

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-third Session  
April 15, 2005**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 8:48 a.m. on Friday, April 15, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Mark E. Amodei, Chair  
Senator Maurice E. Washington, Vice Chair  
Senator Mike McGinness  
Senator Dennis Nolan  
Senator Valerie Wiener  
Senator Terry Care  
Senator Steven Horsford

**STAFF MEMBERS PRESENT:**

Nicolas Anthony, Committee Policy Analyst  
Bradley A. Wilkinson, Committee Counsel  
Barbara Moss, Committee Secretary

**OTHERS PRESENT:**

Michelle Youngs, Deputy Sheriff, Washoe County; Nevada Sheriff's and Chiefs' Association  
Mike Ebright, Acting Deputy Chief, Division of Parole and Probation, Department of Public Safety  
Kristin L. Erickson, Chief Deputy District Attorney, Criminal Division, District Attorney, Washoe County

CHAIR AMODEI:

The hearing is opened on Senate Bill (S.B.) 201.

**SENATE BILL 201**: Revises provisions of Articles 1 and 7 of Uniform Commercial Code. (BDR 8-357)

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CHAIR AMODEI:

The Chair will accept a motion to reconsider the previous action of amend and do pass on S.B. 201.

SENATOR CARE MOVED TO RECONSIDER THE ACTION WHEREBY S.B. 201 WAS AMENDED AND DO PASSED.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

The Chair requests Bradley A. Wilkinson, Committee Counsel, to explain the reasons S.B. 201 was reconsidered.

BRADLEY A. WILKINSON (Committee Counsel):

There are several minor technical amendments to S.B. 201. In section 88, there is a comma missing; section 104.9207 needs to be added to the bill to include an internal reference to a new section; and sections 104.2208 and 104A.2208 need to be repealed because of changes in the bill.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 201.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

There is a request for a concurrent resolution from Washoe County Courts. ([Exhibit C](#)).

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SENATOR MCGINNESS MOVED TO REQUEST THE DRAFTING OF A CONCURRENT RESOLUTION FOR A STUDY OF WASHOE COUNTY COURTS.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

The hearing is opened on the work session. The first bill to be considered is S.B. 191.

[SENATE BILL 191](#): Makes various changes concerning actions against certain design professionals for constructional defects in nonresidential buildings or structures. (BDR 3-897)

CHAIR AMODEI:

There is an amendment to S.B. 191 at Tab A of the Work Session Document ([Exhibit D](#), original is on file at the Research Library.) There was concern and opposition testimony from the Associated General Contractors (AGC) Nevada Chapter regarding this measure going into Chapter 40 of the *Nevada Revised Statutes* (NRS), and the amendment puts it into NRS 11.

MR. WILKINSON:

The substantive provisions of S.B. 191 are not changed in any way. These provisions are patterned after existing provisions in NRS 40 which pertain to actions against design professionals. Chapter 11 of NRS was considered the appropriate place to put those provisions.

CHAIR AMODEI:

Is there anyone present who thinks the Chair misrepresented the state of consensus with respect to S.B. 191 in NRS 11, with the exception of the Nevada Chapter AGC? The record should reflect nobody responded.

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

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:  
The work session is opened on S.B. 199.

**SENATE BILL 199**: Adopts Uniform Partnership Act of 1997 and Uniform  
Limited Partnership Act of 2001. (BDR 7-358)

SENATOR CARE:  
Senate Bill 199 originally contained two uniform acts, the revised 1997 Uniform Partnership Act and the revised 2001 Uniform Limited Partnership Act. In my discussions with Robert Kim, from the State Bar of Nevada Business Law Section, who replaced John Fowler, the concern was the Business Law Section needed time to review the Uniform Limited Partnership Act, but accepts the Uniform Partnership Act. If enacted or adopted, it was requested S.B. 199 include a provision not to apply to existing partnerships, and give new partnerships the option of governance. The Secretary of State's Office indicated it needed until July 1, 2006, to prepare their database for filings.

MR. WILKINSON:  
Senator Care is referring to sections 66 to 73 of S.B. 199, which relate to conversion and merger. There are already existing provisions in NRS 92A pertaining to that subject. The Business Law Section had a concern about those sections as well.

CHAIR AMODEI:  
Senator Care and Mr. Wilkinson are referring to the proposed conceptual amendment at Tab B in Exhibit D. The third bullet in the conceptual amendment is to delete sections 66 to 73 of S.B. 199.

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SENATOR CARE MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 199.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:  
The work session is opened on S.B. 266.

SENATE BILL 266: Revises provisions governing statutes of repose and statutes of limitation in actions relating to deficiencies in construction of improvements to real property. (BDR 2-732)

CHAIR AMODEI:  
Senator Schneider requested S.B. 266 not be processed; however, Senator Care has comments on it.

SENATOR CARE:  
I discussed Senate Bill 266 with Senator Schneider, as well as Assemblyman Ocegüera, who sponsored A.B. No. 40 of the 72nd Session, now codified as NRS 11.500. Senate Bill 266 allows a plaintiff whose case has been dismissed in federal court for lack of jurisdiction to recommence the action in State district court as long as it is done within 90 days after dismissal from the federal court. The refiling must still begin within five years.

The problem is in subsection 5 of NRS 11.500 which said if there has been any discovery conducted in the federal action and inclusions of fact, those would be binding in the action if it were recommenced in State court. The argument is it is not constitutional because they are basically adopting findings of fact and conclusions of law from a court that did not have jurisdiction in the first instance. Therefore, I was asked to find an appropriate vehicle to repeal subsection 5 of NRS 11.500 for the reasons just given. I discussed it again with Assemblyman Ocegüera and he was agreeable.

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CHAIR AMODEI:

Is Senator Care's proposed action germane to the NRS Title under which S.B. 266 is drafted?

NICOLAS ANTHONY (Committee Policy Analyst):  
Yes, it is.

CHAIR AMODEI:

Therefore, it would be an appropriate vehicle. Senator Care, do you want to amend S.B. 266 as a whole by deleting section 26 and substituting repeal language for the provision just described?

SENATOR CARE:

That is correct. We are awaiting the amendment which repeals subsection 5 of NRS 11.500.

CHAIR AMODEI:

This is unusual; however, because there are not many vehicles in this area, I would not be averse to taking action on S.B. 266 today, based on the deadline. If Committee members consent to move the bill with this action, it would be without the requirement it necessarily be supported on the Senate Floor. If any Committee member requests a hearing on this matter before it goes to general file and third reading, I would be happy to accommodate it. In that event, the amendment would be perused to keep the Committee from being accused of attempting to do a last minute action without a hearing, either in the Committee or on the Senate Floor. Therefore, are there any thoughts or comments before I ask the pleasure of the Committee on Senator Care's proposal? Seeing none, what is the pleasure of the Committee on S.B. 266?

SENATOR CARE MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 266.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

The hearing is opened on S.B. 308.

**SENATE BILL 308**: Revises provisions governing release and use of certain information contained in records of criminal history and in files of Department of Motor Vehicles. (BDR 14-285)

SENATOR NOLAN:

Tab C of Exhibit D contains amendments which return S.B. 308 to the original intent. It was an oversight because the prepared amendment was an overlay of last Session's bill. The Central Repository for Nevada Records of Criminal History (Repository) was not intended to be in the bill. The amendment has the approval, together with supporting letters, of all parties that initially opposed S.B. 308. The amendment, prepared by Frank Adams, Executive Director of the Nevada Sheriff's and Chiefs' Association, removes the Repository which was the major issue of the State and a valid complaint.

The amendment puts local law enforcement as the entity receiving a call from a resort hotel, further defines resort hotel, eliminates transient lodging and limits the amount of information that can be disseminated. There is also a letter from Major Robert Wideman, Central Repository for Nevada Records of Criminal History, Nevada Highway Patrol, Department of Public Safety, who looked over the amendments prepared by the Nevada Sheriff's and Chiefs' Association. The Department of Motor Vehicles also agreed to the amendment.

SENATOR WIENER:

With the exception of the fee, can S.B. 308 be done at this point?

SENATOR NOLAN:

The amendment clarifies the law; however, it cannot legally be done at this point because it is in a gray zone. The amendment clarifies and limits what information can be received which, perhaps now, is received illicitly. It also provides a channel of communication, not just between the hotel chief, but also a shift supervisor. Therefore, a practical scenario of the application might be an unattended van parked in the middle of a hotel garage with a bag of fertilizer visible in the back window. Rather than calling law enforcement which might take one-half hour or more, the hotel can obtain information about the van or operator immediately.

SENATOR HORSFORD:

Section 2 of S.B. 308, regarding the new definition of an authorized business with security staff 24 hours a day, seems broad. What other types of businesses would be eligible to receive this information?

SENATOR NOLAN:

On the homeland-security level, law enforcement is starting programs to educate all types of business on awareness, alertness and protection against attack. The information can only be provided to individuals who have attended a national training program, which is funded through grants and other sources to all law enforcement agencies. The program trains individuals how to receive the information, as well as their legal rights. Security officers at a mall or public building will be allowed to receive information after they have undergone training on receiving, reporting, confidentiality and legalities, as well as the penalties for disseminating information illicitly.

SENATOR HORSFORD:

Could agencies that contract for 24-hour security access the information if they took the training?

SENATOR NOLAN:

The primary requestor must be the business entity itself. The business owner must apply, and individuals who access the information must be at the supervisory level and undergo training. The law enforcement agency disseminating the information must approve the business and supervisory individuals in order to disperse the information to them.

SENATOR WASHINGTON:

Is the training certified by the Peace Officers' Standards and Training Commission (P.O.S.T.)?

MICHELLE YOUNGS (Deputy Sheriff, Washoe County; Nevada Sheriff's and Chiefs' Association):

Yes, the training is P.O.S.T. certified; however, the individuals being trained are civilians. The training would make them aware of the system, how it works and what information they may and may not access.



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SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 308.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS WIENER, HORSFORD AND MCGINNESS VOTED NO.)

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CHAIR AMODEI:  
The hearing is opened on S.B. 326.

SENATE BILL 326: Makes various changes to provisions governing eminent domain. (BDR 3-78)

SENATOR CARE:  
Under Tab D in Exhibit D, the amendment to section 1, subsection 1 of S.B. 326 clarifies subsections 2 and 3 of NRS 37.010 pertaining to State, county, city, town and school district activities and do not include eminent domain for open space use and preserving wildlife habitat.

The amendment for section 2 of S.B. 326 contains testimony about a parcel that was not blighted, but the economic redevelopment agency needed to take the property. What would happen if there was no blight? The bill, as originally drafted, said property could not be taken on a theory of blight unless there was a specific finding the parcel was blighted.

I researched the law in other states, particularly North Carolina, which indicated if property is taken for redevelopment and some parcels are not blighted, two-thirds of the properties must be blighted, which would require a specific finding of fact as to the two-thirds. However, if a person had the two-thirds, the state could take all of it. The amendment also says if it is condemnation of commercial property, part of any compensation will include loss of goodwill.

Last year, a Nevada Supreme Court case found loss of goodwill was a valid component to the computation. The case involved a gas station taken by the Nevada Department of Transportation because the land was needed to expand the highway.

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CHAIR AMODEI:

Are the provisions relating to open space and conservation unchanged?

SENATOR CARE:

I consulted with staff to create language which would make clear eminent domain for creating a park project is acceptable. We concluded it was not necessary because it still can be done. There is a distinction between park activities and open space; therefore, an amendment along that line was unnecessary.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 326.

SENATOR MCGINNESS SECONDED THE MOTION.

SENATOR WIENER:

I will support S.B. 326 with the understanding I may change my vote due to concerns regarding policy direction. I will continue to work with the sponsor to address my concerns.

CHAIR AMODEI:

The Committee received a bill sponsored by Assemblyman William C. Horne, Assembly District No. 34, dealing with condemnation. At the hearing, the Committee may request staff do a briefing to provide a more global idea of how issues regarding open space are dealt with in other state statutes.

SENATOR MCGINNESS:

I seconded the motion because, over the past few years, there has been an epiphany on eminent domain due to blatant cases of wrongful use of it by the government. Pamela B. Wilcox, Administrator and State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources, indicated the Division of State Lands used eminent domain once in 22 years. Should that not be the case, I probably would not support S.B. 326. There have been cases that threatened property rights, and S.B. 326 sends a message.

SENATOR WASHINGTON:

Does section 3, subsection 2 of S.B. 326 do away with retroactivity?

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SENATOR CARE:

Retroactivity has not changed. The language in section 3 of S.B. 326 says "filed before, on or after July 1, 2005," which would be the effective date, including any pending action.

SENATOR WASHINGTON:

How does it affect lawsuits before Washoe County?

SENATOR CARE:

Testimony indicated the courts would make the determination. Because of the language in section 3 of S.B. 326, the courts would have to address that issue.

THE MOTION CARRIED. (SENATOR HORSFORD VOTED NO.)

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CHAIR AMODEI:

The hearing is opened on S.B. 341.

**SENATE BILL 341**: Makes various changes concerning sex offenders and offenders convicted of crimes against children. (BDR 14-678)

MR. WILKINSON:

Senate Bill 341 is a large bill pertaining to sex offenders and offenders convicted of crimes against children. The first amendment is a consensus amendment from the Administrative Office of the Courts (AOC), the Attorney General (AG), the Department of Motor Vehicles (DMV), the Department of Public Safety (DPS) and the Nevada Sheriff's and Chiefs' Association. Tab F of Exhibit D contains amendments from the State Gaming Control Board (GCB) which do not conflict. The suggested amendments at Tab G do not conflict, but request additional provisions for a number of offenses regarding the definition of sexual offense for the purposes of many different statutes. The amendment suggested by Pat Hines would conflict in most cases with the amendments at Tab E.

The first amendment, at Tab E of Exhibit D, eliminates the idea of having an offender register at multiple addresses. It would provide the Web site not be moved to the AG's Office and remain with the DPS. The information provided on the Web site, rather than providing information on all sex offenders and

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offenders convicted of crimes against children, would be limited to Tier 2 and Tier 3 offenders. Additionally, instead of having the Repository submit reports to the GCB or DMV, they would share information in whatever fashion was deemed advisable.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 341.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

The hearing is opened on S.B. 347.

[SENATE BILL 347](#): Makes various changes concerning personal identifying information. (BDR 15-15)

MR. WILKINSON:

Tab K of [Exhibit D](#) contains amendments that more or less represent consensus, with the exception of Tab L from the Washoe County School District which would remove school districts from the provisions pertaining to breach of security of the system data. They also propose a further amendment that would provide notification to the parents of a person under 18 years of age. Presumably, if they were exempted in the first provision, there would be no need for the second amendment.

CHAIR AMODEI:

Senator Wiener, what are your thoughts on the Tab L amendment of the Washoe County School District?

SENATOR WIENER:

My amendment at Tab I of [Exhibit D](#) relates to the fingerprinting component. I did not want a fiscal note to drag the bill down for referral nor burden it with a substantial fiscal note; that could lose a good piece of legislation.

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MR. WILKINSON:

The amendment, submitted by Cheryl Blomstrom, James Jackson and William R. Uffelman, contained a suggestion to amend the bill to include language that would make it illegal to use software or other technology to misrepresent, falsify or mask the telephone number from which a person is calling, or the telephone number a person is calling for fraudulent purposes. It was not mentioned during the hearing; therefore, I did not know whether it was an amendment being proposed or if it was withdrawn.

SENATOR WIENER:

Because that information was not discussed in Committee, I would move to amend and do pass S.B. 347 with Tabs I, J, K—minus the telephones—and a bullet point between Tabs K and L of [Exhibit D](#).

CHAIR AMODEI:

That is from Buffy J. Dreiling of the Nevada Association of Realtors.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 347.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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The hearing is opened on S.B. 353.

[SENATE BILL 353](#): Makes various changes to provisions governing guardianships. (BDR 13-462)

CHAIR AMODEI:

What is the pleasure of the Committee on S.B. 353? Receiving no response, the hearing is closed on S.B. 353 and opened on S.B. 360.

[SENATE BILL 360](#): Revises provisions relating to convicted persons. (BDR 14-911)

SENATOR HORSFORD:

Tab N of [Exhibit D](#) contains a mock-up of the proposed amendments for S.B. 360. Based upon testimony and feedback from the Committee, the following changes were attempted. First, there was a recommendation from the Washoe County District Attorney's office to ensure the provisions relating to the inability to pay restitution were specifically defined as solely for that purpose, and the change was made throughout the bill.

Second, in reference to eliminating the requirement for an ex-felon to show documentation to vote, I researched in an attempt to provide language dealing with the Repository and/or information provided by law enforcement. I learned that neither system delineates honorable or dishonorable discharges in that information; therefore, the request is not able to be met at this time. A person who tries to register to vote must indicate he or she is eligible; to do otherwise is illegal, and action could be taken against him or her. The issue is addressed in existing law.

Third, there were changes to wait periods for filing of the sealing-of-records requests. Under section 3, subsection 1, paragraph (c) of S.B. 360, a Category E felony would be reduced from 10 years to 7 years, and a Category C or Category D felony is proposed to be maintained at 12 years. That recommendation did not make it into the final draft. The other technical amendments bring S.B. 360 into compliance with the dishonorable-discharge provisions which were passed by the Legislature last Session.

CHAIR AMODEI:

It is my understanding the amendment would allow the issue regarding the right to vote and documentation to be revisited. We will rely upon the existing voter registration form that indicates, under penalty of perjury, a person is eligible. Therefore, if an individual misrepresents on the registration form in regard to the right to vote, perjury or other things applicable to a person who lies on his or her voter registration would apply to these individuals. This is how we will get around the present—do not present documentation. Is that correct?

SENATOR HORSFORD:

Yes, it is. In addition, there is a process in place for an individual who is not eligible to vote due to a dishonorable discharge, and he or she can be purged from the voter file. There are two other measures proceeding through the Legislature that clarify it.

CHAIR AMODEI:

There was also discussion regarding an individual who received an honorable discharge from parole without making restitution; if he or she demonstrated appropriate financial circumstances, restoration of his or her right to vote would not be held up. However, if the discharge was dishonorable, the individual would have to sign a civil confession of judgment for whatever restitution made.

SENATOR HORSFORD:

We tried to put in language dealing with confession of judgment for not paying restitution, but existing law already provides civil liability for those individuals.

CHAIR AMODEI:

Have we covered the circumstance where in order for individuals to vote, they have either been under the applicable hardship items dealt with by the Division of Parole and Probation or have acknowledged the debt in any civil manner before they are eligible to be restored?

MR. WILKINSON:

Individuals are not necessarily required to acknowledge the debt; however, by law, they had the debt at the time they were discharged, and whatever was not paid is owed.

CHAIR AMODEI:

The objective was to ensure a document could be filed to save the victim from going through the vagaries of a civil action to collect on a debt when the individual is discharged from probation. If an individual signed a confession of judgment, the victim could file it without having to go through the processes. Is there language to that effect in the amendment?

MR. WILKINSON:

No, but I could add it to the amendment. I know neither how it is implemented in practice, nor what would happen if an individual failed to sign the confession of judgment at that time.

MIKE EBRIGHT (Acting Deputy Chief, Division of Parole and Probation, Department of Public Safety):

A parolee or probationer with an unpaid balance on his or her restitution who made a good-faith effort to pay would be granted an honorable discharge under current procedures. Likewise, the right to vote would be extended to the person

and the unpaid restitution would automatically constitute a civil liability against him or her, by existing statutes. The victim could file paperwork at the court and not be required to go through a hearing process because the law is already in place.

KRISTIN L. ERICKSON (Chief Deputy District Attorney, Criminal Division, District Attorney, Washoe County):

I am unsure what paperwork or documentation exists upon discharge from parole or probation.

CHAIR AMODEI:

We discussed adjusting the time frame for probation offenses from ten years to seven years for Category E felons to regain civil rights. The amendment adjusted it from ten years to seven years and leaves all other felony and misdemeanor categories the same. Does it change any Category A through Category D felonies?

SENATOR HORSFORD:

Page 4, section 3 of the amendment, leaves Category A through Category D felonies at the existing statutory number of years: 15 years for Category A and Category B felonies, 12 years for Category C and Category D felonies. It reduces Category E felonies from ten to seven years, and misdemeanors are reduced from three years to one year. The intent is to maintain Category C and Category D felonies at 12 years.

CHAIR AMODEI:

Therefore, the 10 years on page 4, line 13, section 3, subsection 1, paragraph (b) of the amendment to S.B. 360 should return to 12 years.

SENATOR HORSFORD:

That is correct.

CHAIR AMODEI:

Page 4, line 22, section 3, subsection 1, paragraph (f), under misdemeanors, should change from 3 years to 1 year. What is the intent with respect to purposes of this amendment?



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SENATOR HORSFORD:

It was proposed in the initial bill which determined individuals would be helped to have their rights restored more quickly.

CHAIR AMODEI:

For purposes of this amendment, the substantive changes will be on page 4, line 15, which change Category E felonies from 10 years to 7 years; and on line 22, other misdemeanors change from 3 years to 1 year.

SENATOR HORSFORD:

That is correct.

SENATOR MCGINNESS:

Page 11, section 12, subsection 2, paragraph (a), says a person described in subsection 1 is immediately restored to the following civil rights: (1) the right to vote, and (2) the right to serve as a juror in a civil action. Paragraph (b) says, four years after the date on which he was released from his sentence of imprisonment, is restored to the right to hold office; paragraph (c) says, six years after the date on which he was released from his sentence of imprisonment, is restored to the right to serve as a juror in a criminal action. Therefore, an individual only has to wait four years to hold public office, but six years to get on a jury.

SENATOR HORSFORD:

Those are the provisions for dishonorable discharge passed in the 2003 Legislation Session that mirror existing law.

SENATOR WIENER:

Was there testimony regarding an honorable discharge, including a condition on restitution?

CHAIR AMODEI:

My understanding is a person can be discharged honorably if he or she has not made restitution and certain findings of hardship were made.

MR. EBRIGHT:

You are correct, the hardship justifies an honorable discharge. The dishonorable discharge is given only when an individual has the money and refuses to make an effort to pay restitution. There is also a process in place to have the

offenders, before discharge, sign a civil judgment of confession to unpaid restitution amounts which victims can take to court to start the civil process.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED S.B. 360.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARE, MCGINNESS AND NOLAN VOTED NO.)

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CHAIR AMODEI:

The hearing is opened on S.B. 446.

**SENATE BILL 446**: Allows certain persons to access files and records relating to their adoption or birth and eliminates State Register for Adoptions. (BDR 11-709)

MR. ANTHONY:

At the Chair's direction, the parties met prior to the Session and representatives of the Nevada Open Campaign proposed an amendment. It is not a consensus amendment; it is an amendment for a contract preference form and medical history form currently used in other states, including Oregon and Alabama. Additionally, in the past, Nevada Open opposed keeping the State Register for Adoptions. As a way of moving toward some agreement, Nevada Open proposed to keep the State Register for Adoptions in the bill. The amendment at Tab P of Exhibit D would be the contact preference form and amend the bill to retain the State Register for Adoptions currently in effect.

The hearing is closed on S.B. 446 and opened on S.B. 451.

**SENATE BILL 451**: Revises provisions governing indemnification of certain persons in civil actions by State and other governmental entities. (BDR 3-107)

CHAIR AMODEI:

The sponsor of S.B. 451 requested the bill not be called up in work session unless there is an objection from a person in the audience or a member of the Committee. Are there any objections? The record reflects there were no objections.

The hearing is closed on S.B. 451 and opened on S.B. 313.

**SENATE BILL 313**: Provides immunity from liability to certain persons and governmental entities for certain claims based on consumption of food.  
(BDR 3-748)

SENATOR NOLAN MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 313.

SENATOR MCGINNESS SECONDED THE MOTION.

CHAIR AMODEI:

There have been discussions regarding the ability to file a motion to dismiss.

SENATOR NOLAN:

I spoke with the Nevada Trial Lawyers Association, which opposes the bill in general, regarding a disagreement with a particular section on the motion to dismiss and whether or not it has to be stayed by a court. Legal counsel representing numerous parties who are proponents of S.B. 313 disagree with the opinion of Bill Bradley and the Nevada Trial Lawyers Association on one provision which is a staying point of the bill.

I spoke with Mr. Bradley, as well as legal counsel, and the two opinions indicated the motion to dismiss in S.B. 313 would have to be stayed by a court immediately and there would be no opportunity for discovery. On the other hand, legal counsel representing the proponents of the bill indicate it is a non issue because the language in the amendment actually broadens out to allow for discovery if it is necessary to preserve evidence which could be linked to any motion. It thus provides ample opportunity if there is a legitimate request for the court to look at it. Obviously, there is a difference in legal opinions.

CHAIR AMODEI:

I supported S.B. 313 last Session and will support it in this vote, as well. I hesitate due to testimony regarding informational and proactive actions taken by individuals in the fast food industry, such as modifying menus and posting nutritional information. Those aspects have been helpful and will continue to be so. Therefore, before we take the vote, I would like to indicate that I plan to offer an amendment on the Senate Floor which would require, in a fast food context, the posting of nutritional information. This does not mean Charlie Abowd at Adele's Restaurant and Lounge in Carson City or Morton's of Chicago in Las Vegas would be required to post nutritional information; however, I think it is important to require that proactivity to continue.

THE MOTION CARRIED. (SENATORS CARE, HORSFORD AND WIENER VOTED NO.)

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CHAIR AMODEI:

The hearing is reopened on S.B. 353.

SENATE BILL 353: Makes various changes to provisions governing guardianships. (BDR 13-462)

SENATOR CARE:

Tab M of Exhibit D contains an amendment to S.B. 353. The testimony indicated a need to make changes to provisions governing guardianships. The courts frequently have difficulty finding a guardian. This amendment only pertains to a guardian with three or more charges or wards; it would not involve a family in which a son or daughter is caring for a parent. In that event, I would move to amend and do pass with Tab M, which contains the concerns of Jennifer Henry, the Guardianship Commissioner in Clark County. It would also include the oral amendment offered by Daryl Goldsmith pertaining to hospitals.

CHAIR AMODEI:

Is the amendment about certified public accountants (CPA) in Tab M of Exhibit D?

MR. ANTHONY:

The amendment relating to CPAs is not included in Tab M.

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CHAIR AMODEI:

The Chair would entertain a motion.

SENATOR CARE:

The motion would be to amend and do pass S.B. 353 adopting Tab M of [Exhibit D](#) and the oral amendment offered by Ms. Goldsmith. The motion would not include the testimony of the CPAs.

CHAIR AMODEI:

Let us revisit the issue. If the Committee was persuaded an individual's accountant should be afforded the same status as a trust company or court-appointed attorney, then a licensed CPA could be added. Senator Care, what is your pleasure?

SENATOR CARE:

I will amend the motion to include the CPAs.

SENATOR WIENER:

Are the guardians considered custodians at that time?

SENATOR CARE:

I do not practice this field of law; however, the case was made that in some form, the Legislature needs to address this issue at this time. It was in that vein I asked the Chair to revisit S.B. 353. I want the Committee to be comfortable and prepared to second the motion. I am disturbed by the fact that many of the testifiers did not submit anything, other than what is at Tab M.

CHAIR AMODEI:

Is your motion to amend and do pass S.B. 353 with the amendment at Tab M of [Exhibit D](#)?

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 353 WITH TAB M OF THE WORK SESSION DOCUMENT.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

There being no further business to come before the Committee, the hearing is adjourned at 10 a.m.

RESPECTFULLY SUBMITTED:

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Barbara Moss,  
Committee Secretary

APPROVED BY:

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Senator Mark E. Amodei, Chair

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