

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session  
March 27, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:16 p.m. on Friday, March 27, 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 Aaron D. Ford

**COMMITTEE MEMBERS ABSENT:**

Senator Tick Segerblom (Excused)

**GUEST LEGISLATORS PRESENT:**

Senator Mark Lipparelli, Senatorial District No. 6

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nick Anthony, Counsel  
Connie Westadt, Committee Secretary

**OTHERS PRESENT:**

Anthony Cabot, AmericanChecked, Inc.; William S. Boyd School of Law,  
University of Nevada, Las Vegas  
Josh Hicks, Consumer Data Industry Association

Greg Gemignani, William S. Boyd School of Law, University of Nevada,  
Las Vegas

Shannon Wilson, William S. Boyd School of Law, University of Nevada,  
Las Vegas

Elijah Tredup, William S. Boyd School of Law, University of Nevada, Las Vegas

Gabriele Neumann, Nevada Resort Association

Greg Ferraro, Nevada Resort Association

**Chair Brower:**

We will open the hearing on Senate Bill (S.B.) 409.

**SENATE BILL 409**: Revises provisions related to gaming. (BDR 41-1041)

**Senator Mark Lipparelli (Senatorial District No. 6):**

It is common for gaming companies to conduct extensive background investigations of employees, particularly employees who are in sensitive positions. Senate Bill 409 would allow reporting agencies to provide information that precedes the report by more than 7 years.

**Anthony Cabot (AmericanChecked, Inc.):**

AmericanChecked is a background screening solutions provider that serves the commercial casino industry. I have practiced gaming law since 1981. I serve on the compliance committee of one of the major Nevada casino companies. I serve as outside counsel to another compliance committee. I wrote the first Nevada Gaming Commission-mandated compliance plan in 1985. Since 1985, compliance programs and committees have generally been required of all major casino and gaming manufacturing companies. Nevada is stringent about who can obtain a license to conduct casino operations. The licensing investigation is more intrusive than the highest federal security clearance.

Compliance does not end with owners and operators. According to the Nevada Resort Association, the 263 nonrestricted casino licenses in Nevada directly account for 180,000 employees. Due diligence to some degree must be conducted on all of these employees because gaming is critical to the State's economy. The impact of a major scandal in which a player is cheated or not paid legitimate winnings could be significant. Moreover, the State has an interest in ensuring that all gaming revenues are reported for tax purposes.

Nevada imposes licensing at many levels. For gaming employees like dealers, cashiers, security personnel and mechanics, the State has a system for registering new employees, and the State Gaming Control Board performs a background investigation.

An equal burden falls on the casino companies and their compliance systems to do due diligence on employees, particularly those in key positions. Compliance departments typically do background investigations on all employees. Compliance committees often do additional reviews on key employees. The committee of which I am a member reviews about three dozen or more new key hires each quarter. These employees typically earn more than \$100,000. In order to accomplish this, the compliance departments often hire third-party companies, like my client, to obtain employment screening information. These third-party companies are considered consumer reporting agencies under the federal Fair Credit Reporting Act and are subject to Nevada's consumer reporting laws set forth *Nevada Revised Statutes* (NRS) 598C.

Senate Bill 409 is needed because Nevada's reporting laws are inconsistent with the federal law. Nevada law prevents relevant information from being reported to compliance departments and committees when they are making important hiring decisions. Let me highlight the two significant concerns. The federal Fair Credit Reporting Act authorizes the reporting of criminal convictions without time limitation. That means that information regarding a conviction can be disclosed regardless of how long ago the conviction occurred and how much the prospective employee will be paid. Under Nevada law, the reporting agencies are prohibited from disclosing criminal convictions older than 7 years.

The second significant concern is the federal Fair Credit Reporting Act creates an exception for the disclosure of arrest records that do not result in convictions or civil judgments older than 7 years in connection with the prospective employment of an individual whose annual salary is reasonably expected to equal or exceed \$75,000. Under Nevada law, reporting agencies are prohibited from disclosing arrest records or civil judgments older than 7 years without exception.

For example, an accountant applies for an accounting position at a casino. The applicant may have been convicted of a felony for embezzlement 8 years ago. The reporting agency cannot report this information under Nevada law but could report it under federal law. Compliance departments and committees often do

not have valuable information with regard to a person's background that would make a significant difference regarding whether that person should be hired in a sensitive position. Accordingly, the proposed amendments to NRS 463 and NRS 598C.150 would bring Nevada's consumer reporting laws into conformity with federal law for gaming background investigations. This will ensure our licensees have the information they need to make informed hiring decisions that protect the well-being of the State of Nevada and the gaming industry. I have provided written testimony ([Exhibit C](#)).

**Josh Hicks (Consumer Data Industry Association):**

The Consumer Data Industry Association is a 100-year-old trade group of about 100 members that includes some of the Country's largest background check industries. We have a proposed amendment ([Exhibit D](#)) for your consideration. Senate Bill 409 addresses background checks for licensees. We propose amending NRS 598C.150 to be consistent with the federal Fair Credit Reporting Act. The amendment would permit reporting of convictions of crimes that precede the report by 7 years.

**Chair Brower:**

Mr. Cabot, I assume you have reviewed the proposed amendment and have determined that it does not undermine the point of S.B. 409.

**Mr. Cabot:**

That is correct.

**Chair Brower:**

Senator Lipparelli, do you consider this a friendly amendment?

**Senator Lipparelli:**

Yes, I do.

**Chair Brower:**

We will close the hearing on S.B. 409 and open the hearing on S.B. 38.

**SENATE BILL 38:** Revises provisions governing the regulation of gaming.  
(BDR 41-350)

**Chair Brower:**

After we heard this bill, we were approached by the William S. Boyd School of Law, University of Nevada, Las Vegas, gaming policy class with a bill draft request (BDR) on an issue the class is working on. We typically do a bill for a Boyd Law School gaming policy class. There was no time to do a separate BDR, but we found a vehicle in S.B. 38 to accommodate the students' request. We are going to hear an amendment to S.B. 38, which includes the Boyd Law School class's issue.

**Senator Lipparelli:**

I would be remiss if I did not begin by recognizing Bob Faiss and his legacy associated with this effort. Many of you know that in prior Legislative Sessions, this was the province of the late Mr. Faiss. I want to recognize him and hope that this continues to be something that this Committee and future Legislative Sessions embrace.

**Greg Gemignani (William S. Boyd School of Law, University of Nevada, Las Vegas):**

I am a coprofessor of the gaming law policy class with Professor Jennifer Roberts. Each session, this class seeks to carry on the legacy of Bob Faiss in having law students from the Boyd Law School add to the body of gaming law in our State.

**Anthony Cabot (William S. Boyd School of Law, University of Nevada, Las Vegas):**

Gaming education was the passion of my former partner Bob Faiss. It is an interest of mine as well. There are several exciting gaming-related initiatives at the Law School. The Boyd Law School is now offering a master's degree in gaming law and regulation. This postdoctoral degree is a natural complement to the Boyd Law School's existing juris doctorate program, which already offers more gaming courses than any of the other law schools in the Country.

**Shannon Wilson (William S. Boyd School of Law, University of Nevada, Las Vegas):**

I am a third-year student at Boyd Law School. This Legislative Session, students from the gaming law policy class proposed to amend Nevada's charitable lottery statute to clarify the thresholds and exceptions for groups to conduct charitable lotteries as well as to permit statewide charitable gaming events within the charitable gaming limitations. I have worked with the State Gaming Control

Board staff and presented our proposed statutory changes to the State Gaming Control Board and the Gaming Commission. Senate Bill 38 has their support.

Article 4, section 24 of the Nevada Constitution prohibits lotteries from being operated in this State. However, the Constitution allows the Legislature to authorize lotteries in the form of raffles or drawings for charitable or nonprofit organizations with proceeds used to benefit only charitable or nonprofit activities in the State. After resolution and voter approval, charitable lotteries were permitted pursuant to NRS 462 beginning in 1991. There have been no other changes since that time. The first change set forth in our proposed amendment ([Exhibit E](#)) is to amend NRS 462.125 to expressly list nonprofit alumni organizations and legal bar associations in the list of qualified nonprofit organizations that may offer charitable lotteries.

**Elijah Tredup (William S. Boyd School of Law, University of Nevada, Las Vegas):**

I am a third-year law student at Boyd Law School. Our next proposed change in [Exhibit E](#) is to NRS 462.140 to clarify language in the statute in a way that is consistent with the State Gaming Control Board's practice. The changes clarify what prize values offered by a qualified organization will trigger the need for that organization to apply for either Board approval or registration. It further allows organizations to have charitable lotteries up to two times per year for prizes of \$2,500 or less or to offer up to \$15,000 worth of prizes in a calendar year with tickets or chances sold only to members and their guests. Our amendment clarifies that neither registration nor approval is needed in either of these instances, which we understand is consistent with the Board's practice.

The final change we propose is to amend NRS 462.180 to permit statewide charitable lotteries. The statute only allows qualified organizations to conduct raffles or drawings in a primary county and any counties that border on the primary county. This change will allow qualified organizations to seek the Executive Director's approval to conduct raffles or drawings in counties that may not share a border. To draw on a real-world recent example, if a charitable organization were to raffle off a motorcycle for our State's 150th anniversary, the organization could with the Board's approval sell raffle tickets across the State rather than in a primary county such as Clark County and its contiguous counties such as Lincoln and Nye.

**Chair Brower:**

In the proposed change to NRS 462.125, you are adding the words "alumni" and "legal bar." The term "legal bar" might have more than one potential meaning. Why were those words chosen, and do you understand the potential ambiguity?

**Ms. Wilson:**

We wanted to clarify the organizations that would be eligible to qualify to conduct charitable lotteries under NRS 426.125. Despite the fact that the term "legal bar" may be somewhat broad, the proceeds of the lottery must go to charities or nonprofit activities. We are not broadening the term.

**Chair Brower:**

A "legal bar" could be a tavern. However, when paired with the word "organization" forming the term "legal bar organization," that ambiguity is not a concern.

**Ms. Wilson:**

I agree. In addition, the organization must be nonprofit or charitable.

**Chair Brower:**

Is the term "Executive Director" that is in statute and referenced in NRS 462.140 a little used but technically correct term for the Chair of the State Gaming Control Board?

**Mr. Tredup:**

Yes, that is correct.

**Chair Brower:**

Technically, is the Chair of the State Gaming Control Board also the Executive Director of the Board?

**Mr. Tredup:**

That is correct.

**Gabriele Neumann (Nevada Resort Association):**

We have a friendly amendment ([Exhibit F](#)) that would repeal NRS 463.566 and NRS 463.5732. We have reviewed the legislative record regarding the enactment of these statutory provisions, and nothing indicates the reason or

need for their enactment. The State Gaming Control Board agrees with this proposed amendment. The amendment is a cleanup provision.

**Chair Brower:**

I see an indication that the law students agree.

**Senator Hammond:**

What do the provisions you referenced address?

**Greg Ferraro (Nevada Resort Association):**

The problem is not with the law but rather with the regulations, which are a nuisance. We are trying to eliminate unnecessary red tape. These statutes require certain filings for limited partnerships and limited-liability companies that are inconsistent with the requirements imposed on other types of corporate entities. The problem has existed for a number of years. A number of our members flagged it as something that should be brought to your attention.

**Chair Brower:**

We will close the hearing on S.B. 38 and open the work session on S.B. 58.

**SENATE BILL 58:** Revises provisions governing the release of information relating to children within the jurisdiction of the juvenile court and children in protective custody. (BDR 5-490)

**Patrick Guinan (Policy Analyst):**

The work session document ([Exhibit G](#)) summarizes S.B. 58 and the proposed amendments.

**Senator Ford:**

I have an update. I asked questions about S.B. 58 regarding certain privacy protections and chain of custody regarding student information. Subsequent to the hearing, I received information that has allayed my concerns.

**Senator Hammond:**

I shared the same concerns as Senator Ford. If his concerns have been satisfied, then mine have been as well.

**Chair Brower:**

Hearing no discussion, I will close the work session on S.B. 58.



SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 58.

SENATOR FORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

I will open the work session on S.B. 176.

**SENATE BILL 176**: Revises provisions governing certain dangerous or deadly weapons. (BDR 15-87)

**Mr. Guinan:**

The work session document ([Exhibit H](#)) summarizes S.B. 176 and the proposed amendments.

**Chair Brower:**

Senator James A. Settlemeyer has worked with all interested parties to garner support for S.B. 176. The pneumatic gun addition is an effort on Senator Settlemeyer's part to clarify the prohibition of air guns on certain properties. The approach is to use a defined term. The bill represents considerable compromise since its original introduction. I urge our support. I want to thank Senator Settlemeyer on the record for his diligent work on these changes.

**Senator Ford:**

I recall having a question about whether BB guns are contemplated within S.B. 176. Does the change exclude BB guns?

**Chair Brower:**

Page 3 of [Exhibit H](#) contains the definition of "pneumatic gun" that includes certain types of BB or pellet guns. This clarifies the definition of air guns, which are already prohibited on certain properties. It is not an expansion or contraction. It offers a better definition. Hearing no discussion, I will close the work session on S.B. 176.

SENATOR KIHUEN MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 176.

SENATOR HAMMOND SECONDED THE MOTION.

**Chair Brower:**

Let me say again for the record, Senator Settlemeyer did a great job in not only working out compromise language to his bill but also in explaining to the Committee exactly what changes are being made by the amendment. Thank you, Senator Settlemeyer.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

I will open the work session on S.B. 186.

**SENATE BILL 186**: Provides for the recovery of attorney's fees and litigation expenses by certain prevailing parties in criminal actions. (BDR 3-205)

**Mr. Guinan:**

The work session document ([Exhibit I](#)) summarizes S.B. 186.

**Chair Brower:**

This is a bill that Senator Ford and I presented and sponsored. It is an important bill that fills a void in our State criminal justice system. Hearing no discussion, I will close the work session on S.B. 186.

SENATOR KIHUEN MOVED TO DO PASS S.B. 186.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

I will open the work session on S.B. 191.

**SENATE BILL 191**: Revises provisions relating to the return of seized property.  
(BDR 14-204)

**Mr. Guinan:**

The work session document ([Exhibit J](#)) summarizes S.B. 191 and Proposed Amendment 9781.

**Chair Brower:**

This is another bill that fills a gap in our criminal justice system. The sole point of the amendment is to redraft the language of S.B. 191 to make it more readable and understandable. Hearing no discussion, I will close the work session on S.B. 191.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 191.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

I will open the work session on S.B. 230.

**SENATE BILL 230**: Revises provisions governing the payment of compensation to certain victims of crime. (BDR 16-1038)

**Mr. Guinan:**

The work session document ([Exhibit K](#)) summarizes S.B. 230.

**Chair Brower:**

Hearing no discussion, I will close the work session on S.B. 230.

SENATOR HARRIS MOVED TO DO PASS S.B. 230.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

I will open the work session on S.B. 240.

**SENATE BILL 240**: Makes certain changes relating to public safety. (BDR 14-955)

**Mr. Guinan:**

The work session document ([Exhibit L](#)) summarizes S.B. 240.

**Chair Brower:**

There was no opposition to S.B. 240, which is a commonsense approach to the public safety issues it addresses. Hearing no discussion, I will close the work session on S.B. 240.

SENATOR HARRIS MOVED TO DO PASS S.B. 240.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

I will open the work session on S.B. 294.

**SENATE BILL 294**: Expands authorization for certain offenders to have access to telecommunications devices under certain circumstances. (BDR 16-282)

**Mr. Guinan:**

The work session document ([Exhibit M](#)) summarizes S.B. 294 and the proposed amendment.

**Chair Brower:**

This is a commonsense approach to fixing an obvious problem. Hearing no discussion, I will close the work session on S.B. 294.

SENATOR KIHUEN MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 294.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

I will open the work session on S.B. 304.

**SENATE BILL 304**: Revises provisions relating to the use of safety belts in taxicabs. (BDR 43-774)

**Mr. Guinan:**

The work session document ([Exhibit N](#)) summarizes S.B. 304 and the proposed amendment.

**Chair Brower:**

The sponsor of the bill is offering the proposed amendment. Hearing no discussion, I will close the work session on S.B. 304.

SENATOR KIHUEN MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 304.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

I will open the work session on S.B. 449.

**SENATE BILL 449**: Revises provisions governing the Advisory Commission on the Administration of Justice. (BDR 14-1140)

**Mr. Guinan:**

The work session document ([Exhibit O](#)) summarizes S.B. 449.

**Chair Brower:**

Senate Bill 449 will add a judge from a court of limited jurisdiction to the Advisory Commission on the Administration of Justice and ensure that the Commission conducts an interim study on the issue of parole in Nevada. Hearing no discussion, I will close the work session on S.B. 449.

SENATOR HARRIS MOVED TO DO PASS S.B. 449.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

That will conclude the work session. We are adjourned at 2:07 p.m.

RESPECTFULLY SUBMITTED:

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Connie Westadt,  
Committee Secretary

APPROVED BY:

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Senator Greg Brower, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness or Agency</b>	<b>Description</b>
	A	2		Agenda
	B	3		Attendance Roster
S.B. 409	C	2	Anthony Cabot	Written Testimony
S.B. 409	D	1	Consumer Data Industry Association	Proposed Amendment
S.B. 38	E	2	William S. Boyd School of Law	Proposed Amendment
S.B. 38	F	1	Nevada Resort Association	Proposed Amendment
S.B. 58	G	11	Patrick Guinan	Work Session Document
S.B. 176	H	8	Patrick Guinan	Work Session Document
S.B. 186	I	1	Patrick Guinan	Work Session Document
S.B. 191	J	3	Patrick Guinan	Work Session Document
S.B. 230	K	1	Patrick Guinan	Work Session Document
S.B. 240	L	2	Patrick Guinan	Work Session Document
S.B. 294	M	2	Patrick Guinan	Work Session Document
S.B. 304	N	2	Patrick Guinan	Work Session Document
S.B. 449	O	1	Patrick Guinan	Work Session Document