MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Eightieth Session
April 25, 2019

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:06 a.m. on Thursday, April 25, 2019, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and to Berg Hall Conference Room, Great Basin College, 1500 College Parkway, Elko, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblywoman Lesley E. Cohen, Vice Chairwoman
Assemblywoman Shea Backus
Assemblyman Skip Daly
Assemblyman Chris Edwards
Assemblyman Ozzie Fumo
Assemblywoman Alexis Hansen
Assemblywoman Lisa Krasner
Assemblywoman Brittney Miller
Assemblywoman Rochelle T. Nguyen
Assemblywoman Sarah Peters
Assemblyman Tom Roberts
Assemblywoman Jill Tolles
Assemblywoman Selena Torres
Assemblyman Howard Watts

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman John Ellison, Assembly District No. 33
Senator Pete Goicoechea, Senate District No. 19

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Traci Dory, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Sandra Douglass Morgan, Chairwoman, Nevada Gaming Control Board
Terry Johnson, Board Member, Nevada Gaming Control Board
Cash A. Minor, Assistant County Manager and Chief Financial Officer, Elko County
Dagny Stapleton, Executive Director, Nevada Association of Counties
Mason E. Simons, Justice of the Peace, Elko Township Justice Court; and representing Nevada Judges of Limited Jurisdiction

Chairman Yeager:
[Roll was called, and Committee protocol was explained.] We have three bills on today's agenda and we will go in the order as they appear. I will open the hearing on Senate Bill 46 (1st Reprint), which revises provisions relating to the regulation of gaming.

Senate Bill 46 (1st Reprint): Revises provisions relating to the regulation of gaming. (BDR 41-342)

Sandra Douglass Morgan, Chairwoman, Nevada Gaming Control Board:
It is my pleasure to be here today to present Senate Bill 46 (1st Reprint).

Section 3 revises the definition of "gross revenue," which will now include all cash received as entry fees for contests and tournaments with the exception of all cash and the cost of any non-cash paid out to a participant which does not exceed the total compensation received for the right to participate in the contests or tournaments. Contest and entry fees are currently excluded from the definition of gross revenue, and we are seeking to include that in the new definition.

Under section 4, we are proposing that the current *Nevada Revised Statutes* 463.160 be amended to include requirements to have proper gaming registrations. Currently, it is unlawful to operate or provide games or any type of gambling activity without having all proper federal, state, and local licenses. That would also include gaming licenses. What we are proposing is that it also include the proper gaming registrations, if applicable, based on the type of service that is being provided.

We also want to require registration, rather than the currently required licensure, of service providers. This will streamline the process that the Nevada Gaming Control Board uses to register service providers. It is a shorter time frame and less costly for those who are seeking to provide this type of service. Interactive gaming service providers will still be required to

attain licensure, but most of the changes that you are seeing will allow certain service providers to just be required to be registered rather than to be licensed.

As you know, based on my presentations earlier in the session, the Board is charged with protecting the integrity and stability of the gaming industry through in-depth investigative procedures, thorough licensing practices, and the strict enforcement of laws and regulations holding gaming licensees to high standards. Part of the enforcement responsibilities of the Board also includes tackling unlicensed gaming operations. The illegal gambling market exists and still persists. A necessary tool to combat illegal bookmaking has been the ability to intercept communications. The federal government has that capability in Nevada. The language in section 8 would allow the Office of the Attorney General and the district attorneys to apply for a wiretap to investigate illegal gambling operations, which is currently not authorized under Nevada's wiretap statutes. Nevada needs to continue to lead the country in gaming regulation and enforcement, and giving the Office of the Attorney General and the district attorneys these tools is a priority to combat illegal gaming activity in our state.

We did submit an amendment (Exhibit C) yesterday. That amendment cleans up the definition of "interactive gaming service provider." What you have initially before you would basically be a conjunctive definition of "interactive gaming service provider," which would require all four in order to meet that definition. The original definition that we are proposing to go back to would say,

> "Interactive gaming service provider" means a person who acts on behalf of an establishment licensed to operate interactive gaming and
>
> 1. Manages, administers, or controls wagers that are initiated, received, or made on an interactive gaming system;
>
> 2. Manages, administers, or controls the games with which wagers that are initiated, received, or made on an interactive gaming system are associated;
>
> 3. Maintains or operates the software or hardware of an interactive gaming system; or
>
> 4. Provides products, services, information, or assets to an establishment licensed to operate interactive gaming and receives therefor a percentage of gaming revenue from the establishment's interactive gaming system.

These types of service providers will still be required to be licensed, and if they meet any of those four enumerated criteria, that would fall within the definition of an interactive gaming service provider. That is currently the definition today.

Assemblywoman Backus:
I am not familiar with the gaming industry, and I was trying to clarify in my head the definitions for "interactive gaming service provider" and "service provider" were changed, but now you are bringing back the original definitions set forth in the bill. Can you give us an example for a lay person as to what would be an interactive gaming service provider as compared to a service provider?

Sandra Douglass Morgan:
There are definitely different types of service providers. It is not necessarily a catchall, but there are information service providers. This one would specifically be for interactive gaming and—if you look at the enumerated definitions—why we are going back to it is because it always ties back to an interactive gaming system. The language in the bill that was proposed did not have that interactive gaming system link for all of the other enumerated definitions, and it required that all of those be included with sharing in the revenue of an interactive gaming system. This original definition would say that if you meet any of those four criteria, that still falls within that definition. So you could have a service provider who provides geolocation assistance. So if someone were making a bet on a mobile device that the service provider knows is in the state of Nevada to be able to legally offer that bet, that would not require licensure under this proposal; they would be able to apply for registration. That is an example of a service provider that would require registration versus licensure.

Assemblywoman Backus:
That makes sense why the interactive service provider is now being removed out of the service provider definition.

Sandra Douglass Morgan:
Yes, and it still would require licensure in and of itself.

Assemblyman Daly:
When I was reading the first section of the bill about contests and tournaments, I am sure those are defined somewhere and you guys know what they are; I just wanted to be clear on what it is that we are talking about. Is that slot tournaments?

Sandra Douglass Morgan:
Yes, it could be, or a poker tournament—any type of tournament that a licensee would hold.

Assemblyman Daly:
But you are not talking about boxing matches?

Sandra Douglass Morgan:
No.

Assemblyman Daly:
Thank you, I just wanted to be clear. Slot or poker tournaments are the types of tournaments that you are talking about?

Sandra Douglass Morgan:
Correct, anything related to gaming.

Chairman Yeager:
Do we have any other questions from Committee members? [There were none.] I will open it up for testimony in support of S.B. 46 (R1). [There was none.] I will open it up for testimony in opposition to S.B. 46 (R1). [There was none.] I will open it up for neutral testimony to S.B. 46 (R1). [There was none.] Concluding remarks were waived. I will close the hearing on S.B. 46 (R1). I will open the hearing on Senate Bill 72 (1st Reprint), which makes various changes related to gaming.

Senate Bill 72 (1st Reprint): Makes various changes related to gaming. (BDR 41-344)

Terry Johnson, Board Member, Nevada Gaming Control Board:
I am here to present Senate Bill 72 (1st Reprint). This bill touches on a number of different areas of the operations of the Nevada Gaming Control Board and its oversight of the gaming industry. While it touches on different areas, there are some common objectives and themes. First and foremost is our desire to continuously improve how we administer the agency and ensure that we are doing so in the most efficient manner; secondly, to look for ways that we can streamline the operations to make them not just more efficient for us internally, but streamline the reporting requirements and other aspects of our interactions with the gaming industry; thirdly, to look at our oversight of the workers—the employees—who comprise the workforce in the gaming industry. This bill will touch on a number of those different areas especially with regard to patron protection and business operations.

Section 3 deals with the gaming employees. We currently have about 94,000 persons registered throughout the state as gaming employees. That is a term defined in statute, as not every person who works in the gaming industry must be registered with the Board, but a number of them are. The proposed changes would provide that, once they are registered with the Board and they are arrested by an agent of the Board, the Board would have the ability to suspend their employment. Typically when this happens, it is because we have perceived a financial threat to the state or the patrons due to fraudulent crimes being conducted, and we want to immediately seek to avail ourselves of the avenues to remove those persons from the workplace. This bill proposes to temporarily suspend the registration of the gaming employee and would task the Nevada Gaming Commission with the responsibility of adopting regulations to ensure that there is a fair process that governs that suspension process including ensuring the due process rights of any person that might be suspended.

Section 5, subsection 2, adds a clarification that an approval granted by the Commission does not create any vested rights, but instead represents a privilege. As proposed, it would also apply to the Board. As you heard Chairwoman Douglass Morgan indicate, there are instances where the Board might provide for an administrative approval of various items, so this would clarify the role of the Board as well in granting approvals along with the Commission.

There is language proposed to be eliminated on page 5 in section 7, subsection 2. Some members of the Committee might recall back in 2015 when the Legislature revised and reformed the live entertainment tax provisions. The live entertainment tax is collected by either the Department of Taxation or the Board depending on where the entertainment occurs. There are some changes that resulted from that 2015 legislation that have made some of these reporting requirements no longer necessary, so we are proposing to remove them from the statute, and that is what you see reflected in section 7, subsection 2.

Section 8 recognizes that there are a number of non-licensees involved with servicing the gaming industry, so you will see language proposed to be stricken referring to items operated and maintained by a licensee. In both of those instances, we would propose that language be deleted in recognition of the fact that there are others in addition to licensees that provide various services and instruments.

Section 10 has language that speaks to the operations of the Board. This would provide for a narrow exception to the Open Meeting Law for those limited instances when the Board is either giving out interpretative advice and guidance or when it is deliberating on actions to take against a licensee. Obviously, when we are discussing with legal counsel or discussing with investigators, agents, or auditors about cases that we might pursue, we want to be able to conduct those proceedings in a manner that would not trigger a notice requirement and public comment or discussion. We had language added from the 2015 Session. It was innovative, in a sense, at that time, and so there was a four-year period that was tacked onto it to see how we could slow-walk into this area. I am pleased to report that we have done it over the last four years and I think it has significantly improved the operations of the agency. I think it has maintained greater fidelity to how the structure of the Board was intended to operate, and we have had no complaints with regard to the Open Meeting Law.

This would allow for the Board or a member thereof to give out interpretations of either federal or state laws that may come up. Also on various industry notices, sometimes they are time-sensitive and we want to communicate information to the gaming industry. This is an example where it would allow the Board to provide more expeditious communications to the gaming industry. It would also facilitate the industry and other interested or affected persons to petition the Board or a member for an advisory opinion. That advisory guidance can be helpful in preventing litigation and helping give direction on how they could structure certain events if it is a live entertainment tax issue or other enforcement-related items. I think most importantly, it eliminates any uncertainty over whether the Board is operating within or beyond the parameters of the Open Meeting Law. There has been this dance, so to speak, over the last 30 to 40 years, where all of these workarounds have been implemented to ensure compliance, and that has actually created more inefficiency and dysfunction as opposed to simply clarifying in statute what the Board can and cannot do.

Section 11, subsection 2 has additional information regarding some of the gaming employees that I mentioned earlier. What this would provide is that, if a person is a registered gaming employee as a security guard—which is one of the classifications we do investigate and register before they are permanently employed in a gaming establishment—if they are hired

as an unarmed security and transition to armed security, we want the opportunity to reevaluate their gaming employee registration because there is a higher level of scrutiny involved, obviously, when someone goes from unarmed security to armed security. We also want to ensure that they have the eligibility under the law to use, possess, or carry a firearm; that there are no protection orders out on them; no warrants outstanding; no issues of domestic violence; or no use of any illegal drugs. This would give us an opportunity to examine those individuals to ensure their suitability for employment in an armed security capacity.

Section 11, subsection 4 is an update to reflect technological advancements. Previously, all of the registrations that are contemplated by this section would be mailed or delivered. The proposed changes would eliminate requirements that registration information be "mailed or delivered" to the Board. These are now done electronically, and this proposed change reflects those changes in technology.

Section 11, subsection 5 is language proposing to revise the fingerprinting process. This is more of an inside accounting item, but our objective here is to ensure that when we are reconciling accounts at the end of every month for fingerprinting-related charges in particular, that the Board is only financially responsible for costs incurred by the Board. Sometimes things get blurred when those transactions go forward, and we want to ensure that we are financially responsible for that portion which we administer.

Section 11, subsection 8 has another streamlining item. With technological advancements as they are and the ability to electronically receive fingerprints, we are no longer at a point where we need to receive two copies of fingerprints. Next, section 11, subsection 12, paragraph (c) has a clarification to add "theft" to the bases for potential objection to a gaming employee registrant. Along with a person who may have committed, attempted, or conspired to commit a crime of moral turpitude, embezzlement, or larceny, we wanted to clarify that "theft" as well is a basis for objection to a gaming employee registration. This is also referenced in section 12, subsection 2, paragraph (d) for the purposes of parallelism.

Section 13, subsection 5 reflects changes in the live entertainment tax. This is an area where the associated equipment approvals are no longer necessary because of the changes in the live entertainment tax. This is also an area where we have sought to streamline the statutory construct where we make it consistent with the live entertainment tax as administered by the Department of Taxation as well as the Board. In neither of those instances would these records be necessary for associated equipment.

Section 14, subsection 1, paragraph (b) has proposed changes that deal with permitting associated equipment to be located at a hosting center. This, too, reflects changes and advancements in business practices. You have off-site data storage facilities that store equipment and data so this would allow for that associated equipment to be at an off-site location, but the Board and the Commission would still retain jurisdiction to inspect those premises and access them at any time for purposes of ensuring that gaming laws are followed.

Lastly, section 15 proposes to remove the four-year sunset provision that I spoke of earlier. This would propose to eliminate that and make permanent the changes that were made in 2015.

Assemblyman Daly:
My first question is on the Open Meeting Law referenced in section 10. I am looking at it and just wanted to clarify that it is as narrow as you are saying. You are exempt from *Nevada Revised Statutes* (NRS) 241.020 which is requiring you to have a public meeting, and then you have some existing language if you are doing a case or something like that. Section 10, subsection 3 says it will only exclude when you are doing an interpretation of the whole title, which everything under NRS Chapter 463 is in Title 41 of NRS. I wanted to be clear that we are only talking about interpretations, and that any other meetings that are required to be public and that are public now would still be open to the public after this change?

Terry Johnson:
Yes, that is correct. If, for example, a board member wanted to issue an industry notice on some malfunctioning equipment or a gaming employee or a patron, any topic that might ordinarily be subject to an industry notice, that might be an example of what is contemplated here. An interpretation of—something that is currently pending—the applicability of the 2018 farm bill [Agriculture Improvement Act of 2018] and its impact on cannabidiol and hemp and whether they can be sold or marketed on a gaming establishment; if we want to be able to expeditiously get responses out to those persons, we would have a board member look at it and issue an answer, as opposed to saying, Well, wait, because we are technically a public body, we need to notice this, put it on an agenda, or have it on next month's meeting in order to collectively give you an answer. The proposed change would allow a board member to provide that answer and gives the requestor the option to seek full review of that before the Board or Commission, they can do that. All other matters that require a disposition by the Board would still be subject to the Open Meeting Law. It would not have any effect on licensing decisions or tax matters or anything along those lines.

Assemblyman Daly:
Thank you. That is what I wanted to get on the record. It is just for those interpretations, so it is intended to be narrow because it does cover the entire Title 41 of NRS. The follow-up on that is then it is almost like someone going to you for an "advisory opinion," if that is what you call it. For the people on the Assembly Committee on Legislative Operations and Elections, because the Commission on Ethics has that where you can come in and get an advisory opinion, what do you guys do with that? Do you publish the advisory opinion? Is it just specific to the one? I know it then becomes binding on the person who asked, but is it binding on all of the rest of the people in a similar situation? How do you guys do that and how do you disseminate it?

Terry Johnson:
It is going to be directly responsive to the person who asked the question and it will state within the advisory opinion that it is only based on the facts presented; it is not to be

universally applied to any other circumstances. If the facts as presented are different, we reserve the right to modify the opinion. There are some areas where we are looking at perhaps cataloguing and posting those, for example, on some live entertainment tax questions, such as, What would trigger the imposition of the live entertainment tax? That is probably one where we would make those more available. We have already enacted regulations that allow for that after the 2015 Session's live entertainment tax reforms, so we implemented some regulations specific in that chapter on advisory opinions and that area; we might make those universally available with some redactions. Otherwise, it is from the Board back to the person who petitioned for the advisory opinion.

Assemblyman Daly:
Is that public or does it just go to that one guy? A person in a similar situation could look at that advisory opinion and say, It was not given to me but all the same facts line up, so I should follow it. Or would you guys look and say, We put this out, all the same facts line up, you should have followed it and should not claim ignorance on that. I am just curious how that would work.

Terry Johnson:
I think the preference is to deal with those on a more individualized basis because it can get extremely nuanced. You change one minor fact and that could alter the conclusion that was reached. We try as best as possible to narrowly direct them to the person who asked and the questions that they asked.

Assemblywoman Krasner:
In your initial presentation you mentioned something about the live entertainment tax. Could you please extrapolate on how this bill proposes to make changes to the live entertainment tax?

Terry Johnson:
It makes no changes substantive or otherwise to the imposition or collection of the live entertainment tax. There were some changes from the 2015 Session with regards to the live entertainment tax that affect how we oversee the collection of that. For example, we previously would have required the licensees to obtain approval for any equipment or devices that they might use in computing the live entertainment tax because prior to the 2015 changes, it was much more ambiguous as to when the live entertainment tax applied and when it did not apply. Today, the live entertainment tax is generally going to be triggered when somebody pays for an admission charge. That transaction, with few exceptions, is going to trigger the imposition of the live entertainment tax. At that point, there is usually a point-of-sale system that is being used like in a regular store or supermarket; those systems now track when the live entertainment tax is triggered, and we do not have a need today for all of the myriad of reporting systems that existed when the live entertainment tax was not as clearly defined as it is today. There are no changes to the live entertainment tax. These are merely some more technical aspects of how we oversee the collection of those taxes, the equipment that might be used, or approvals that might be sought for that equipment. Those

are just a couple of areas that are no longer necessary for us to administer because of changes to the live entertainment tax and its more streamlined form today.

Assemblywoman Torres:
In section 11 of the bill, I see that there are some changes with regard to security guards. Is that just data, or are we now requiring them to have a license and they were not required to have a license before?

Terry Johnson:
"Gaming employee" is defined in statute, and all of the persons listed within the definition of a gaming employee must register with the Board, and presently we have registrations for unarmed security guards and armed security guards. However, someone could go to work as an unarmed security guard and we register them, do the investigation process, and there is no issue. Then a year later a position opens up in armed security, and they just transition at the property into armed security status. There is a different level of scrutiny we are going to give an individual working unarmed security versus armed security. There are different checks that we want to make if they are looking to carry a weapon on premises as opposed to not carrying a weapon to ensure that they are eligible to do so and that it does not present any unreasonable risk to the public or fellow employees. We would register both armed and unarmed security guards, but we want to know by way of this proposal when someone goes from unarmed to armed, because if that is just done at the property level, we would have no awareness of that fact, and we might have a concern with an individual carrying a weapon.

Chairman Yeager:
As a follow-up to that, is the registration requirement just if the gaming establishment directly employs the security guard or does it apply regardless? For example, there might be a third party that is actually providing the security services. Is that person required to register as a gaming employee as well?

Terry Johnson:
If they are employed by the gaming establishment and meet the definition of a gaming employee, yes, they would be required to register.

Assemblywoman Peters:
I am looking at section 14, which adds the associated equipment to be located at a hosting center, and wondering if you could talk a little bit about the engagement process with hosting centers. My mind went to a hosting center such as Switch being associated with this. What does the process look like for engaging with them and making sure you can get to the facility and look at the hardware or do the inspection process?

Terry Johnson:
The general policy of gaming regulation is set forth in NRS 463.0129. That statute essentially clothes the Board with the ability to inspect and access any premises where gaming is conducted and gaming-related information is stored, and there are other statutes on that point as well. We would not lose the ability to ensure that that data is as safeguarded as

reasonably possible. There might be some registration requirements particular to the hosting centers. I would need to confirm that, but we would not lose the ability to access that information or vet that hosting center and ensure that—without naming any particular companies—it is suitable to do business with a gaming licensee, not just the location, but also the individuals that would work at it. At all times, as the gaming licensee, you would have an obligation to ensure that you are associating with persons that are of a reputable nature to be involved in the gaming industry.

Sandra Douglass Morgan, Chairwoman, Nevada Gaming Control Board:
We have two hosting centers that are registered with the Board, and when they apply for registration and we grant them that registration, they thereby give us authority and access to their facilities as well.

Chairman Yeager:
Do we have any other questions from Committee members? [There were none.] I will open it up for testimony in support of S.B. 72 (R1). [There was none.] I will open it up for testimony in opposition to S.B. 72 (R1). [There was none.] I will open it up for neutral testimony on S.B. 72 (R1). [There was none.] Concluding remarks were waived. I will close the hearing on S.B. 72 (R1).

I will now open the hearing on Senate Bill 480 (1st Reprint), which revises provisions relating to the number of justices of the peace in each township.

Senate Bill 480 (1st Reprint): Revises provisions relating to the number of justices of the peace in each township. (BDR 1-978)

Assemblyman John Ellison, Assembly District No. 33:
I was hoping that Senator Goicoechea would be here to present Senate Bill 480 (1st Reprint), but we do have presenters in Elko. They are Justice of the Peace Mason Simons and Assistant County Manager Cash Minor. There is a friendly amendment (Exhibit D) on this bill. What this bill does is change the rural county population from 34,000 to 50,000. The reason for this change is there were several questions that came up when Elko County needed to put on a second justice of the peace, and that created a problem with financing because it arose in the middle of the session and it was not budgeted for.

We found out that, based on caseload and ability to pay, Elko County is fine but some of the other counties coming onboard might have a problem. When this happens, the county commissioners should be at the table to determine the ability to pay for that county. I know that Justice James Hardesty wanted to move that population cap to 70,000, but we think that is too high. I think the 50,000 is a good number, and actually the 34,000 would have worked in some cases. But when some of the smaller counties like Churchill, Humboldt, and Lyon Counties eventually hit those numbers, they might not have the ability to pay as far as the counties are spread out.

There is also a letter from the Elko County Board of Commissioners (Exhibit E) that was submitted when S.B. 480 (R1) was presented to the Senate Committee on Judiciary.

Cash A. Minor, Assistant County Manager and Chief Financial Officer, Elko County:
Elko County is in support of S.B. 480 (R1). We have a very concerned Board of County Commissioners and they like to be involved in making these types of decisions. They feel it is their responsibility to work with departments of the county, review statistics and fiscal ability to pay, and try to maintain good financial control. Just as an example, there was a bill being presented to add a third district court in the Fourth Judicial District Court in Elko. We worked with the two sitting district court judges and Justice Hardesty, looked at the statistical information that involves the district court, looked at the fiscal impacts, and by the end of that working relationship, the bill had 100 percent support from the five-member Board of County Commissioners. That is all the board is looking for and that is why the board does support this bill.

Assemblyman Daly:
I have a comment, more than a question, about my concerns. If you have the answers on why it makes sense to go from 34,000 to 50,000, I am not necessarily opposed to that. The Washoe County breakdown is at 50,000. In section 1, subsection 3, where it says, with the opinion of a majority of the existing justices of the peace, if the caseload does not dictate it, then you would not necessarily have to get that other judge. My heartburn comes in when it says, "in consultation with the board of county commissioners . . . and the availability of funding." I understand what you said about the funding, but to me that just politicizes it. If you need more judges, you should get more judges. It is the same as a lot of other issues—you want to have a level of service for the people that you are trying to provide a service for in your county.

I use this example for levels of service: You have a traffic light and stop and the transportation commission tries to say, We only want to have people wait at this intersection for two minutes at peak traffic. They build the road so that there is a level of service so that they are meeting that need so you are not waiting five minutes to get through an intersection. It is the same thing with the justices of the peace. If there is a level of service that is not being met because you do not have the money, then it becomes a political fight. I am not the guy who is going to run for your county commission that is not going to raise your taxes. If you cannot get to a judge for 80 days, it is not my problem. I have concerns with that. I cannot support it with that dollar level of availability. You should say, This is my level of service that we want to have, this is where the population is, we should have another justice of the peace, and you should plan for that. If your population is growing—it is not like it happens overnight—you should be able to meet that. I am just opposed to having it come into the political arena.

I know that other bills have tried to do that and some of the rural counties say, We do not have the money. We want to do the fire district but do not want to raise taxes. Then do not provide the service or tell your constituents, You do not get the service because we do not

have the money. I am not in favor of politicizing that. That is my comment. If you have some information on why it was moved to 50,000, that would be great.

Assemblyman Ellison:
This cap was put in a long time ago by former Assemblyman John Carpenter, and it was done by then-Justice of the Peace Mary Leddy who asked for it to be put in. To us, the caps were put in as a "save them" in case they could not get another justice of the peace. What it worked out to be is, if you have a justice of the peace at 30,000 population and you can go in and justify that you need that, they are more than happy to do that. They are just saying that you should not just throw a number out there and say, When we hit that, that is going to trigger this. Every county is different. Las Vegas has eight to ten justices of the peace, which they justified and they need them. Some of these counties that are so spread out, they cannot.

Senator Pete Goicoechea, Senate District No. 19:
The intent of the bill was first and foremost to allow the coordination between the majority of the justices of the peace and the board of county commissioners to consult and determine if there were, in fact, the revenues and the caseload to increase and meet those thresholds. Again, the existing threshold is 34,000. Clearly, the two jurisdictions that have townships at 34,000 are Pahrump and Elko, and both of them have two justices of the peace. We anticipate a friendly amendment (Exhibit D) that will reflect in this bill that those two jurisdictions cannot be changed. This bill will not eliminate any judicial departments that were in existence on January 1, 2019.

We are looking at moving the population cap from 34,000 to 50,000. In 2011, Clark County changed from 125,000 back down to 100,000. We have seen other areas, Washoe County, where they moved from 50,000 to 75,000. This number continues to move and fluctuate as the workload, caseload, and the revenues are available. This bill as written allows and requires that the majority of the justices of the peace, in consultation with the county commissioners, will determine if there is adequate funding and adequate caseload when they hit this threshold to increase or not the number of justices of the peace. If, in fact, they do not agree, then it comes back to the Legislature. Even if they determine that they want to put in an additional justice of the peace, it does have to come back to the Legislative Counsel Bureau. Again, I think the protections are in place. The real piece I was looking for in this bill was to require that when you hit that population number, you want the ability for the justices of the peace and the board of county commissioners, who ultimately have to pay the bill, to get together and say, Okay, look, we clearly do not have enough caseload.

The big difference in Elko is that there is a justice of the peace in Carlin, 22 miles away; two justices of the peace in Elko; and a justice of the peace in Wells, 50 miles away. Clearly, those jurisdictions are very small so they do have the ability to slide into another justice court, especially for Nevada Highway Patrol citations. Wendover has a justice court and the one in Jackpot was just closed. At one point, there were six justices of the peace on Interstate 80 within 150 miles and the total county population is 53,000. Yes, we need the ability for these justices of the peace and the board of county commissioners to come

together, consult, and determine if they need an additional justice of the peace or not. That is all this bill does.

Chairman Yeager:
What happens if the justice of the peace determines there is a need because of the caseload, but the county commission says they do not have the money to be able to provide that justice of the peace? What happens then? Would it come to the Legislature to make that determination or do you think that scenario is really unlikely to happen?

Senator Goicoechea:
The bill requires, as the law presently does, that they shall notify the Director of the Legislative Counsel Bureau of their opinion on or before March 15 of the even-numbered years in which the population was set and for its consideration. The Legislative Counsel Bureau shall submit the opinion to the next regular session of the Legislature. That is existing law, but again, it ultimately comes back here and we get to weigh it again. Without this bill, that does not happen. Ultimately, you could have the justices of the peace say, We hit the threshold. There are 11 justices of the peace in Clark County. This bill requires that they work together and ultimately, if they do not reach consensus, then it comes before this body, which is how it should be.

Assemblywoman Cohen:
We are talking about Elko and Pahrump. What does Pahrump think of this? Do we know anything from Pahrump or Nye County?

Senator Goicoechea:
They felt that they were protected with the amendment (Exhibit D) language that clearly we are not going to make any change to them. I think Pahrump's caseload tends to fluctuate a little more than the one in Elko does. I think there are so many unknowns, legislative changes that we are going to make this year that could truly impact justice courts significantly. Pahrump was very comfortable because they felt they would be protected with the amendment.

Chairman Yeager:
Are there any other questions from Committee members? [There were none.] I will open it up for testimony in support of S.B. 480 (R1).

Dagny Stapleton, Executive Director, Nevada Association of Counties:
Our board voted unanimously to support the changes proposed in S.B. 480 (R1), including the counties under 100,000. Regarding the change in section 1, subsection 3, as it is counties who fund these offices, our members agreed that the county commission should be a part of that conversation and have that consultation. Nye County is in support as well.

Chairman Yeager:
Are there any questions from Committee members? [There were none.] Is there any other testimony in support of S.B. 480 (R1)? [There was none.] I will open it up for testimony in

opposition to S.B. 480 (R1). [There was none.] I will open it up for neutral testimony on S.B. 480 (R1).

Mason E. Simons, Justice of the Peace, Elko Township Justice Court; and representing Nevada Judges of Limited Jurisdiction:
I am appearing here on behalf of the Nevada Judges of Limited Jurisdiction, which is the justices of the peace and municipal court judges. We are testifying in the neutral position today.

There were a couple of things I wanted to clarify from things that were testified to previously that I am not sure are accurate representations. I spoke personally with Justice Hardesty yesterday on the phone about this bill as his name has come up in connection with this bill on a couple of different occasions. He has indicated to me he has not been consulted about the population number of this bill nor has he expressed any opinion about how that should be arrived at, nor is he authorized by Chief Justice Mark Gibbons of the Nevada Supreme Court to be involved in this bill. His representation to me yesterday on the phone is that he is not involved in this bill nor has he taken any position about this bill. I just wanted to clarify that for the record.

The second issue is that there was mention that there are two courts affected by this bill, but in fact there are three courts potentially affected by this bill. Those courts are the Elko Township Justice Court in Elko County, the Pahrump Township Justice Court in Nye County, and the East Fork Township Justice Court in Douglas County. Two of those courts—Elko and Pahrump—have already acted based on the population thresholds that are in statute. They already have two judges serving in those courts. East Fork Township has been over the population threshold for some time but has not added an additional justice of the peace. Obviously, if this number was changed, this would affect their ability to add an additional judge so it does affect those three courts.

The Nevada Judges of Limited Jurisdiction has several concerns. Obviously in the current version of *Nevada Revised Statutes* 4.020 there are various population thresholds based on the size of the county and the size of the township involved. Those thresholds are different for each of these various categories. As the county gets smaller and the township gets smaller, the population threshold that must be met to add an additional judge is smaller. I would suggest that the reason why that was done was that the resources that these various courts have, as you move from urban to the very rural areas, are very, very different. Obviously, comparing the Las Vegas Justice Court to the Elko Justice Court or the Austin Justice Court is comparing apples to oranges. The staffing levels are incredibly different between these various courts. The level of resources they have are different. Some of these courts have masters, and extensive lists of pro tem and law clerks, and departments of alternative sentencing, and pretrial release departments, and a variety of other services and staffing that allows them to handle much higher levels of caseloads. In some of these smaller rural courts, in some cases, you are dealing literally with a judge and one clerk who perform all of the various functions of the court. Comparing the resources that might exist in Las Vegas to what might exist in some of these rural courts is, in our view, not appropriate.

We are very concerned about the modification of this population number. I agree 100 percent with the prior comments of Assemblyman Daly, and I think he is right on the money here with his concern. We believe what this in essence does is politicize this process. It injects politics into what is already a very difficult process. Justice of the Peace Saragosa from the Las Vegas Township Justice Court was able to provide testimony on the Senate side but regrettably was unable to be here today due to her military duty. She provided an extensive history about all of the occasions in which various courts have been over the population threshold but have not actually gone forward to add an additional justice of the peace. The suggestion that as soon as the court has hit that number, they just immediately pull the trigger and require the county to add an additional judge without consultation is simply not accurate.

The same is true in Elko. We were over the population threshold beginning in 1997 and a new judge was not added until 2017. We were over the population threshold for 20 years. We deferred that decision for that entire period of time, constantly putting the county on notice that this was eventually going to happen, and what Assemblyman Daly alluded to is exactly what happened here. There was a lack of preparation for that eventuality, so when it did happen, the county cries foul that they do not have the money to pay for it yet there was no preparation for that eventuality. That is exactly the concern that we have. We deferred that decision in Elko for 20 years, saving millions of dollars for the county in the process. As to the suggestion that we did not consult or did not tell them this was coming, we sent numerous letters to the county informing them that this eventuality was coming—not only myself but other judges that served before me—but they fell on deaf ears.

Many courts have prepared and planned around this population number. As you know, there are a variety of bills being considered by the Legislature that are going to pose, if passed, significant additional burdens on our limited jurisdiction courts. Many of them that are before the jurisdiction of this body are: Assembly Bill 411, Assembly Bill 434, and Assembly Bill 325. I think the bill considering the possibility of domestic violence jury trials may still be alive. There are also changes coming down from the Nevada Supreme Court mandating the use of pretrial risk assessments by all justice courts statewide. The obligations falling at the feet of our limited jurisdiction courts are increasing and increasing dramatically.

If anything, we are of the belief that this number should be reduced in a downward direction rather than an upward direction. We have serious concerns about that. We do not have a problem with the requirement in the bill that requires consultation about caseloads, but we do have significant concerns about inserting this "ability to pay" language into the consideration.

There is a series of holdings from the Nevada Supreme Court, the most recent of which is *City of Sparks v. Sparks Municipal Court*, 302 P.3d 1118 (Nev. 2013), that stands for the proposition that the county as a funding authority has an obligation to fund the courts—which are a separate and coequal branch of government—adequately so that they can carry out their constitutional functions. Inserting this language, we believe, is of questionable constitutional validity because there is an obligation on the part of the county to adequately fund the courts. As Assemblyman Daly was alluding to, when you start inserting language

like this, we are almost going to guarantee that no additional justice of the peace will ever be added. Some financing concern will always cause that decision not to be moved forward.

There is a friendly amendment (Exhibit D) that we concur with, which inserts some grandfathering language into the bill protecting Elko and Pahrump, who have already acted in reliance on the prior statute. We do have some significant concerns. I think there are just some general drafting problems. If this Committee elects to go forward with that 50,000 population change, it makes it the same as the paragraph before. Perhaps those paragraphs should be merged.

Chairman Yeager:
Do we have any questions from Committee members? [There were none.] Do we have any other neutral testimony on S.B. 480 (R1)? [There was none.] I will invite the presenters back to the table for concluding remarks.

Senator Goicoechea:
I do concur with Judge Simons; one size does not fit all. That is exactly the emphasis of the bill. I do not care if you put it at 10,000, 20,000, or 50,000. The bottom line is, when you hit a threshold, whether you are a court in Austin, Elko, or Las Vegas, you have to come together and consult with the board of county commissioners and the majority of the justices and determine where you are. Now clearly, in Clark County you can have more than 11 justices but they have chosen not to. Even though the population cap would allow for more than 11, you do not have them. Again, that is how the process is supposed to work. We are just trying to bring this same system back into some of the smaller jurisdictions in Nevada. I do think the amendment (Exhibit D) is reasonable, but ultimately the decision belongs with this body. If, in fact, they cannot determine, between the two parties, between the justices and the board of county commissioners, if there is caseload, then at that point they would have to bring the caseload forward to the legislative body to determine it. I do think it does allow for that separation of powers between the Legislative, Executive, and Judicial Branches. That is how it has to work. With the grandfathering language for those two jurisdictions, I hope we can process the bill.

Assemblyman Ellison:
I disagree with some of the comments made by the Elko Township Justice Court and I will submit a letter to this. But he was right, some of these courts that might need to add a justice of the peace, it could be 20,000 population, it should be based on what their caseload is and how much they are tied down, and the clerk will help. But I think that the justice of the peace and the county commissioners should all be able to sit down and talk about this and figure out what they are going to do. I think throwing a number out there is not the answer. I think what has to be is everybody needs to come together and make this thing work.

Chairman Yeager:
Thank you, Senator Goicoechea and Assemblyman Ellison, for your presentation of S.B. 480 (R1) and thank you to those who joined us from Elko. At this time, I will close the hearing on S.B. 480 (R1). I will now open it for public comment in either Carson City,

Elko, or Las Vegas. [There was none.] Is there anything else from Committee members? [There was nothing.]

Our meeting tomorrow will start at 8 a.m. and we have three bills on the agenda. They should be exciting ones, including one that deals with blockchains. If you do not know what blockchain is yet, do your research or ask Assemblywoman Peters, as she is an expert.

This meeting is adjourned [at 9:16 a.m.].

RESPECTFULLY SUBMITTED:

_____
Traci Dory
Committee Secretary

APPROVED BY:

_____
Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a proposed amendment to Senate Bill 46 (1st Reprint), submitted and presented by Sandra Douglass Morgan, Chairwoman, Nevada Gaming Control Board.

Exhibit D is a proposed amendment to Senate Bill 480 (1st Reprint), dated April 25, 2019, submitted by the Nevada Judges of Limited Jurisdiction, and presented by Assemblyman John Ellison, Assembly District No. 33, and Senator Pete Goicoechea, Senate District No. 19.

Exhibit E is a letter to Chair Nicole Cannizzaro and members of the Senate Judiciary Committee, dated March 28, 2019, in support of Senate Bill 480 (1st Reprint), authored by Rex Steninger, Chair, Elko County Board of Commissioners.