

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session  
February 6, 2019**

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 8:05 a.m. on Wednesday, February 6, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Nicole J. Cannizzaro, Chair  
Senator Dallas Harris, Vice Chair  
Senator James Ohrenschall  
Senator Marilyn Dondero Loop  
Senator Melanie Scheible  
Senator Scott Hammond  
Senator Ira Hansen  
Senator Keith F. Pickard

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nicolas Anthony, Committee Counsel  
Eileen Church, Committee Secretary

**OTHERS PRESENT:**

Sandra Douglass Morgan, Nevada Gaming Control Board  
Terry Johnson, Nevada Gaming Control Board  
Paul Young, CG Technology

**CHAIR CANNIZZARO:**

I will open the hearing. The Committee has been given the Senate Committee on Judiciary Rules for the Eightieth Session ([Exhibit C](#)).

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PATRICK GUINAN (Policy Analyst):

The Senate Committee on Judiciary Rules are drawn from Rule No. 53 of the Senate Standing Rules.

CHAIR CANNIZZARO:

I would accept a motion to adopt the Committee Rules.

SENATOR OHRENSCHALL MOVED TO ADOPT THE COMMITTEE RULES.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION CARRIED.

\* \* \* \* \*

MR. GUINAN:

The Senate Committee on Judiciary Committee Brief ([Exhibit D](#)) covers the Committee's jurisdiction. The brief provides an overview of crimes in Nevada and the way they are broken down. It lists several publications the Committee members may review that are put out by the Research Division and other entities, which will help with background on the Judiciary Committee.

CHAIR CANNIZZARO:

We will now have a presentation from Sandra Douglass Morgan, Chair of the Nevada Gaming Control Board.

SANDRA DOUGLASS MORGAN (Nevada Gaming Control Board):

The Nevada Gaming Control Board presentation ([Exhibit E](#)) describes Nevada's gaming regulatory structure. Gaming, when properly regulated, can thrive and be an important revenue source for Nevada.

We understand the need for giving a balance between our rigorous standards, while giving the industry the ability to innovate and be flexible, so gaming can expand and continue to be an economic driver for Nevada.

The Board is charged with protecting the integrity and stability of the industry through in-depth investigative procedures, licensing practices and strict enforcement of laws and regulations holding gaming licensees to high

standards. We are not only responsible for protecting the interests of Nevadans but the millions of visitors that come to Nevada as well.

There are two bodies that regulate gaming: the Nevada Gaming Commission and the Nevada Gaming Control Board. The Board has approximately 400 full-time employees in 6 divisions who are Nevada's 24-7 day-to-day gaming regulators. The Commission is a five-member part-time commission.

The Board and Commission work closely together. When the Board believes discipline is appropriate against a licensee, it acts in a prosecutorial capacity, and the Commission acts as a judge or jury. The Board, in conjunction with the gaming industry and the public, can recommend regulation changes and prepare those regulations. However, it is the responsibility of the Commission to review, consider and approve those regulations.

The Board governs the control and licensing of gaming, and the Gaming Commission regulations as outlined in *Nevada Revised Statutes* (NRS) 463.

The Board, Commission and Gaming Policy Committee are appointed by the Governor. The Executive Secretary serves as the clerk and the parliamentarian for both the Board and the Commission, and assists both bodies in calendaring and conducting all meetings.

The Gaming Policy Committee, created by statute in NRS 463.021, is a 12-member committee which meets at the call of the Governor to discuss matters of gaming policy. It is comprised of one member of the Assembly, one member of the Senate, one of the Board, one of the Commission and one from a Nevada Indian tribe. Additionally, six other members of the Gaming Policy Committee are appointed by the Governor: two from the general public and a combination of gaming licensees both restricted and nonrestricted.

The recommendations of the Gaming Policy Committee are advisory only. However, it does provide a forum for the Governor, gaming regulators, the industry and the public to discuss gaming policy in Nevada.

CHAIR CANNIZZARO:

I will open the hearing on Senate Bill (S.B.) 46.

**SENATE BILL 46**: Revises provisions relating to the regulation of gaming.  
(BDR 41-342)

Ms. MORGAN:

This bill was prefiled in November, and we propose an amendment ([Exhibit F](#)).

The amendment we have submitted would remove section 1 and section 2. Our office is looking into section 1, as we do not believe it needs to be in statute at this time.

With regard to section 2, we have discussed this with the industry and are committed to handle it at the Board and Commission level.

In section 3, we want to include cash received as entry fees for contests and tournaments in the definition of gross revenue. The industry has been aware of this request, and they may be proposing an amendment. We are open to working with them on that.

We request the changes initially made in section 4 be reverted back to statute.

In sections 5 through 7, the current definition of service provider includes an interactive gaming service provider and a cashless wagering system. Those subsections of service providers require licensure by the Board and Commission. However, other service providers do not share revenue with the licensee. This section proposes service providers go through the registration process. The registration process is much less onerous and less costly than the licensing process. Registration would save time not only for the Board but for the applicants as well. The definition of a service provider does not ensure providers go through licensing. The Board would have the discretion to make other service providers go through licensing or the registration process, depending on their level of involvement with gaming licensees.

Section 8 would allow the Attorney General or county district attorney to ask for a wire intercept when the intercept would provide evidence of an offense involving a violation of NRS 463.160 or 465.086.

The first statute requires a license if you engage in any type of gaming activity. The second statute refers to unlawful receipt of compensation for accepting bets or wagers on any type of gaming activity without a license. That would

include the ability for the Attorney General or district attorney to ask for a wire intercept for any type of violation of gaming activities. The rationale is we want to remain the gold standard of gaming and the leader in interactional gaming regulations. Gaming in Nevada can thrive when properly regulated. We are asking for this provision to ensure people are not operating in the gaming world illegally and we have the ability to monitor them.

SENATOR PICKARD:

I do not know the rationale for including sections 1 and 2 in the original bill. I have attended various Committee meetings where we discussed the intent of the federal government to begin regulating sports betting and how that would upset much of what we do, undermining our regulatory scheme. The comments in Congress were about the unregulated touting services where we do not know who the people are. Enforcement is impeded when someone submits a complaint and there is no way to know who they are or their background. Without a registration, we cannot determine if the person is suitable. The three bills we hear today are a response to the federal government's concerns, so we can fend them off and inform them Nevada is regulating this space. We do not need federal intervention. I suspect the sections came from your enforcement people. If we delete these, how do we respond before the next Legislative Session so Congress does not step in and regulate?

MS. MORGAN:

Section 1 initially would have proposed the registration of tout services. These are people who make recommendations on betting lines. Our statutes and regulations would allow the Enforcement Division and our Board to control them. We do have cases against people who purport to provide this service and do it illegally. We can handle this with the statutory scheme we have.

I understand the concern of having the federal government overreach and potentially supersede any type of Nevada gaming regulations, but our statutory scheme and regulatory scheme is strong, and we can address that.

Section 2—that would have allowed the Legislature to direct the Commission to prepare regulations regarding accessibility to the general public—is based on our internal discussions and those with the industry. We are committed to do this using regulations. We do not need direction from the Legislature to do that.

SENATOR PICKARD:

Our regulatory structure is probably the platinum standard. My concern is the response. The amendment addresses much about the interactive gaming service providers, which is a lower risk than the touting services. I am not surprised that we have cases regarding touting services. The comments I have received regarding touting services have to do with the lack of knowledge of who they are and whether they require registration. If we find somebody who is not registered doing those things, that is an automatic violation. If we do not have registration, the only way to find them is through a complaint and investigation, which would be more taxing on the Board's resources on the enforcement side. I cannot overstate my concern about federal intrusion. If we do not buttress and bolster our regulatory scheme to negate their concerns, when they step in and supersede us, that is going to cause some significant harm. Is it your opinion the touting services are not a significant concern and we should not be registering them?

MS. MORGAN:

No. I said we have ways of enforcing people who purport to provide this service. If they are doing it illegally, we already have the ability to address that in an enforcement mechanism or through consumer protection. It really depends on what services they want as we can investigate more. If they route them to someone offshore, our enforcement arm can investigate. If they are making promises or swindling people, we can investigate through the consumer protection process. Based on our internal discussions, this is something we can handle internally by limiting our exposure to potentially registering these services and giving them a legitimate forum to say, "we are registered by the Nevada Gaming Control Board, come and use us." I do not think that necessarily would address the concern of other illegal tout operations operating elsewhere.

SENATOR HARRIS:

My question pertains to the amendment to remove section 2. Did I understand your response correctly that you are committed to doing this rulemaking whether it is in the bill or not?

MS. MORGAN:

Correct.

CHAIR CANNIZZARO:

We will work through these amendments. I know you made an offer for anyone who is interested in the proposed language provided in the amendment to reach out so we can work the bill through.

I will open the hearing on Senate Bill 72.

**SENATE BILL 72**: Makes various changes related to gaming. (BDR 41-344)

TERRY JOHNSON (Nevada Gaming Control Board):

Senate Bill 72 contains substantive changes and housekeeping items, including an item that some members of the Committee may recall from the Seventy-ninth Session dealing with jurisdiction of the Board.

We have submitted an amendment (Exhibit G) to the Committee covering sections of S.B. 72.

Section 2 of the bill proposed for amendment is an item we are going to evaluate internally and look to modify.

As you heard the Chair of the Gaming Control Board indicate, the Board registers persons who work in the gaming industry through our Enforcement Division. We have about 94,000 persons who are registered gaming employees.

Section 3 gives the Board an opportunity to temporarily suspend the registration of an employee who has been arrested. From time to time you have persons working more than one gaming position in the gaming industry. We had instances where we detected criminal activity and fraudulent activity on the premises of a gaming establishment, and we want to ensure that those persons are removed from other gaming establishments where they might be concurrently employed.

We have a process for summary revocation in NRS 463.337. This would be a more expeditious avenue while affording due process for the individual. We want to act with a degree of nimbleness where there are threats of a criminal nature or a financial fraudulent nature occurring in a gaming establishment or on the premises of a gaming location. That is what this refers to in section 3—giving the Board the ability to temporarily suspend the registration.

Section 4 is requested for removal through the amendment. The removal of section 4 has been the triggering factor for the two-thirds requirement. Without section 4 included in this proposal, the two-thirds majority requirement would no longer be operative.

Section 5 refers to approval processes. An approval from the Commission or the Board is revocable; no rights vest as a result. Statute only provides that language with regard to the Commission. The Board also makes various administrative approvals either through regulations or through existing statutes. We want the public to be on notice that the same provisions apply to the Board as to the Commission when an approval has been sought and obtained by an interested party.

In section 7, the Committee may recall an effort a few years ago undertaken by the Legislature to revise the Live Entertainment Tax. There have been a number of efforts over the years to do so, but it has been streamlined now. Some of the provisions reflect on the regulatory environment following that reform.

Previously, we would have needed to review, authorize, inspect or approve computerized systems for recording sales subject to the tax imposed by NRS 368A, which is the Live Entertainment Tax. With the transition over the last few years to an admissions-based Live Entertainment Tax, we no longer have a need to evaluate those systems. A couple of items throughout this bill are going to provide regulatory relief to some affected parties as well. This is an area we no longer need to inspect because of the transition to standard point-of-sale systems in the live entertainment context compared to the systems that existed before the Legislature overhauled the Live Entertainment Tax.

Section 8 removes the requirement that wagering instruments and wagering credits be operated and maintained by a gaming licensee. An increasing role of nonlicensees provide these services to the gaming industry. It is no longer necessary to limit these services to those physically located at the premises of the gaming establishment. Our jurisdiction to inspect and access those records and documents would not be altered by this. It would provide flexibility in recognition that others outside of the gaming industry may provide these services.

Section 9 originally was a proposal to eliminate the dual system of approvals for new games that may come onto a casino floor. Presently, those go through the



Board's investigative process and the Commission approval process on its agenda. The thought was to administratively streamline this process by allowing for approval at the Board level. In the last 24 hours, additional information was received. We need to discuss whether those administrative provisions should maintain their original language.

In section 10, the Chair of the Board talked about the nature of the Board and the Commission in relation to each other. The Board is a unique construct in that it is a public body, an enforcement body and an investigative body. We have a delicate approach to do our business, not run afoul of the Open Meeting Law and keep the business of the agency operating. What this does, similar to a provision we presented four years ago, is give the Board the ability to interpret the law, communicate that to an applicant or petitioner and provide for industry notices. In recent years, we have moved toward issuing advisory opinions so people do not have to operate in the dark about what is permissible. If you want to petition the Board for an advisory opinion on whether a certain act may be prohibited or permissible, we will issue that advisory opinion—it is usually issued by a single Board member. I have issued them on the Live Entertainment Tax, particularly before the reforms in 2015 concerning what is subject to the Live Entertainment Tax.

The last few years we had a plethora of advisory opinion requests on issues pertaining to gaming and marijuana while trying to maintain the integrity of the gaming regulatory system. When a Board member issues those advisory opinions, the recipient can always take that opinion and appeal it to the full Board or the Commission. This would enhance communications between the Board and the industry it regulates without running afoul of the Open Meeting Law. It would also give us the ability to react in a timely manner. For example, we may need to issue an industry notice on some fraudulent activity or on computer software or hardware defects that have come to our attention. We can communicate that information expeditiously, and we look to do so with assurances it would not be afoul of the Open Meeting Law.

Section 11 deals with gaming employees. Under NRS 463, a number of classifications of persons are required to be registered with the Board as gaming employees. One classification is security guards. It does not distinguish in the statute between unarmed or armed security. We propose if someone registers, gets a gaming card as an unarmed security guard and later transitions to an armed security guard, we would like the opportunity to review and evaluate the

individual and his or her qualifications. There is going to be a higher level of scrutiny when someone seeks to be an armed security guard versus an unarmed security guard. We also want to ensure there are no issues with Temporary Protection Orders or domestic violence issues that may preclude security guards from possessing or using firearms under State or federal law as well. In light of the Controlled Substances Act, we want to ensure that persons who use controlled substances are not violating State or federal laws by using or possessing firearms in the course of their duties.

In subsection 4, we are modernizing the statute to keep up with current practice of applying for a job. An applicant will fill out the paperwork and transmit it through the mail or through some other delivery service to the Board. Today that happens instantaneously. An applicant can go in, apply for a job at a gaming establishment, do their gaming employee registration and click send, and it is electronically sent to the Board. There no longer is a window of five days necessary to mail or hand-deliver those documents. It is an effort to update the statute to align with the practice.

Fingerprints are compiled electronically now, so we no longer need two sets of fingerprints. Subsection 5 has "a complete set" of fingerprints required.

In subsection 5, we want to clarify the cost to be imposed on a gaming licensee or an applicant be the actual cost incurred by the Board.

Subsection 8 is an additional reference to a single set of fingerprints as opposed to a complete set.

Section 12 seeks to add theft as a basis for revocation of a gaming work card. It includes committed, attempted or conspired to commit larceny, embezzlement or theft. It is also important to make sure that the statutory language is user-friendly to the intended recipients—these are gaming industry workers. We want to provide clarification that theft is a basis for revocation of the registration.

In section 11, a parallel provision refers to the Board's ability to object to a person who has "committed, attempted or conspired to commit any crime of moral turpitude, embezzlement or larceny." Through the amendment, we propose to add "theft" to that language as well. The first section I mentioned

speaks to a proceeding before the Commission, and the later provision speaks to an objection that would occur beforehand at the Board.

In section 13, language is proposed for elimination. There is no longer a need for us to address this information in light of the reforms made to the Live Entertainment Tax statutes a few years ago. It is an effort to ensure we comply with the directive to maintain consistency between how the Board and the Department of Taxation administer and enforce the Live Entertainment Tax. The Department of Taxation does not have a provision similar to the one we are proposing to eliminate here. The Live Entertainment Tax is collected on the premises of the gaming establishments by the Board. If it is a nongaming location, the Live Entertainment Tax is collected by the Department of Taxation. We would look to have consistency in those provisions as well.

Section 14 has language about associated equipment being located at a hosting center, and that provision still remains. An amendment has been provided that would simply relocate that. The concept remains the same in that we would clarify that hosting centers could host associated equipment. You have heard of some of the big-name offsite providers who provide this service to the business community; they also do it in the gaming space. The associated equipment would not be limited to the premises of the gaming establishment, and the Board's jurisdiction to inspect and access that equipment would be unaltered by this provision.

Section 15 refers to the expiration of this act. When we spoke to the Judiciary Committee 4 years ago to talk about challenges we had been facing concerning the Board, how it is constructed and its efforts to comply with the Open Meeting Law without compromising its investigative or prosecutorial work, that measure was passed by the Legislature upon the recommendation of both Judiciary Committees. It contained a 4-year sunset and goes through May 2019. We have tested it, worked on it and have not had any issues to my knowledge. There have been no complaints from the public and no Open Meeting Law alleged violations. I remember questions then about why after 50 or 60 years this is an issue today. Since that time, we have been able to move much more collaboratively among the three Board members through issues, and that collective discussion has benefited the gaming industry. Processes that used to take, four, six, eight months are now resolved in weeks and months, and we ask this Committee to consider maintaining that provision going forward.

SENATOR SCHEIBLE:

In section 3, what is the rationale for making the condition and arrest by an agent of the Board as opposed to a violation of a particular section, like a gaming section of NRS?

MR. JOHNSON:

There have been recent instances where persons committed acts that resulted in their arrest by Gaming Control Board agents at the site of the premises. It is probably something we should look at because we could have arrests made by a sheriff, police officer or federal agent. We should carefully examine whether it is appropriate to so narrowly limit arrests by an agent of the Gaming Control Board.

CHAIR CANNIZZARO:

I will close the hearing on S.B. 72 and S.B. 46. I will open the hearing on Senate Bill (S.B.) 73.

**SENATE BILL 73**: Revises provisions relating to mobile gaming. (BDR 41-343)

MS. MORGAN:

Senate Bill 73 will move the definition of mobile gaming into the current definition of a gaming device. Sections 1, 2 and 3 would include mobile gaming under the definition of a gaming device in NRS 463.0155. Mobile gaming pertains to the use of devices to conduct any gaming within the four walls of a licensee's establishment. It is not internet gaming. This is gaming within a casino property; it can potentially be in your hotel room or on the gaming floor. The law states it as a separate definition, and we are proposing to move mobile gaming under the definition of a gaming device. About four or five licensees have a mobile gaming license, but they are nonrestrictive licensees. One member of the industry could be affected by moving this definition to gaming device, and we are open to working with that member.

SENATOR OHRENSCHALL:

The new language proposed states that mobile gaming can be operated solely in an establishment with at least 100 slot machines. Where is that coming from? Is that the current status quo?

MS. MORGAN:

That is the existing language—the definition of mobile gaming. The change moves the definition to the section that defines gaming device.

SENATOR OHRENSCHALL:

Is there any current desire among licensees that have less than that threshold to participate in this, or will this not cut anyone out who might want to participate in mobile gaming?

MS. MORGAN:

No. We have not had any feedback from anyone who wanted to lower the number of games.

PAUL YOUNG (CG Technology):

We are working with the bill's sponsor on a potential amendment which we will get to the Committee.

Remainder of page intentionally left blank; signature page to follow.

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CHAIR CANNIZZARO:

The hearing on S.B. 73 is closed, and the meeting is adjourned at 9:14 a.m.

RESPECTFULLY SUBMITTED:

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Eileen Church,  
Committee Secretary

APPROVED BY:

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Senator Nicole J. Cannizzaro, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	5		Attendance Roster
	C	2	Patrick Guinan	Senate Committee on Judiciary Rules for the 2019 Session
	D	8	Patrick Guinan	Senate Committee on Judiciary Committee Brief February 2019
	E	43	Sandra Douglass Morgan / Nevada Gaming Control Board	Presentation
S.B. 46	F	4	Sandra Douglass Morgan / Nevada Gaming Control Board	Proposed Amendment
S.B. 72	G	2	Terry Johnson / Nevada Gaming Control Board	Proposed Amendment