical corrections to Assembly Bill (A.B.) 114, which was passed in record time earlier this Session.

ASSEMBLY BILL 114 (1st Reprint): Revises provisions governing interactive gaming. (BDR 41-97)

Senate Bill 409 ensures wagering transactions made through interstate compacts authorized by A.B. 114 are not subject to criminal liability. In a tradition dating back to 2001, students from the Boyd School of Law at the University of Nevada, Las Vegas (UNLV), offer a bill for consideration each Legislative Session. Senate Bill 409 is the bill being presented this year.

Chair Segerblom:

By identifying a problem in A.B. 114, and proposing a correction for it, these students are demonstrating the importance of having a law school in Nevada and are possibly saving the State millions of dollars.

Kathryn Butler (Student, William S. Boyd School of Law, University of Nevada, Las Vegas):

The student team from the Boyd School of Law proposes to amend chapter 465 of the *Nevada Revised Statutes* (NRS) to resolve any ambiguities between NRS 465 and the changes made to the Nevada Gaming Control Act by the compacting provisions of A.B. 114. The views expressed by this team are our own and not those of the Boyd School of Law.

Garrit Pruyt (Student, William S. Boyd School of Law, University of Nevada, Las Vegas):

Last year, Governor Brian Sandoval revived the Gaming Policy Committee with the stated purpose of building on Nevada's strengths as a world leader in gaming, policy, regulation and education. Interactive gaming was a focus of this Committee. Assembly Bill 114 was a direct result of this Committee's focus.

Assembly Bill 114 allows the Governor to enter into compacts with other states to engage in regulated, interstate, interactive gaming. The proposed changes to NRS 465 allow the proper application of A.B. 114.

Evan Simonsen (Student, William S. Boyd School of Law, University of Nevada, Las Vegas):

Assembly Bill 114 authorizes the Governor to enter into agreements with other states or authorized agencies, on behalf of the State, to enable patrons in the signatory states to participate in interactive gaming offered by licensees in those states. The prohibitions on online wagering in NRS 465 do not include an exception for interstate wagering conducted pursuant to the compacts allowed under A.B. 114.

We propose language providing that NRS 465.092 and 465.093 do not apply to a wager placed by a person that is accepted or received by, placed with, or sent, transmitted or relayed to any other person or establishment licensed to engage in wagering in another state that is permitted to accept wagers from patrons in Nevada pursuant to an agreement executed by the Governor and the other state as permitted pursuant to NRS 463.

Chair Segerblom:

Who identified the flaw in the original legislation passed this Session?

Gregorio Silva (Student, William S. Boyd School of Law, University of Nevada, Las Vegas):

It was noticed by professors Bob Faiss and Greg Gemignani at the Boyd School of Law.

Senator Kihuen:

Assembly Majority Leader William C. Horne, Assembly District No. 34, requests addition on this bill as a cosponsor.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED S.B. 409, ADDING ASSEMBLYMAN WILLIAM C. HORNE AS COSPONSOR.

SENATOR JONES SECONDED THE MOTION.

Senator Brower:

I was concerned there might be problems with A.B. 114 given the initial rush with which it was passed. Are we sure no other areas require amending?

Ramir Hernandez (Student, William S. Boyd School of Law, University of Nevada, Las Vegas):

Assembly Bill 114 was rushed through. Though there may be unintended consequences in the future, we do not foresee any additional areas of concern now.

Senator Brower:

I do not want to put the onus on the students from the Boyd School of Law to ensure this does not happen. When we rush things, mistakes are made. We need to be more deliberate about our actions.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Chair Segerblom:

We will move to S.B. 346.

[SENATE BILL 346](#): Revises provisions relating to gaming. (BDR 41-1051)

Senator Greg Brower (Senatorial District No. 15):

This bill is designed to grow the handle, the amount bet and the tax revenue in Nevada by tapping into the market for bettors who want to place legal wagers by utilizing the services of an entity through which they may pool their betting funds. Senate Bill 346 proposes allowing Nevada sports books to accept wagers from entities formed and wholly operated in Nevada. To ensure transparency, these entities would be required to submit to full disclosure as to the members who are placing such bets and the managers of the entities who are placing the actual wagers. This would allow Nevada to attract legitimate wagering money

while simultaneously discouraging illegitimate wagering. This bill would not allow anonymous bettors, underage bettors or illegal interstate bets to be placed.

Section 2 of the bill defines the term "account wagering system." This definition, drafted by Legal Counsel, is based on existing regulations. Section 3 defines a "patron" as a natural person or entity that, with sufficient formation and transparency, will be permitted to place sports wagers in Nevada. A portion of section 4 is being withdrawn by amendment.

This bill presents new opportunities for Nevada to capitalize on the one form of legal wagering in which our State has a monopoly. Expectations are the activities of entities engaged in sports wagering will occur within the State. This means all wagering decisions, wagering communications, wagering decision makers, wagering assets and accounts will be located in Nevada.

Lee M. Amaitis (President and CEO, Cantor Gaming):

Cantor Gaming has committed over \$200 million to projects in Nevada and has over 250 employees in the State. The Legislature has provided the vision to support opportunities for growth and competition in this industry, even during the worst of the recent economic downturn. That vision has laid the foundation for the recovery we see occurring in the gaming industry today.

This bill contains two parts. The first deals with entity wagering, the second with large wagers on account. The bill allows entities formed and operated in Nevada that submit to full disclosure under Nevada law to place sports wagers in Nevada. In prior discussions with the State Gaming Control Board, the statutory hurdle to this type of wagering was the opinion that a patron could only be a natural person or another sports book. This bill seeks to expand the definition of patron to include entities that meet strict transparency requirements. Allowing entity wagering will help grow handle and tax revenues in Nevada. By requiring full transparency, we can attract legitimate wagering to the State while discouraging illegal or illegitimate wagering. Entity wagering is unlikely to attract illegal offshore bookmakers or wagering because this bill will not permit anonymity for its members. Wagering entities will be required to report winnings to the IRS and to identify their members, officers and designated wagering representatives.

Entity wagering will attract significant funds for legitimate wagering activities conducted solely within the boundaries of our State. We project the Nevada handle will increase to approximately \$10 billion within the next 5 years. Based on Nevada's monopoly on this type of wagering, this could be a conservative estimate. This bill would allow our State to expand its lead in the only sector of the domestic legal gaming market in which it has an exclusive right to operate. Projections for entity wagering can be found in our informational document on this topic ([Exhibit C](#)).

We believe entity wagering will create new jobs, new investments and greater economic growth in Nevada. This belief is based on the same principles that led us to predict bringing technology and advanced account wagering to the sports wagering business could significantly increase the sports handle. Since 2009, we have exceeded our predictions and have crossed the \$1 billion mark in the annual sports handle. Approximately 80 percent of this is done on account.

We are aware this proposal is not without controversy. There are concerns regarding underage wagering, the transmission of interstate wagers and layoff wagering from illegal bookmakers. All sports wagering operations now face these concerns. The State Gaming Control Board and the Nevada Gaming Commission have proven effective in addressing these issues. Cantor Fitzgerald's other businesses have been subject to regulation by a number of agencies. Nevada's gaming regulators are among the finest and most diligent in the world. We are confident they will continue to be effective in the future. We proposed amending the bill to specifically allow the Commission, with advice from the Board, to adopt regulations permitting entities that meet the transparency requirements to place sports wagers within the State ([Exhibit D](#)).

Layoff wagering is the practice of bookmakers placing wagers with other bookmakers. Layoff wagers to bookmakers in Nevada were a significant issue in the past. This issue has largely diminished, as the Internet provides easy access to illegal offshore bookmakers. Offshore bookmakers allow anonymity, do not comply with the Bank Secrecy Act or with IRS filing requirements, and they charge much smaller service fees than sports books here. This means Nevada is a high-risk jurisdiction for illegal bookmakers placing layoff wagers. It is unlikely Nevada would attract layoff wagering if entity wagering is adopted.

The arguments in favor of entity wagering are supported in a March 2013 article entitled "The Prohibition of Betting Exchanges is in Breach of EU Law," in the *Gaming Law Review and Economics*. Justin Hubble and Martin Lycka, the authors of this article, state advanced technology, transparency and audit trails provide an effective means of identifying those trying to corrupt betting systems and bets. The article was written about betting exchanges, but the same principles apply to computerized account wagering; a digital record is made of every transaction. Accounting reports can be automated and records can be retrieved and examined at will. The full text of this article is included on pages 4 through 11 of [Exhibit C](#).

Senate Bill 346 will help grow handle and tax revenue in our State. It does not favor one book over another. Current regulatory tools and market dynamics should address regulatory concerns about entity wagering. Using technology, real-time access can be made available for monitoring entity wagering in Nevada at will. If additional tools are required, we propose an amendment to permit the Commission, with advice from the Board, to adopt regulations to provide such tools. Given recent feedback from the Board and others in the industry, we also request amending section 4 of the bill to remove the request regarding any requirement to process large wagers through account wagering systems when a book has such a system.

Chair Segerblom:

Would this mandate the Commission to allow hedge funds to operate in Nevada?

Mr. Amaitis:

It would not mandate it, but it would allow them to be set up in Nevada under Nevada law using Nevada transparency.

Chair Segerblom:

Would the Commission be allowed to evaluate when this was appropriate?

Mr. Amaitis:

Yes, it would.

Chair Segerblom:

Do you feel this would dramatically increase the handle?

Mr. Amaitis:

Yes, I do. Our current handle is approximately \$3.5 billion. The American Gaming Association estimates that \$380 billion is illegally bet in the United States each year. Because illegal bookmakers offer credit, I have reduced this amount by 50 percent. If Nevada captures 3.5 percent of the remaining \$190 billion, we would increase our handle to \$10 billion within 5 years. This would grow the tax revenue from the current \$11 million to \$25 million.

Chair Segerblom:

Is that based on taxing the win?

Mr. Amaitis:

That is based on taxing the hold percentage.

Chair Segerblom:

I have a proposed amendment that would add a 0.25 percent tax on the handle as opposed to taxing the win ([Exhibit E](#)).

Mr. Amaitis:

I am not opposed to that idea. As Nevada books, we pay 0.25 percent federal tax on our handle. The chart on page 2 of [Exhibit C](#) provides information regarding possible earnings under this bill.

Senator Hutchison:

This bill requires disclosure of all parties involved in the entity placing the wagers. What type of investigation would occur to vet the parties involved in the entity?

Mr. Amaitis:

When an account is opened now, basic identity is established using a social security number and other required identification. We are proposing everyone associated with an entity be identified. We want to know who they are and the source of their money. Regulators have been concerned we may have a large number of people wishing to participate in an entity. Our proposal would track all of the parties involved whether they are making decisions or not. It is not necessarily the decision of each individual to place a specific bet. A person representing the entity will place the bets in Nevada. That person will be identified as well.

Senator Hutchison:

Will the Gaming Control Board and the Commission be able to use the information as they see fit?

Mr. Amaitis:

The technology is available today to provide this information in real time. There is full transparency with this system. From a regulator's point of view, the Board and the Commission can adopt any regulations they need to monitor and protect the entities or the individuals taking the bets.

Senator Hutchison:

Will there be a notification process for people participating in the entities so they know they are not participating anonymously? Statute allows anonymity. This law differs from our corporate statutes.

Mr. Amaitis:

The Cantor sports books earn over \$1 billion in handle. Of that amount, \$800 million is on account. Under this proposed legislation, if people do not want their names known, they may not participate in an entity. They will receive notice of this in advance.

Randall E. Sayre (Cantor Gaming):

Nevada is in the unique position of having a monopoly on sports wagering due to the federal Professional and Amateur Sports Protection Act of 1992. This monopoly may not last because that law is being challenged. Passage of S.B. 346 will help secure Nevada's position as the sports wagering capital well into the future. Nevada's sports wagering income currently accounts for less than 1 percent of the estimated sports wagering activity nationwide. Sports wagering as an enormous, untapped market has historically not been pursued due to technological limits. Today, we possess the technology and approved regulatory architecture to accommodate this commercial concept.

The fiscal note attached to this bill raises issues that can be addressed by taking advantage of Nevada regulatory models. The Gaming Control Board has suggested oversight of the regulatory requirements of entity wagering will require four additional agents. This would be due to the complexity of player disputes; monitoring for violations of statute such as messenger betting; reviewing customer data to ensure illicit customers do not participate; and the need to prevent gambling by underage customers. A question exists regarding

determination of the responsible entity for arbitration of disputes between participating members and the approved entity.

This bill does not alter the regulatory controls now in place. It focuses on account-based wagering activity. Each transaction would be identified in detail and in real time. Individuals participating in an entity would be identified in real time. Computer access would allow information to be instantly available to a monitoring agent. This resembles the requirements set by the Nevada Gaming Commission when salon gaming was opened. Approved systems are available to assist Board staff in processing information for entity wagering.

We anticipate a significant increase in handle as customers take advantage of this concept to manage race and sports wagering activities. The handle estimates made by Mr. Amaitis appear conservative to me. I have not seen an historical relationship between increase in betting volume and a required increase in regulatory oversight. We are not adding a new product; we are accessing an untapped market. Using approved systems, account-based wagering brings transparency to the wager, customer and book operator. The process reduces the footwork needed to regulate the industry. The required transparency reduces the risk of violating controlling laws. It simplifies enforcement of laws. I do not see implementation of entity betting will cause greater stress for the Board.

The business model in this bill discourages traditional messenger betting. Messenger betting is defined as "a person who places a race book or sports pool wager for the benefit of another for compensation." This practice was outlawed to prevent illegal bookmakers from hiring Nevada workers to place layoff wagers in the State's legal books. Cantor Gaming defines entity wagering as "a designated person or persons, located in the State, who place wagers on behalf of the entity." This differs from messenger betting because passive participants in the approved entity group have no prior knowledge of the wagers being placed; they have no control over the selections made. The members of the entity group and the representative placing the wager are known. Messenger bettors are not known, making enforcement against these bettors difficult and time-consuming.

Using technology, information can be easily traced in entity betting, eliminating the concerns about traditional messenger betting. There is little incentive for offshore books, out-of-State books, persons wishing to launder money or other

criminals to engage in account or entity wagering because their identities, including social security numbers, are required to place wagers. Every bet, deposit and withdrawal is tracked electronically and is easily available to law enforcement.

Accommodating this legislation would require minimal adjustments to existing regulatory language. I suggest several changes in this bill. First, the designated Nevada-based wagering representative of the approved entity could be required to provide the same level of information as an independent agent servicing our industry's high-end market. This system provides transparency and affords the Commission the regulatory authority to monitor as necessary. To prevent underage gambling, I suggest including in the regulations that all participants in the entity must be over 21 years of age.

Arbitration of disputes can be handled as outlined in statute. Disputes between a participant and an approved entity are viewed as a commercial grievance. The State has traditionally avoided trying to influence the outcome of these grievances. We suggest a Nevada representative be appointed to work through patron disputes with the race and sports books and the Board. Disputes between the members of the entity are not an issue to be dealt with by the Board. They would be handled by the court system. The Board and the Commission will establish additional requirements for the entity as they deem necessary. This process is simple. It takes advantage of and preserves the effective regulatory structure that exists today.

I have provided the Committee a copy of *The New York Times* article, published April 7, entitled "Betting on the Buzzer Beaters." This article addresses the issues and impact of illegal betting ([Exhibit F](#)).

Senator Hutchison:

What process did you use to develop your suggested changes to this bill?

Mr. Sayre:

I did not know this bill was moving forward until recently. This model was considered in the past when I served on the Board. I did not think the model had problems at that time. The opinion by the Attorney General that a live person must place a wager in a legalized book in Nevada has created some challenges. Traditionally, any type of corporate entity was considered to be a person. This new interpretation by the Attorney General required the redefinition of person

that has been proposed in this bill. I was interested in pursuing the implementation of entity wagering while I was on the Board. We have lost time by not being aggressive. We can have a monopoly on a huge, untapped market if we use a thoughtful implementation process.

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

Handle is somewhat irrelevant to this issue. What is important is the take, the percentage hold. When handle is a billion dollars, if the hold percentage is in the 1 percent to 3 percent range, that is the amount collected and subsequently taxed by the State. No one knows how much is being gambled illegally. The Board has some suspicions and concerns about entity wagering. The proposed amendment to allow the Commission to adopt regulations to govern the conduct of wagering for entities is helpful. I have some concerns about the wording of this amendment. The first is the requirement for the Commission to adopt regulations by January 31, 2014.

Chair Segerblom:

Do you feel this is a mandate?

Mr. Burnett:

Yes, I do. When used in gaming law, the word "shall" is presumed as constructively mandatory. This has been litigated for years. The process would first involve the Board drafting regulations. The Board would next hold public discussion and input workshops. The regulations would be finalized and then sent to the Commission for review, more hearings and finally, enactment of the regulations. I am not sure we could complete this process within the required time period.

I am concerned because we do not know who would be the Nevada entities formed for the specific purpose of sports wagering. We are not sure how we would regulate these entities. We do not know if these entities would be licensed, registered or approved using some other language. These terms all have specific meanings and implications within the gaming laws and statutes of our State. We do not know how these entities would be audited.

Testimony has been given that information about the entities would be readily available electronically. I am unsure what is meant by this testimony. The Board does not electronically monitor this information now. Would we receive the technology to do this? How would we access this information? How would this

information be verified? Would we be required to travel to the home offices of entities, which might be outside Nevada, to audit their records? If this bill is adopted, there will be significant pushback from the sports books regarding our ability to perform these duties.

If there is a dispute, the Board, as the prosecutor of the gaming regulations and statutes, could be required to take action against an entity. It is unclear if the Board is granted this power under this legislation unless the entity is licensed or registered under our laws. A sports book could claim innocence in an entity account wagering issue. The sports book would have a good argument that the Board has no disciplinary authority over them in that type of case.

We appreciate the desire to increase handle. We appreciate the model to drive more business into the wagering world. We have three main concerns about this proposed bill. First, NRS 463.350 requires a person be at least 21 years of age to place a wager. The Attorney General's Office has always opined that "persons" includes "entities." This was only seen, however, in the corporate context of licensing and regulating or in a finding of suitability for businesses or sole proprietorships. This definition has not applied to individuals and how they place wagers. Because age is not relevant in regard to the capacity of a business entity to function, this statute implies that having a business entity place a wager was not contemplated by the Gaming Control Act.

The Gaming Control Act states in many places that a patron placing a wager must be a natural person. This wording would require amending. Allowing a business entity to place a wager could provide a means of bypassing the prohibitions against messenger betting. It could create an avenue for money laundering or provide a vehicle for underage gambling. The Gaming Control Act is not set up to give the Board oversight of persons placing wagers through business entities.

This situation is similar to when private equity firms requested permission to enter Nevada and make purchases of Nevada gaming licensees. At that time, we extensively reviewed the subject with economists and other experts before creating regulations. The Board and Commission eventually became comfortable with the concept. When firms were allowed to come in, there were strict licensing and postlicensure requirements regarding the Board's ability to audit the firms, to review the voting and nonvoting individuals participating in the

entities and to require any of these individuals or entities to come forward for licensure.

The process for implementation of entity wagering could be similar to that used for implementation of salon gaming. Salon gaming was debated for several years before implementation. We became comfortable with salon gaming when we were allowed to install secure cameras in the gaming rooms, implement notification requirements and ensure monitoring of the play that occurs in salons. I disagree that entity wagering would be similar to salon gaming.

Chair Segerblom:

If hedge funds can be licensed to own casinos, I do not see why they could not be licensed to bet in sports books. You would need to determine who is involved in the organization.

Mr. Burnett:

That is what I am talking about. The difference is the entities would only be wagering, not owning the casinos. Our concerns are about who those entities would be. If the Commission is allowed to adopt regulations governing the conduct of wagering by entities, my personal opinion, I cannot speak for the Board, is there would be a desire to regulate those types of entities. We would want to license them or find them suitable in a similar fashion.

Chair Segerblom:

Would you be open to evaluating whether taxing the handle instead of the take would be easier or better?

Mr. Burnett:

I have no comment on that subject.

Senator Hutchison:

You mentioned three concerns, the age requirement, needing to amend the Gaming Act and messenger betting. You also mentioned registration and licensing audit requirements and disputes. Could these concerns be addressed through regulations?

Mr. Burnett:

Some of those concerns could be addressed through regulations if the regulations enabled us to verify the information we receive and to conduct the

type of audits we deem suitable in accordance with the Gaming Control Act. Some of these concerns were expressed by others who are not present here today. The federal government, for example, was concerned about money laundering. Agencies from other states were concerned about enforcement of their state gambling laws.

Senator Hutchison:

Is the verification required by S.B. 346 different from that of the online gaming bill that was recently approved?

Mr. Burnett:

The verification is different. Interactive gaming statutes are only the tip of the iceberg compared to the regulatory scheme considered and later adopted. Developing these regulations was a 2- to 3-year process. The regulations place the burden to fully comply with the requirements we have set forth on the licensed interactive gaming operators. The service providers are regulated in a similar fashion. This is one reason we feel the timeline proposed in this bill is unrealistic.

Regan J. Comis (William Hill, Co. dba American Wagering, Inc.):

We originally opposed this bill, but we now support it with the amendment proposed by Cantor Gaming. We would like time to review the amendment proposed by Chair Segerblom.

Chair Segerblom:

I would like you to review the idea of taxing the handle instead of the take because that is what is done by the federal government.

Mr. Amaitis:

The timeline in the bill is flexible. We are open to revising this timeline. Those who take wagers are required to be licensed. I have not heard of instances where licensing is required to place a wager. I am not opposed to this, but we propose regulating the activity of the people making the wagers. Identity, transparency and an audit trail would control this process. The need for an audit of a corporation is determined by the Board and the Commission. We will provide computers to sports books so anyone from the Board or the Commission can see activities in real time.

Mr. Sayre:

The Internet has a global nature. Nevada will be able to increase its liquidity by compacting with other states. Without a good computer program, you do not know your customer. Age verification is a more complex issue than presented. The Board and Commission have effectively addressed many issues related to online gaming through the regulatory process. The law is just the tip of the iceberg with regard to the regulatory structure put in place to control this type of wagering.

The control process we are proposing is simple compared to what we have done already in order to compete in online gaming. This bill does not address online wagering. It addresses forming an entity with known controls and placing wagers as if that entity was an individual. This would provide a means for Nevada to participate in a legalized sports wagering industry of possibly \$400 billion.

Implementation of salon wagering has shown the industry is willing and capable to provide the day-to-day oversight necessary to monitor new avenues. Technology will allow documentation of activities occurring in entity wagering.

Chair Segerblom:

It is important to increase Nevada's revenue. I will close the hearing on S.B. 346.

Senator Kihuen:

I will open the hearing on S.B. 425, which repeals certain provisions relating to pari-mutuel wagering.

SENATE BILL 425: Repeals certain provisions relating to pari-mutuel wagering.
(BDR 41-1111)

Senator Tick Segerblom (Senatorial District No. 3):

Senate Bill 425 allows rebating in the pari-mutuel business. It amends and repeals statute passed in 1997 needed to meet California requirements, which no longer apply.

Richard H. Bryan (Cantor Gaming):

As Oliver Wendell Holmes once said, sometimes a page of history is more instructive than a volume of logic. The history of this bill is important in understanding our goals for presenting this bill.

Mr. Amaitis:

This bill requests the repeal of Nevada's statutory prohibition on pari-mutuel race wager rebating. In 1997, California threatened to cut off Nevada's access to pari-mutuel betting from its horse racing tracks because Nevada engaged in rebating. This prohibition was enacted to avoid losing that access. California repealed its regulation prohibiting engaging with off-track betting facilities engaged in rebating in 2009.

In 1997, California cited a loss of revenue at its tracks as the reason it required Nevada to cease rebating. The state feared its significant patrons were traveling to Nevada to receive better pricing on race wagering, thus depriving California racetracks of the business of these significant patrons. California was probably correct in its assessment. Significant horse racing bettors were shopping for the best deals. By ensuring Nevada could not compete on price, California made it less competitive.

After experiencing success in Nevada, the enforcement efforts in California stalled; rebating flourished elsewhere. Despite requiring Nevada to become uncompetitive, California never stopped providing its signal to other jurisdictions engaged in rebating. In 1999, it began selling its signal to offshore rebate shops. Racetracks and sports books within California engaged in stimulus programs that were essentially rebating programs. In 2009, the California Horse Racing Board repealed its rebating prohibition because of a decrease in its handle. The provisions of the 1997 California prohibition on rebating had not been systematically enforced. It was deemed counterproductive for racing in that state to maintain the legislation. The net result was that California was successful in reducing competition from Nevada. Nevada's handle has dropped over \$365 million, or over 49 percent, since 1998. This has resulted in a proportional drop in tax revenues to the State.

I have provided the Committee a document with examples showing the impact of the California legislation on Nevada handle and tax revenues ([Exhibit G](#)). Page 2 of [Exhibit G](#) compares racetrack revenue in Oregon with that of Nevada. Oregon does not have a gaming tourism population as robust as Nevada, but it

has generally increased its share of off-track handle. The most significant reason for this is price competition for significant bettors. In the last 5 years, while Nevada has lost more than \$113 million, or 23 percent of its off-track racing handle, Oregon has grown its racing handle by more than \$947 million, or 172 percent. Nevada's current handle is \$371 million compared to a \$2.2 billion handle in Oregon. It is difficult to obtain comparisons for other states due to the way data are kept or a lack of disclosure of these data.

Senate Bill 425 provides the same opportunity to compete for significant bettors to each pari-mutuel book in the State. It is our belief by enticing bettors who left the State to return, we could increase the Nevada handle back to historically high levels. We are experiencing the results of not taking this action. Race bettors will buy race bets where they can receive the best price. Many in our industry feel our current level of competition, without price competition, is intensive enough and does not need to be changed. If we are to entice pari-mutuel bettors back to Nevada, we need to be price competitive with other jurisdictions.

As the State handle has dropped, our ability to bargain with racetracks for the lowest track fees in the Nation has diminished. Track fees are likely to increase even without rebating. Although we have not been able to rebate, we issue comps to good patrons. Offering customers a choice between comps and rebates may be a way to offset some of the new price competition costs from other competitors. This is less about intrastate competition and more about interstate competition.

Cantor Gaming will benefit from this bill, as will other sports books. This will benefit our State. As the pari-mutuel handle rises, so will taxable gaming revenue. Since pari-mutuel tax laws do not permit deductions for rebating, the entire handle will be taxed.

Senator Hutchison:

Does this return the question of discounting to the Nevada Gaming Commission? With the amendment, is this permissive legislation that requires the Commission to take into account results of a study prior to reestablishing discounting on pari-mutuel betting?

Mr. Amaitis:

That is correct.

Senator Hutchison:

Is there a policy reason the discounting was eliminated other than it was required by California?

Mr. Amaitis:

It was about competition between the states for bettors. The California handle was down. Some Nevada sports books were rebating, and California decided to address this issue. At the same time, California decided to sell its signal to offshore rebate shops for a higher price. This further diminished its handle. This issue has been debated in the industry for many years. Because of our statute, we are the only state that does not have the opportunity to be price competitive.

Senator Hutchison:

Governor Bryan, do you know any other policy reasons why this discounting was disallowed?

Mr. Bryan:

I am not aware of any reasons other than California threatening to cut off the signal to Nevada unless we abolished rebating. We responded to that threat.

Anthony Cabot (Nevada Pari-mutuel Association):

I am speaking on behalf of the Nevada Pari-mutuel Association, which opposes this bill. I will read from my prepared remarks ([Exhibit H](#)).

It is important to look at the wording of this bill. Rebates are not illegal under statute. They can be exempted by the Commission after a review of the facts. In 1996, California told Nevada it would not send its signal into the State if the rebate policy continued. This resulted in no signal being received in Nevada for 7 months—no California races were shown and no pari-mutuel wagering on races held at California tracks occurred during this time. The statute was not meant to ban rebates. It gives the Gaming Commission the ability to regulate rebates.

Because we have no racetracks in Nevada, we comply with the regulatory processes of the states where the tracks are located. Every aspect of this industry is regulated. We also have our own process to ensure price controls on every aspect of these relationships. This is regulated by the Commission.

I cannot anticipate the unintended consequences of granting a blanket exemption to rebates. It could result in interstate issues like we experienced with California. It could result in predatory pricing or in the use of rebates for money laundering. The Commission should be allowed to make regulations after studying the facts. It should be allowed to determine which rebates, if any, should be allowed. The Commission has the ability to determine action that is in the best interest of the State. By statute, this role should be left to the Gaming Commission upon recommendation of the Gaming Control Board.

We propose amendments to this bill ([Exhibit I](#)). First, we propose the Commission conduct a rebating study. It should review all of the facts to make informed decisions in the future. Second, for State gaming tax purposes, if the Commission decides to permit rebates, the rebates should be deductible from gross revenues.

Senator Ford:

Is rebating, with oversight by the Commission, permitted under statute as it exists now?

Mr. Cabot:

Yes, it is.

Senator Ford:

In section 1, it appears rebating is criminalized. Statute states, "... a violation of any of the provisions of this chapter or the regulations adopted pursuant to this chapter is a misdemeanor." I do not understand how this section permits rebating.

Mr. Cabot:

Subsection 4 of NRS 464.075 grants the Commission authority to exempt certain bets, refunds, rebates, payoffs or bonuses. Anyone may petition the Nevada Gaming Commission and request all or certain rebates be exempted from the prohibition set forth in section 1 of the bill.

Senator Ford:

Please explain the amendments you are proposing in [Exhibit I](#).

Mr. Cabot:

We propose to leave NRS 464.075 intact and add two provisions. The first provision would request the Gaming Commission conduct a study in regard to rebates. This would allow the Commission to make recommendations regarding requests to exempt certain rebates from the prohibition. The second provision requests deletion of the language prohibiting rebates. This would result in the amount of these rebates being directly or indirectly deductible from gross revenue. If rebates are permitted, they should be deductible for tax purposes.

Senator Ford:

What is the effect of this proposal on rebates in the interim period? Would rebates still be illegal pending the completion of the study?

Mr. Cabot:

No, they would not. During the interim period, petitions could be made to the Commission requesting a rebate be permitted.

Senator Ford:

The Commission could decide to allow rebating pursuant to statute. Will it study the issue during the interim and report back to the Legislature?

Mr. Cabot:

That is correct.

Mr. Amaitis:

Senate Bill 425 would allow rebates. If deductions are allowed for rebates, the State would not receive as great a benefit. This is not a new issue; it has been discussed for many years. This bill is important if Nevada wants to compete in this market.

Senator Jones:

Have any sports books asked the Commission to allow rebating?

Mr. Amaitis:

We are in a no-win position now. That is why this bill has been presented.

Senator Jones:

Have you ever made a formal request to the Commission to allow your organization or another organization to engage in rebating?

Mr. Amaitis:

No, we have not.

Senator Jones:

Why not?

Mr. Amaitis:

We have had disagreements with the Commission. We felt presenting this bill was the best way to address our needs.

Mr. Bryan:

The Commission will not process applications for waivers from the prohibition if this amendment is adopted. The amendment directs the Commission to study the issue. I do not think the Commission will take action on requests to engage in rebating if it is mandated to conduct this study.

Senator Ford:

I am concerned this has not been brought before the Gaming Commission. We are looking at this before the entity responsible for taking action has been given the opportunity to act. Is there a reason to believe the Commission will not be persuaded by the testimony to allow rebating?

Mr. Amaitis:

The Commission would listen to a proposal on rebating. We are stuck in the mud on this idea. It is about progress. We will lose business.

Senator Ford:

Why do you feel we are stuck in the mud? To me the arguments about losing handle to Oregon and California are persuasive.

Mr. Amaitis:

My company is trying to create change in race and sports books in Nevada. Our handle on pari-mutuel wagering at our seven large properties is approximately \$34 million. This is a significant drop. We have run out of options in this area. We feel bringing this issue to the Legislature is the best way to make the changes we need in Nevada.

Chair Segerblom:

As Legislators, we provide a check and balance to the regulatory bodies and industry. If a law was passed that no longer applies, our role is to eliminate that law or at least raise those questions. I have heard nothing today to indicate serious problems if we eliminate this law. It is our job to push the envelope as opposed to sitting back and watching other people be stuck in the mud.

Mr. Burnett:

The Gaming Control Board is neutral on S.B. 425, especially after the addition of the amendment. We support innovation and the infusion of new business into Nevada. My initial reading of this bill indicates rebating would not be legal unless and until after the study group presents its findings and the Commission is satisfied. Please clarify the last sentence of the proposed amendment. It appears nothing would happen until the regulations governing the conduct of rebates have been approved.

Senator Ford:

Would you agree to an amendment stating the Commission could consider allowing rebates during the interim while it conducts the study?

Mr. Burnett:

We concur with the desire to keep Nevada at the forefront of gaming. We also desire to keep Nevada the gold standard of gaming regulation. Enabling the Commission to review this issue and enact any regulations it sees fit is adequate and proper. I do not know why no requests to allow rebates have been made. The Board has an objective position on rebating if it can be effectively regulated, accounted for and ensured to be legitimate.

We cannot accurately compare wagering in Oregon with that in Nevada. To have an accurate comparison, we need to compare the number of licensees in Oregon to those in Nevada. Oregon offers itself as a multijurisdictional worldwide hub or call center for any and all comers. Licensing requirements in Oregon are minimal. Representatives from Oregon have indicated they are unsure if individuals placing wagers are in legal or illegal jurisdictions.

The revenue numbers presented for Oregon are from annual graduated fees that are set at \$500,000, plus 0.25 percent of the gross mutual wagering receipts earned by the hub members. The Oregon Racing Commission indicated it has no regulations on rebates. Rebate decisions are made by the individual entities. We

work closely with our colleagues in Oregon, but that state's regulatory structure is vastly different from ours.

Senator Jones:

Obviously Cantor Gaming wants to go forward. How long would it take for you to determine if entity wagering is an area you wish to pursue? How long would it take to put regulations into place?

Mr. Burnett:

There are two options. The State Gaming Control Board could recommend an amendment to the regulations be made to the Commission, which is the body that enacts the regulations, an individual or entity such as Cantor Gaming or another licensee can request a regulatory amendment. This process comes with timelines within which the Board and Commission are required to act. The Board would present the regulation through workshops to allow vetting and comments. After that, the proposed regulation would be placed on the Board agenda at a regularly scheduled meeting pursuant to the Open Meeting Law. The Board would discuss it during open session at this public meeting, then recommend approval to the Commission or refer it for further workshops. The Commission would meet approximately 2 weeks later and follow a similar process. After discussion, the Commission could adopt the regulation or hold additional workshops to further discuss issues. This process can be completed in as short a time period as 2 months, but it can also take much longer.

Senator Jones:

Do you mean 2 months from the time the Commission decides to move forward, or 2 months from the time you initiate the request?

Mr. Burnett:

Once a written request is submitted, the timeline would start.

Senator Jones:

If Cantor Gaming was to submit an application today, approximately when would there be a decision?

Mr. Burnett:

It would take from 3 months to 4 months.

Senator Hutchison:

Do you prefer the Commission and the Board, within their discretion, continue to regulate the question of pari-mutuel betting rebates? Or would you be equally happy with this bill, which completely eliminates your discretion?

Mr. Burnett:

This issue can be vetted and clarified through the Commission. If the Commission believes it requires a policy directive from the Legislature, I would welcome it.

Senator Hutchison:

The policy question is whether we say rebates are acceptable in this State or we let the regulators, Commission and Board make that call and give them the discretion.

Mr. Burnett:

Yes, that is the question. A rebate is a discount on a wager. It is similar to a high roller coming to a Las Vegas casino and receiving discounts based on his or her play. This is perfectly acceptable and legal in this State; however, strict accounting standards apply. Litigation before the Commission of this type of case has occurred when the Board disagreed with the type of accounting used for these discounts. We need to know to whom rebates are given and why they are being given.

Senator Ford:

Is there a state that compares to Nevada in this area?

Mr. Burnett:

I do not think there is a comparison state. New Jersey is trying to be the next state to excel in this area. We have more income from wagering than New Jersey.

Mr. Amaitis:

The comparison with Oregon was made because the numbers are available for off-track betting. Nevada acts as a hub to allow other states to bet. North Dakota takes telephone hub wagers because it offers rebates. It is difficult to make comparisons between states. The reason I brought up Oregon is because of the increase in its handle.

Senator Ford:

You could potentially have permission to do this in 4 months—2 months past the Legislative Session and too late if this does not go your way. Could an expedited process be applied for under the Commission?

Mr. Amaitis:

I do not know. We have not made a formal presentation to the Commission or Board to allow rebates. The industry is so strongly opposed to rebates in Nevada. We do not understand why, as the handle continues to diminish.

Senator Ford:

What do you mean when you say "the industry"? You do not lump the Commission in this as the Commission has to make decisions based on industry disagreements all the time.

Mr. Amaitis:

I mean the commercial industry—the people who operate race books.

Senator Ford:

Would Legislators deciding this bill remove the determination of this tough issue from the Commission?

Mr. Amaitis:

I am not sure about removing the tough issue. We still have to convince you to pass the bill. That is the way we have chosen to go as we have come to the Legislature for the past four Sessions to try to change things in Nevada.

Mr. Bryan:

These are good questions. The practical reality is that the industry is opposed. Relief is not likely to occur unless this legislation is passed.

Senator Kihuen:

I will close the hearing on S.B. 425 and open the hearing on S.B. 415.

SENATE BILL 415: Revises provisions relating to gaming employees. (BDR 41-188)

Senator Tick Segerblom (Senatorial District No. 3):

This bill was prompted by personal experience as a lawyer. The Gaming Control Board and the Nevada Gaming Commission attempted to take away the ability of a client who was accused of stealing to work in a casino. There is a lack of due process in Nevada when taking away a person's ability to practice his or her profession in this area.

I have discussed this bill extensively with Chair Burnett of the Gaming Control Board. Current process requires a casino employee to prove his or her innocence when accused of misconduct. We have created a compromise wherein the agency must prove the employee acted in a manner that would justify taking away his or her ability to work in the industry. Additional information is included in my handout ([Exhibit J](#)).

Mr. Burnett:

The Commission has reviewed this proposal with Chair Segerblom. It will have an impact on the Board and the way the Board handles employee registrations. We are willing to review shifting the burden of proof to the casinos. I believe we will be able to support this change.

Senator Hutchison:

Is the Commission in complete agreement with all portions of S.B. 415?

Mr. Burnett:

The short answer is no. We are not comfortable with the bill in its current state. We will work with Chair Segerblom to create systems to place the burden of proving the employee unsuitable for gaming registration on the Board through statute or regulatory language.

Senator Hutchison:

Will this language come as an amendment or in some other form?

Senator Segerblom:

I thought it would be an amendment. I do not know if Mr. Burnett agrees.

Mr. Burnett:

It is something that can be amended.

Senate Committee on Judiciary
April 8, 2013
Page 28

Senator Segerblom:

We will present this on Friday.

Senator Kihuen:

I will close the hearing on S.B. 415.

Chair Segerblom:

Seeing no further business, the meeting is adjourned at 10:07 a.m.

RESPECTFULLY SUBMITTED:

Diana Jones,
Committee Secretary

APPROVED BY:

Senator Tick Segerblom, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	3		Attendance Roster
S.B. 346	C	11	Lee M. Amaitis	Entity Wagering Information
S.B. 346	D	1	Lee M. Amaitis	Proposed Amendment
S.B.346	E	1	Senator Tick Segerblom	Proposed Amendment
S.B. 346	F	1	Randall E. Sayre	Betting on the Buzzer Beaters
S.B. 425	G	3	Lee M. Amaitis	Pari-Mutuel Anti-Rebating Repeal Information
S.B. 425	H	2	Anthony Cabot	Testimony
S.B. 425	I	1	Anthony Cabot	Proposed Amendment
S.B. 415	J	7	Senator Tick Segerblom	Presentation