

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session  
February 17, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:01 p.m. on Tuesday, February 17, 2015, in Room 2134 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 Greg Brower, Chair  
Senator Becky Harris, Vice Chair  
Senator Michael Roberson  
Senator Scott Hammond  
Senator Ruben J. Kihuen  
Senator Tick Segerblom  
Senator Aaron D. Ford

**GUEST LEGISLATORS PRESENT:**

Senator Pete Goicoechea, Senatorial District No. 19  
Assemblyman James Oscarson, Assembly District No. 36

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nick Anthony, Counsel  
Lynn Hendricks, Committee Secretary

**OTHERS PRESENT:**

Josh Hicks, Indian Springs Operating Company, LLC  
Sarah Clark, Indian Springs Operating Company, LLC  
Ron Garcia, General Manager, Indian Springs Operating Company, LLC  
A. G. Burnett, Chair, State Gaming Control Board  
Dan Reaser, Association of Gaming Equipment Manufacturers

Senate Committee on Judiciary  
February 17, 2015  
Page 2

Marcus Prater, Executive Director, Association of Gaming Equipment  
Manufacturers

**Chair Brower:**

I will open the hearing on Senate Bill (S.B.) 124.

**SENATE BILL 124:** Revises provisions governing gaming establishments.  
(BDR 41-787)

**Senator Scott Hammond (Senatorial District No. 18):**

This bill principally affects the town of Indian Springs, where I have been teaching for the last 16 years. Indian Springs has just under 1,000 residents and is adjacent to Creech Air Force Base. The Indian Springs Casino has been there for over 20 years. We are bringing this bill because Creech is expanding in size. The parking lot behind the Casino is located next to Creech's air strip, and it is close enough that a person could stand in the parking lot and lob a hand grenade onto the air strip. For this reason, Creech had security concerns and decided to acquire the property occupied by the Casino.

The Indian Springs Casino has been an important business partner involved in the neighborhood community. The management of the Casino understood the reason for the acquisition and negotiated the sale of the property to Creech rather than force the base to go through the eminent domain process. The community of Indian Springs would love to have the Casino back and open again. It was one of only two restaurants in the town and provided the first job to many of my students. It was also the only hotel in Indian Springs and was an important part of the community.

Through *Nevada Revised Statute* (NRS) 463.302, the State Gaming Control Board (GCB) is allowed to move a license under certain circumstances. This is not one of them. You can see the need for this; the Casino was acting in good faith and wanted to accommodate Creech. This bill addresses this lack in statute and allows the GCB to authorize the Casino to move across the highway.

**Senator Brower:**

The Casino in question has worked out a deal with Creech, and the GCB believes S.B. 124 is necessary to allow the Casino to move. Is that correct?

**Senator Hammond:**

Yes. We have worked diligently to make sure the language is specific to this situation, not just to this one casino, and to make sure all the players are on board.

**Senator Pete Goicoechea (Senatorial District No. 19):**

I represent the district in which the Indian Springs Casino is located. It has been there since at least 1989. I believe this bill is narrow enough to pertain to the situation in which a casino is located next to a military installation. The bill would not allow nonrestricted licenses to move.

**Assemblyman James Oscarson (Assembly District No. 36):**

I echo the comments of my colleagues. The small community of Indian Springs needs the services provided by the Casino, which has been there for a long time.

**Senator Hammond:**

We are offering a small amendment to the bill ([Exhibit C](#)) to ensure we are not making it specific to the one location.

**Josh Hicks (Indian Springs Operating Company, LLC):**

As you have heard, Indian Springs Casino has been required to move because of the expansion of Creech. We have been working with the GCB, which has been accessible and accommodating in working with us throughout the process. The problem we came across is that the ability to move a nonrestricted license on account of the expansion of a military base is not specifically covered by NRS 463.302. This bill fills that gap. Senate Bill 124 does not change any existing statutes covering how nonrestricted licenses can be moved. It does add in one tightly defined section allowing a nonrestrictive license to be moved if it is adjacent to a military base that expands and the new location is within 1 mile of the old location.

I would like to note that S.B. 124 does not compromise the discretion the GCB has always had to deal with nonrestricted licenses. That is, if a nonrestricted license meets the criteria but the GCB feels it is inappropriate to allow it to move, it has the ability to deny the request.

[Exhibit C](#) asks for a small amendment in S.B. 124. Section 2 of the bill is worded such that it would only apply to any movements that happen before the

effective date of the bill, which is upon passage and approval. The amendment changes this to include movements that happen after the effective date so as to ensure the bill has a broader application and can encompass prospective and not just retroactive application of the bill.

**Sarah Clark (Indian Springs Operating Company, LLC):**

I would like to provide some context for S.B. 124. As soon as the Casino learned of Creech's plans to expand the perimeter of the base, it engaged with key players in Clark County, including the County Commissioners, the Department of Business License and the Comprehensive Planning Department. They have been actively involved in this process throughout to help make sure Indian Springs Casino can be moved across the highway. In addition, we have spoken with the GCB and the town of Indian Springs. We have a letter from Jayme Brown, Chair of the Indian Springs Town Advisory Board, expressing support for S.B. 124 ([Exhibit D](#)).

**Ron Garcia (Indian Springs Operating Company, LLC):**

I am the general manager and one of the owners of Indian Springs Casino. For the past 30 years, the Casino has been a mainstay in the community for travelers and residents. Some of you may even have stopped there for lunch on the way up to Carson City from Las Vegas. The Casino was located directly next to Creech. Several years ago, the federal government designated the Casino for acquisition to expand the perimeter of Creech for security reasons. Wanting to cooperate and avoid any legal fights, we negotiated the sale of the property, and the Casino closed in October 2014. We would like to reopen the Casino in a new location across the highway from its original location. As soon as we heard that the federal government was going to buy the property, we contacted Clark County and the GCB to see what we needed to do to move the Casino. Unfortunately, we cannot move the license under the law as it stands now.

We are proud to be part of the community of Indian Springs. We are grateful for the support of S.B. 124's sponsors, and we urge your support for this bill.

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

The GCB concurs with the previous testimony. This was an unfortunate case of a company that was in the process of moving because of Creech's expansion. The company fell under unfortunate circumstances. The GCB interprets statutes as strictly as we can, and in this particular case we had to tell the Casino

owners that the case was not covered by statute. We indicated to them that their best course of action was to come before the Legislature to propose a change in statute, and they have. We endorse this bill, and we have no regulatory issue with the language.

**Chair Brower:**

Increasingly, what happens at Creech is central to the ongoing war on terror. It is good to hear that Creech is expanding and the federal government is willing to accommodate those who are affected by the expansion. We are happy to fix this glitch.

I will close the hearing on S.B. 124 and open the hearing on S.B. 9.

**SENATE BILL 9:** Requires the Nevada Gaming Commission to adopt regulations relating to the development of technology in gaming. (BDR 41-61)

**Dan Reaser (Association of Gaming Equipment Manufacturers):**

Senate Bill 9 is one of the items recommended as an outcome of the Committee to Conduct an Interim Study Concerning the Impact of Technology Upon Gaming. This bill will authorize the Nevada Gaming Commission to adopt regulations to promote the design and employment of new technology in gaming. The Association of Gaming Equipment Manufacturers (AGEM) is a trade association with more than 150 members and has been intimately involved in bringing this bill forward. The members of AGEM are manufacturers, distributors, designers and developers of modern gaming technology, everything from slot machines to signage and interactive gaming equipment—in short, the entire panoply of machines, technology and computer equipment used in a modern gaming environment. The AGEM enjoys a long history of supporting regulatory agencies and legislative bodies in development and extension of law and regulation to promote the gaming industry in a responsible way.

There are four principal reasons S.B. 9 is before you. Those reasons are described in detail in my written testimony ([Exhibit E](#)) and the accompanying short presentation ([Exhibit F](#)), but I will summarize the highlights. First, Nevada's gaming industry is facing unprecedented domestic and global competition. One statistic that has come up recently states there is no place in the U.S. today that is more than 3 hours from a full-blown casino. This is a far different situation than we faced in Nevada when I was the chief deputy

attorney general, when Nevada still had most of the franchise other than New Jersey.

Second, the revenue coming in from gaming devices has declined 7 percent over the last 5 years. Gaming devices on the floors of casinos comprise 60 percent of the product available to the gaming public.

Third, the demographics of the gaming public are changing. [Exhibit E](#) includes statistics showing that gaming patrons are getting older. It is more difficult to encourage and promote gaming to the 21-to-35 and 35-to-45 age groups. This change in demographics is having impacts on the industry.

Fourth, as is probably clear to everyone in the room, technology is pervasive in our lives. Most of us use laptops, tablet computers and smart phones. Younger people are primary consumers of that sort of mobile technology even more than people our age.

With those four drivers in mind, the purpose of S.B. 9 is to make sure electronic gaming products can move with the market and be a force for bringing people back into gaming entertainment. According to the GCB, gaming entertainment only accounts for about 40 percent of the money earned on the Las Vegas Strip today. The other 60 percent comes from nongaming sources. Gaming entertainment is coming to a crossroads. It may be at saturation in some markets, and we need to be mindful of ways to help the industry and our tax base keep pace with the State's growth and needs.

So why do we need to be here today? Subsection 1, paragraph (b) of NRS 463.0129 states that public confidence and trust in gaming will only be preserved if there are strict controls and measures to ensure that it is honest and competitive. In furtherance of that, NRS 463.150, subsection 2, paragraph (j) gives the Commission extensive powers to adopt regulations governing the manufacture, sale and distribution of gaming equipment and technology. That is done primarily through Regulation 14 of the Regulations of the Nevada Gaming Commission and State Gaming Control Board, a comprehensive set of technical standards. Those standards, as they have been created by the Commission based on an interpretation of Nevada statute, mandate a uniform payback percentage using a mathematical randomness test. That requirement makes it practically impossible to develop games based on skill or where outcomes of games would be tied to some other factor or identifier.

With other issues of technology, the Legislature has historically provided policy advice and guidance and allowed the GCB and the Commission to adopt detailed regulations and technical standards. Senate Bill 9 does the same thing. We are not asking you to depart from the relationship you have had with the GCB and the Commission. We think the logical next step in providing that authority to the GCB and the Commission is to adopt S.B. 9. This bill will give the GCB and the Commission the regulatory authority to develop technical standards, differentiate skill games from chance games and incorporate other types of technology into gaming devices.

Pages E7 through E9 of [Exhibit E](#) provide a walkthrough of S.B. 9. In addition, pages E12 and E13 of [Exhibit E](#) contain an amendment to the language of the bill. This amendment adds language to section 1, subsection 2 of S.B. 9 to give the Commission and the GCB authority to create regulations regarding associated equipment and support systems of gaming devices. "Associated equipment" could be something like an accounting system or a system that determines when the registration for the play begins and when the registration ends in multiplayer situations. "Support systems" are computer systems that gather financial information. They also facilitate and allow mobile gaming, the use of a device on the casino floor to play a game. We also recommend that section 1, subsection 3 of the bill be amended to include associated equipment and support systems in the regulations regarding technical standards.

Section 1, subsection 3, paragraph (a) of S.B. 9 directs the GCB and the Commission as to the various factors to include in the gaming device regulations. The amendment requests that this include the concept of hybrid games. The GCB made this recommendation, and we think it is a good suggestion. A hybrid game is one that is neither all skill nor all chance. It gives the GCB leverage and flexibility to promulgate rules for games that mix skill and chance in different ways.

Section 1, subsection 4 of S.B. 9 provides definitions. The amendment eliminates some redundant language and adds a definition of "hybrid game." It also adds the relative skill of the player and the degree of skill required for the game to the list of factors that can be considered. This was recommended by the engineers who looked at the draft of the bill.

Senate Bill 9 has received uniform endorsement from the members of AGEM. The Nevada Resort Association also supports the bill, and we have had the ongoing help of the GCB in fashioning the bill.

**Senator Ford:**

I note that your amendment strikes the phrase " ... by reason of the knowledge, dexterity or any other ability or expertise of the player ... " from section 1, subsection 4, paragraph (a) of the bill. Did you say this was redundant language?

**Mr. Reaser:**

Yes. It was suggested that we define "skill" in statute, and the amendment does that in section 1, subsection 4, paragraph (d) of the bill. When we came up with a new definition of "skill," we included "knowledge, dexterity or any other ability or expertise of a natural person" in the definition and removed that clause from the definition of "game of skill." We did not change the substance of the language; we just changed the structure.

**Senator Ford:**

I understand where you are going with this, and I appreciate the effort. Obviously, incorporating technology into what we are doing moving forward is an important component in order to pick up that demographic you are talking about. However, when you introduce factors such as knowledge, dexterity or any other ability or expertise of the player, how does that mesh with the fundamental principles of randomness and chance? Or are you not as concerned about this at this juncture because of the onset of technology?

**Mr. Reaser:**

Through the rule-making process, the amendments to Regulation 14 will focus on what is a pure game of chance, which will be those driven by a random number generator. This will allow the GCB and the Commission to take testimony and craft regulations in conjunction with the industry to define how to write algorithms into gaming devices that allow skilled play. Our children play skill games on their computers, and those games have algorithms. This bill will allow algorithms based on some level of skill to also be a determiner for the outcome of a gambling game.



**Senator Ford:**

Speaking of the level of skill, do you anticipate that a person who is at the top level of skill will ultimately be disallowed to play a skill game?

**Mr. Reaser:**

I doubt that would be an outcome here. With a game of chance like a slot machine, the machine can be set, subject to the statutory and regulatory minimum payback requirement of 75 percent, to pay back a certain percentage on the pay table. I suspect that the skill algorithms, just like the chance algorithms, will have a certain outcome by pay table for the level of skill. I do not think we will be excluding people who are extremely skillful at a skill game like "Words With Friends," for example. If they are extremely skillful, we want them to play the devices and have great results on the casino floor so they keep coming back to play.

**Senator Ford:**

That makes sense. The example that was given to me earlier as I was talking to the proponents of the bill is what I think New Jersey has done and the basketball example of shooting free throws. If Michael Jordan wants to shoot free throws, are you going to say no because of his skill level?

The final question I have is about disputes that arise out of this new hybrid category. Have you contemplated how the house will deal with disputes on wins in skill games?

**Mr. Reaser:**

The statute provides a robust patron dispute process. Regulation 7A outlines all of the due process rights attendant to both the house and the player.

**Senator Ford:**

Do you think those will be sufficient for and applicable to this new level?

**Mr. Reaser:**

It will be completely capable of dealing with this. It is done through a hearing officer process with administrative due process and discovery. All of that will still be in place. Having tried a number of those cases and taken many of them to the Nevada Supreme Court, I am certain that the process to take care of disputes is well in place.

**Senator Harris:**

How will these regulations impact outside industries such as FanDuel? FanDuel may fall within your definition of hybrid. It is not really gaming, but it acts like gaming. The proponents of FanDuel claim it is a game of skill rather than chance. Would these regulations affect industries that are not gaming under the definitions in Nevada statutes?

**Mr. Reaser:**

No. The authority here covers the manufacturers and distributors of gaming devices and associated equipment and the placement of those devices to operate in a brick-and-mortar casino. Any games already subject to exemptions from NRS 463 would remain exempt.

**Senator Hammond:**

As I understand the definition, a hybrid game might be one in which game play is initially based on chance, then switches to play based on skill. Is that correct? Do those games exist right now? Another concern I have has to do with the idea of payout based on the player's level of skill. I can imagine a situation in which an unskilled person plays the chance part of the game, then hands the game over to a skilled person when the skill part of the game comes up, and the game pays out as if the unskilled person was still playing. They would basically be gaming the system. How do you stop that from happening?

**Mr. Reaser:**

In answer to your first question, yes, a game like that could exist under a regulation adopted in accordance with this bill. You could have a game that combines a chance element and a skill element. You could also have a game of pure skill with no element of chance.

In answer to your second question, nothing would stop your hypothetical scenario from happening. Nothing stops that sort of tactic on a video poker machine today. I have seen a husband and wife stand at one video poker machine and advise each other on how the next play should be made. The device will have the ability to preprogram the level of percentage payback for the different aspects of the game, and the house will decide what it will tolerate with a player of great skill. I do not know what regulations the GCB and the Commission will create, but it is entirely plausible that there will be some minimum percentage payback level even in a skill game. We have a mandatory

75 percent payback requirement for games of chance, so even the totally unskilled player will get at least that level of payback.

**Senator Hammond:**

If the skilled and unskilled player work together, it will balance out in the end because the device uses an algorithm throughout all levels of play, so it will not be possible to game the system in that way. Is that right?

**Mr. Reaser:**

I believe it will not be possible to game the devices.

**Marcus Prater (Executive Director, Association of Gaming Equipment Manufacturers):**

The creative process of these devices is just getting started. This is a new concept, so we do not know exactly what manufacturers will produce under this new landscape. One possible scenario is a slot machine with a base payback of 85 percent and a bonus round with an arcade element, such as shooting down enemy planes. If you are particularly skilled at shooting down enemy planes during the bonus round, you could boost your payback to 98 percent. Ultimately, however, the game designers will create an algorithm that will create a blended number somewhere in between, and the casino will continue to be able to select that number. If an unskilled person plays the chance part of the game and lets a skilled person shoot down enemy planes in the skill part of the game, I do not think that is gaming the system. There is a whole world of new games out there that we may not be contemplating, and S.B. 9 will open the door for them.

**Mr. Reaser:**

We have no idea what the new games will look like. This bill unleashes creativity among game designers.

**Mr. Burnett:**

I did not prepare an affirmative presentation on S.B. 9, but the GCB fully supports this bill, as does Chair Tony Alamo of the Commission. This needs to happen. Every day, I meet with progenitors of new ideas, be they entrepreneurs who do not have a gaming license or casino company operators or manufacturers and distributors like those here today who have new, refreshing ideas that appeal to the new demographic who visit Las Vegas and Reno. With

the statute and regulations we have, we have to tell them no. That needs to change.

When I first looked at S.B. 9, I felt it did not go far enough, and I was the one who proposed the inclusion of the definition of hybrid games. We need to take that extra step right now. To put this body's mind at ease collectively, I will say that we are the regulators. We will strictly construe our statutes; we have a regulatory bright line that we will not allow anyone to cross. We just need to move that line and allow the gap to be filled with new ideas that can take hold. There are a lot of people coming up with ideas you and I cannot even comprehend, ideas that need to make their way to a casino floor once they are properly and strictly regulated. The new ideas will go through the same vetting process, the same application process, the same technology review process and the same process for patron disputes as the old ideas. However, as I said earlier, the line needs to be moved to allow these new ideas to take hold.

The statistics show that gaming, slot gaming in particular, needs to be revitalized. This bill might be the mechanism to do that.

**Chair Brower:**

I have said many times that we need to ensure, on behalf of the industry, that the regulators are working in collaboration with the industry on technology issues. When a regulated industry seeks to liberalize the regulatory scheme and the regulators thinks it does not go far enough, that is something to note.

**Mr. Burnett:**

I should note that the idea of moving the line applies only to the creative component, not to the honesty, integrity and suitability of those who are offering those ideas. That, of course, is not going to change.

Senate Committee on Judiciary  
February 17, 2015  
Page 13

**Chair Brower**

I will close the hearing on S.B. 9. We stand adjourned at 1:49 p.m.

RESPECTFULLY SUBMITTED:

---

Lynn Hendricks,  
Committee Secretary

APPROVED BY:

---

Senator Greg Brower, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness or Agency</b>	<b>Description</b>
	A	1		Agenda
	B	2		Attendance Roster
S.B. 124	C	1	Senator Scott Hammond	Proposed Amendment 9647
S.B. 124	D	1	Indian Springs Town Advisory Board	Letter in support from Jayme Brown
S.B. 9	E	66	Association of Gaming Equipment Manufacturers	Written Testimony and Proposed Amendment
S.B. 9	F	7	Association of Gaming Equipment Manufacturers	Presentation