

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session  
April 10, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:29 a.m. on Tuesday, April 10, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Mark E. Amodei, Chair  
Senator Maurice E. Washington, Vice Chair  
Senator Mike McGinness  
Senator Dennis Nolan  
Senator Valerie Wiener  
Senator Terry Care  
Senator Steven A. Horsford

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Committee Policy Analyst  
Brad Wilkinson, Chief Deputy Legislative Counsel  
Barbara Moss, Committee Secretary

**OTHERS PRESENT:**

Mark Woods, Major, Division of Parole and Probation, Department of Public Safety  
John Gonska, Chief, Division of Parole and Probation, Department of Public Safety

CHAIR AMODEI:

The hearing is opened on Senate Bill (S.B.) 292.

**SENATE BILL 292:** Enacts the Uniform Mediation Act. (BDR 3-1114)

SENATOR CARE:

Trip Barthel was unable to attend the hearing, but his comments and proposed amendments are on page 61 of the work session document ([Exhibit C](#), original is on file in the Research Library). I received correspondence from Nancy Cleaves, Nevada Dispute Resolution Coalition ([Exhibit D](#)) with unspecific objections. I want to further examine this information and request S.B. 292 be rolled to the work session Thursday, April 12.

CHAIR AMODEI:

Senator Michael A. Schneider requested S.B. 212 be rolled to the work session on Wednesday, April 11. Are there any objections to rolling S.B. 292 and S.B. 212 to Wednesday and Thursday, April 11 and 12? There being no objections, the hearing is opened on S.B. 45.

**SENATE BILL 45**: Provides for the imposition of an administrative assessment on a person convicted of driving while under the influence of intoxicating liquor or a controlled substance. (BDR 14-672)

CHAIR AMODEI:

The Committee heard testimony regarding concerns about administrative assessments. There was concern from those on the bench at justice court level in terms of the ability to continue increasing administrative assessments and associated issues. The Nevada Supreme Court expressed concern about nexus in that without nexus, an administrative assessment is a tax in wolf's clothing.

Senate Bill 45 would add a \$100 assessment for driving under the influence (DUI) of liquor-related charges, which would go toward creation of a school. A couple Nevada cases said nexus exists if 51 percent passes the test for not being a tax, and 49 percent funds other things, such as victims' funds, Peace Officers' Standards and Training, prosecutors, Central Repository for Nevada Records of Criminal History—things that do not necessarily have a nexus with running a stop sign, driving 45 miles per hour in a 35-mile-per-hour zone and things along those lines.

It is my understanding from individuals in the 49-percent category that administrative assessments are expected to do well this year, although I do not know how they predict the number of people who will run stop signs, speed or commit petty theft. All that aside, it is important not to increase administrative assessments. Testimony from the bench was compelling when saying

administrative assessments have become a cottage industry to fund things that have little relation to things being funded.

In regard to the existing administrative assessment matrix in the 49-percent area, the first \$20 of a DUI or reckless driving offense goes into the fund to create a school. In this event, administrative assessments are not raised, and the amount potentially available to those non-nexus-related areas will be reduced. There is a direct nexus if an individual pleads guilty to DUI wherein the first \$20 on the schedule of what he pays goes to a DUI-related school. The nexus requirement will be satisfied, and administrative assessments will not be increased. A person will not be assessed for DUI school if he runs a stop sign, which returns us to the nexus issue even though we are on the non-nexus side of the assessments.

Therefore, if the Committee considers DUI school a good idea, does not want to increase administrative assessments and wants to ensure a nexus, this is a potential way to do it.

SENATOR MCGINNESS:

Due to the lack of people in areas I represent, all the \$20 assessments over the next 10 or 15 years would not bring enough money to create a DUI school. Would that money stay within the jurisdiction of the district court or go into a fund that would be administered statewide? Would this help a person in rural Nevada who gets a DUI?

CHAIR AMODEI:

Under S.B. 45, where would the money be allocated if the assessment was increased \$100?

BRAD WILKINSON (Chief Deputy Legislative Counsel):

Section 6 of S.B. 45 provides for distribution of the money. The money would go into a special fund in the State Treasury and the use of the money is set forth in paragraphs (a) through (d), subsection 5, section 6 of S.B. 45, which awards grants to state and local governmental entities and nonprofit agencies, conducts public service announcements and reimburses expenses of the Nevada Impaired Driving Advisory Council.

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SENATOR NOLAN:

The proposal is reasonable but punitive with people who plead guilty to DUI or no contest, as well as finding funding for additional treatment and training for those who commit the offenses. Rural areas will not experience as many DUI offenders; consequently, the assessment will not build up to where it can fund an educational program for awhile. There will not be as much need for it if not as many people are charged. It will take time, but eventually, the fund will build and the money be used. Courts have at their discretion a number of programs and alternative sentencing wherein the \$20 assessment would help offset the cost of programs already used. I support the proposed concept.

I would move to amend and do pass S.B. 45, the amendment being Senator Amodei's proposal on page 2 of [Exhibit C](#).

SENATOR NOLAN MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 45.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR MCGINNESS VOTED NO.)

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CHAIR AMODEI:

The hearing is opened on S.B. 85.

**SENATE BILL 85**: Prohibits use of eminent domain to acquire property for economic development. (BDR 3-9)

SENATOR CARE:

There were a number of eminent domain bills and bill draft requests this session. Senator William J. Raggio wanted the bill as a vehicle to redress the results of the U.S. Supreme Court case, *Kelo v. City of New London*, 545 U.S. 469 (2005), rendered during the 2005 Legislative Session. He is agreeable to amending S.B. 85 such that it would be deleted as a whole; however, the amendment would be Assembly Bill (A.B.) 102, a bill belonging to Assemblyman William Horne, et al.

**ASSEMBLY BILL 102 (1st Reprint)**: Makes various changes to provisions relating to eminent domain. (BDR 3-38)

Senator Raggio also said he wanted something in the bill regarding the Nevada System of Higher Education. It is already in *Nevada Revised Statute* 37 that a public use would be eminent domain for purposes of buildings for the higher university system. He did not provide specific language. My recommendation to the Committee would be to amend and do pass S.B. 85, the amendment being the substitution of language in A.B. 102 for S.B. 85 with the understanding the Majority Leader may want to offer a floor amendment if the language in A.B. 102 does not address his concerns regarding the university system.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 85.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Senator Care will present S.B. 85 on the Senate Floor. The hearing is opened on S.B. 132.

**SENATE BILL 132**: Makes various changes concerning the liability of trailbuilding organizations and landowners, lessees and occupants of land to persons using premises for recreational activities. (BDR 3-212)

CHAIR AMODEI:

Proponents and opponents of S.B. 132 met and did not come to an agreement. A compromise amendment got rid of the bill and added new language that included skiing, snowshoeing and road or mountain biking to the definition of recreational activity. I suggest people with election certificates make the decision on which bills do or do not receive action.

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SENATOR WASHINGTON:

I recommend amend and do pass S.B. 132 with the amendment adding skiing, snowshoeing and road or mountain biking to the definition of recreational activity.

CHAIR AMODEI:

Would you replace the original bill with the amendment?

SENATOR WASHINGTON:

I recommend amend and do pass the original bill adding the new definition of recreational activities.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 132.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WIENER VOTED NO.)

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CHAIR AMODEI:

The hearing is opened on S.B. 204.

**SENATE BILL 204**: Revises provisions governing the granting of the right to visit a child to grandparents and great-grandparents of the child. (BDR 11-806)

CHAIR AMODEI:

Senator Washington indicated a desire to look at a potential amendment. He has since indicated he does not want to do that in the context of this bill; therefore, before the Committee today is S.B. 204 which was heard in Committee.

SENATOR WASHINGTON:

Senate Bill 204 deals with the grandparent issue that former Senator Ann O'Connell addressed several sessions ago. We want to revert back to the original bill and remove the amendment.

SENATOR WASHINGTON MOVED TO DO PASS S.B. 204.

THE MOTION FAILED FOR LACK OF A SECOND.

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CHAIR AMODEI:

Are there any other motions on S.B. 204 from the Committee? Hearing none, the hearing is opened on S.B. 216.

**SENATE BILL 216**: Allows certain convicted persons to make a monetary donation to a charitable organization in lieu of performing community service. (BDR 14-929)

SENATOR MCGINNESS:

Randy Robison, on behalf of the City of Mesquite, presented a proposed revised amendment to S.B. 216 ([Exhibit E](#)) because he is concerned about the nexus. He indicated a nexus between community service, the community in which the offense occurred and the person being sentenced to community service. If that person is incapable of performing community service, the community should have some compensation to benefit local charitable organizations. The amendment has the city council operating as the administering agency.

CHAIR AMODEI:

Testimony pointed out instances in which people are physically or geographically incapable of complying with mandatory community service sentencing requirements. The original bill would allow the justice of the peace to order a fine in lieu of community service. There was opposition as to how to apply discretion, who would pick the charity and things along those lines. A proposed change to require special findings regarding physical infirmity or geographic prohibition would make it impractical or guarantee a person would be in contempt for community service purposes. It would require special findings by the justice of the peace.

Municipal Court Judge Jay D. Dilworth expressed concern regarding how much community service would be valued in a given circumstance, who would decide what charity and other related issues. There should be a nexus between anything in which a person is asked to pay money; although not opposed to

charity, there is not necessarily a nexus between the Salvation Army and running a stop light or whatever offense would provide community service.

The idea would be to deposit money in the jurisdiction's general fund to defray the cost of criminal justice in that jurisdiction—that is a broad statement, but there is a nexus. It would remove the issue of whose charity is most worthy and what charity would be funded. I foresee competition between nonprofit organizations.

In regard to the amount awarded when converting hours to dollars, the Bureau of Labor Statistics addresses things like landscaping and so forth. If the penalty is 10 hours and the number for that penalty is \$10 an hour, an offender would pay \$100 to defray the cost of law enforcement. The judge would not choose an amount. Every offender would be penalized the same, and there would be no concern about whose charity is more worthy in terms of who receives funding. Mr. Robison's amendment still has a local charitable aspect.

Ms. Eissmann, please explain the June Burton amendment.

LINDA J. EISSMANN (Committee Policy Analyst):

The amendment on page 37 of [Exhibit C](#) includes ideas of when and where community service would be applicable. Ms. Burton suggested the same fee be paid throughout the state. The wage rates for Clark, Elko, Nye and Washoe Counties are listed on pages 33 through 36 of [Exhibit C](#). There is also a statewide wage rate on page 32 of [Exhibit C](#) if the Committee considers the same wage rate statewide rather than per county.

SENATOR MCGINNESS:

I am concerned about fines going into the general fund to purchase a tractor or lawn mower. Fines should go to local law enforcement or a program. I support your amendment.

CHAIR AMODEI:

Senate Bill 216 will move to the hearing on April 11. The hearing agendized on the S.B. 204 amendment will not take place because the amendment was withdrawn. Senate Joint Resolution (S.J.R.) 2, the Missouri plan for judges, will be heard April 11.

The hearing is opened on S.B. 232.



**SENATE BILL 232**: Makes various changes to the provisions governing sex offenders. (BDR 14-17)

Ms. EISSMANN:

Page 40 of [Exhibit C](#) summarizes the testimony on S.B. 232. Areas of consensus were:

- Eliminate provisions in the bill concerning pleas.
- Clarify the bill pertains to Tier 3 offenders.
- Create community safe zones.
- Retain provisions in the bill concerning electronic monitoring. The Division of Parole and Probation (P&P), Department of Public Safety, pointed out a significant fiscal impact of electronic monitoring for them. They suggested language that would require electronic monitoring as deemed appropriate by the Chief of P&P.
- Retain provisions in the bill concerning registration reporting for lifetime supervision individuals.
- Retain provisions in the bill concerning the minimum number of years served.

There was disagreement about the size of community safe zones. The bill refers to a loitering zone of 500 feet and a living zone of 2,000 feet. The City of North Las Vegas proposed an amendment to increase the loitering zone to 1,000 feet. Legal staff reviewed states with similar community safe zones, and many states have the same distance for both zones. The most common distance is 1,000 feet. The Sex Offender Exclusion Zone Comparison Chart is shown on pages 43 through 46 of [Exhibit C](#). Another area of concern is what to do with sex offenders already living—and potentially owning property—within safe zones.

SENATOR CARE:

Would the number of feet of a safe zone apply to a sex offender driving within the safe zone? Would the sex offender have to change the driving route in order to stay clear of the safe zone perimeter?

MR. WILKINSON:

The language in the bill states the offender could not be within 500 feet of any prohibited place. It is further modified by the fact that the parole officer assigned to the defendant and the psychiatrist, psychologist or counselor treating the defendant could, under certain circumstances, allow the sex offender to come within that 500-foot zone. Perhaps driving could be permitted, but unless an exception was made, the language of the bill would prohibit offenders from coming within 500 feet.

SENATOR CARE:

Sex offenders have a constitutional right to own the property which cannot be taken from them. If a sex offender owns real property within the requisite number of feet, he could be forced to relocate. In such an event, who would pay for the move?

MR. WILKINSON:

The sex offender could own the property but would have to move and pay for it himself.

SENATOR CARE:

Would the same apply if the sex offender was living in an area where a school is built within the safe zone area?

MR. WILKINSON:

That would be the case.

SENATOR WASHINGTON:

Is a safe zone already created with respect to parks and schools concerning sex offenders?

MR. WILKINSON:

A sex offender is not allowed to be in or near parks or school grounds, but the number of feet is not specified.

SENATOR WASHINGTON:

I am reluctant to vote on the particular number of feet in which a person is prohibited from living, particularly if they have purchased a home in the area. The person would be required to move if a statute is implemented and made

retroactive. This does not mean I advocate on the side of sex offenders or perpetrators, but constitutionality must be considered.

CHAIR AMODEI:

What is the aspect of the discussion regarding the discretion of P&P? Would that alleviate Senator Washington's concerns?

MR. WILKINSON:

The parole officer or psychiatrist, psychologist or counselor treating the defendant has discretion to waive that condition. The authority imposing this condition of probation, parole or lifetime supervision, whether it is the court or parole board, has authority not to impose that particular condition if they find extraordinary circumstances entered in the record. There is some discretion to waive in existing law.

SENATOR NOLAN:

With regard to the definition of loitering, if a sex offender walks down one side of the street and there is a school on the other side of the street, would he be required to alter his route if he is within the determined number of feet of the school?

MR. WILKINSON:

Yes, the sex offender would be required to alter his route in order not to be within the determined number of feet of the school. There is an absolute prohibition on being within a certain distance, whereas loitering is hanging around with no apparent purpose. Senate Bill 232 is not a loitering statute, although it is called that for ease of reference. It is more an absolute ban on how close a sex offender can come to a school or park, unless it is approved in advance or waived in some manner.

SENATOR NOLAN:

I am not so concerned with a sex offender renting or purchasing a home in an area where a prospective school might be built. Real estate disclosures and agents are required to inform prospective buyers or renters the location of schools. In that event, a sex offender has the choice to not locate in an area near a school or prospective school.

I live in a major urban area and am unaware of the locations of all schools and parks. Consider this scenario. A sex offender is involved in an accident near

a school on a major thoroughfare while walking or driving through a community with many schools and parks. A police officer checks the offender's driver's license and realizes the offender is within the safe zone of a school, which puts the offender in violation of parole. We must keep deviants who attempt to gain access to children away from them; however, despite whatever safe zone distance is determined, paroled sex offenders will continue to attempt to get near children. We hope safe zones will keep that from happening. I am concerned about the unintended consequences of a sex offender accidentally wandering into, driving through or walking by a safe zone area and unintentionally violating terms of his parole or probation.

SENATOR HORSFORD:

I support S.B. 232 with a 1,000-foot safe zone radius. Twenty other states have a standard in regard to where convicted sex offenders may live. Nevada has no such standard which makes the state a haven for sexual predators. I agree with Senator Nolan that a safe zone does not make us feel safer, but at least we will know where the law is compliant. Sex offenders need to know where they can live. The public and several of my constituents testified on this bill and others with a consensus that Nevada must get something on record stating we are for safe neighborhoods and not for sexual predators. Senate Bill 232 covers that intent.

CHAIR AMODEI:

Does P&P have any discretion regarding the issue of safe zone measurement?

SENATOR CARE:

Prior to release, P&P meets with the sex offender and inquires as to where he will live. I cannot imagine a circumstance in which the offender would not know a proper location in which to live. Insofar as retroactivity, courts have held legislation such as this as not punishment—it is protection of the community. The ex post facto rule, which only applies in a criminal context, does not apply here. In other words, if this bill becomes law, current offenders on parole or probation would fall under it.

MARK WOODS (Major, Division of Parole and Probation, Department of Public Safety):

Currently, P&P has discretion because no actual safe zone footage is mentioned in the law. An officer will ask the sex offender why he is in the area. If he does not have a legitimate reason for being there, he is deemed in violation of his

parole or probation. If there is a legitimate reason, it will not be an issue. The proposed law would force P&P to view it as black and white in those areas.

SENATOR NOLAN:

Would it help if the definition is more closely tied to loitering in the event of the person being in the area without a purpose?

JOHN GONSKA (Chief, Division of Parole and Probation, Department of Public Safety):

It would help. It is problematic to enforce a situation such as you described. Say a person is driving down the street from location A to location B with no intent to be around children, has an accident, is cited and then realizes he is within so many feet of a school or a bus stop that caters to children; the way the law reads now is "at or near," and professional judges make that determination. When P&P initially sits down with a sex offender, they lay down the law and tell him what he can and cannot do. The law has been well-enforced, and there have been no major problems with sex offenders.

I am concerned P&P will be put in a black-and-white situation wherein if a person drives by a school, we must arrest him, bring him to court and back to the parole board. I do not know whether the district attorney, judges or parole board would be willing to prosecute someone brought in repeatedly. It would be difficult to enforce. Loitering is more specific and gives probable cause to take action.

SENATOR CARE:

Let me suggest language such as "shall not knowingly be within a determined number of feet," which would not provide an excuse in every case. It would be difficult for a sex offender to explain why he is parked across the street from a school. There may be a case in which a sex offender travels to another town to visit a relative and parks the car without realizing a school is around the corner.

MAJOR WOODS:

That language would provide more leeway. Insofar as where a sex offender lives, a day care could be established in a home within 1,000 feet. Our biggest concerns are bus stops which pop up at a moment's notice.

CHIEF GONSKA:

Given a situation in which a sex offender is in a neighborhood in compliance with the law, yet down the street there could be a family with three children and another with four children—in that event, we have a sex offender in a community with lots of children. Although that is not addressed in the law, it is problematic. I am concerned with giving the public a false sense of security thinking law enforcement is doing something it is not.

CHAIR AMODEI:

The Committee wants to move the bill. Senator Horsford said Nevada's standing among other states should be addressed; S.B. 232 is part of addressing it. Senator Care's idea goes part of the way. I would not object to any Committee member, between now and 4 p.m. today, discussing the issue with Senator Dina Titus and others. I also have no objection to an amendment presented on the Senate Floor. I expect a full and open discussion on these concerns in the Assembly. This legislation is not perfect or finished, but there is plenty of process left to tweak problem areas.

MAJOR WOODS:

Pursuant to rural areas, the safe-zone determination should be clarified as to where the sex offender lives or the property line. If he is living on a 50-acre ranch, does the 1,000 feet begin at the perimeter of the ranch?

CHAIR AMODEI:

I assume it would be the property line. A person cannot be told he can live on the north end of the ranch, but if he goes on the south end, he will be in violation of probation or parole. We need clarification of the parcel on which the person's residence is located.

MR. WILKINSON:

The residence would be the structure itself as opposed to the property line.

SENATOR CARE:

I will move to amend and do pass S.B. 232 with the amendment as follows:

- Eliminate section 1 of S.B. 232, which prohibits the defendant from pleading nolo contendere.

- Create community safe zones of 1,000 feet for purposes of resident structure to structure and 500 feet for being present in a safe zone.
- Add language regarding knowingly being within 500 or 1,000 feet.
- Take the language proposed by P&P as deemed appropriate by the Chief of P&P.
- Retain the provisions concerning registration, reporting and lifetime supervision.
- Retain provisions concerning minimum number of years served.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 232.

SENATOR NOLAN SECONDED THE MOTION.

SENATOR WASHINGTON:

I am concerned the supervision of Tier 1, 2 and 3 offenders will place more burdens on P&P. Tier 3 offenders are probably the most heinous predators; therefore, I suggest amending the motion to 500 feet and knowingly address Tier 3 offenders.

SENATOR CARE:

I would like to amend the motion consistent with the suggestion from Senator Washington.

CHAIR AMODEI:

Does the maker of the second agree with the amendment?

SENATOR NOLAN:

Yes, I agree with the amendment. Perhaps we should confer with P&P regarding the amendment.

CHIEF GONSKA:

I agree with the amendment.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Senator Care will present S.B. 232 on the Senate Floor. The hearing is open on S.B. 277.

SENATE BILL 277: Authorizes the court to assign certain offenders to a program of treatment for certain offenses. (BDR 43-888)

SENATOR WIENER:

Referring to page 48 of Exhibit C, District Court Judge Kathy Hardcastle's amendment is well-supported. Ben Graham has two suggestions. There has been agreement to the first suggestion regarding taking the prosecuting attorney out of that stage of the process. We will see how it moves forward and if it needs tweaking in the next Legislative Session.

SENATOR CARE:

On the language regarding employment, if an employer submits a request under statute to the Central Repository for Nevada Records of Criminal History, it shows a felony, but an applicant is allowed to say it was a misdemeanor. I surmise that has to be worked out between the applicant and the employer.

MR. WILKINSON:

That is a correct impression, Senator Care.

SENATOR WIENER:

I amend and do pass S.B. 277 with the amendment being Judge Hardcastle's suggestion and No. 1 of Ben Graham's proposed two-part amendment.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 277.

SENATOR CARE SECONDED THE MOTION.

SENATOR HORSFORD:

I would like an explanation regarding the employment application. Employment applications contain a statement whereby an applicant indicates everything he



has stated is true. What is the consequence if the offender applicant says his conviction is a misdemeanor when it is actually a felony?

SENATOR CARE:

If S.B. 277 passes, the applicant is permitted to say he was never convicted of a felony. There may be situations in which the employer submits the request to the Central Repository for Nevada Records of Criminal History, sees a felony and wonders whether the applicant was lying. Such an event would have to be worked out between applicant and employer. There may be cases where the applicant said no to conviction of a felony and the employer never follows up.

SENATOR WIENER:

This is part of what would induce the person to participate in the program. If the person fails at any stage of the three-year intense program, they go straight to prison without the misdemeanor on their record. There has only been a 12-percent recidivism rate in the 8 years this program has been in place in Clark County.

SENATOR MCGINNESS:

I expressed concern regarding how or if the program were to take place in rural counties. If we return to the Legislature next session, Senator Wiener and I should ascertain whether it is happening in rural Nevada.

SENATOR WIENER:

I support Senator McGinness's concerns.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

The hearing is opened on S.B. 291.

**SENATE BILL 291**: Revises certain provisions governing civil practice in actions in which plaintiff is a nonresident or foreign corporation. (BDR 2-1309)

SENATOR CARE:

I introduced S.B. 291 by request and was not present for the hearing. I would like Committee counsel to walk us through the proposed amendment.

MR. WILKINSON:

Randall Tindall's proposed amendment on page 50 of [Exhibit C](#) says if new or additional security is sought, there must be estimates for experts, exhibits, jurors, court reporter's fees and so forth, or actual receipts. The court would then order the dollar amount sum of the actual incurred or estimated costs. A request for that must be made no later than 60 days before the date set for trial unless the trial is continued. Finally, the proposed amendment would make dismissal of the action mandatory if security is not paid. Currently, it is discretionary with the court; the amendment would make it mandatory.

SENATOR CARE:

I request [S.B. 291](#) be rolled over to the April 12 work session.

CHAIR AMODEI:

Does the Committee have any objection to rolling [S.B. 291](#) to April 12? Seeing none, [S.B. 291](#) will be revisited on April 12.

The hearing is opened on [S.B. 298](#).

[SENATE BILL 298](#): Enacts provisions relating to civil liability for causing the injury or death of certain pets. (BDR 3-479)

CHAIR AMODEI:

The hearing suggested getting rid of noneconomic damages. Senator Care wants to cap economic damages at \$5,000.

SENATOR WIENER:

Does \$5,001 and more go to district court?

SENATOR CARE:

That amount would take it to justice court. The threshold for district court under rules of pleading is damages in excess of \$10,000. I spoke with Senator Warren B. Hardy II and he is agreeable to the following: economic damages only, which would be cost of a veterinarian, transportation of the animal, burial expenses and anything associated with injuries incurred from conduct of the defendant. Damages would be capped at \$5,000, meaning these matters would go to small claims court without attorney involvement. The hearing masters and the judge pro tem would work it out in small claims court.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 298.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Senator Wiener will present S.B. 298 on the Senate Floor. The hearing is opened on S.B. 299.

**SENATE BILL 299**: Establishes provisions relating to crimes against unborn children. (BDR 15-730)

CHAIR AMODEI:

Proposed amendments were received from individuals who testified for and against enhancement or making the fetus a right. The enhancement provision is a potential way to go in terms of crimes of violence. It makes sense; the DUI-context in terms of the mens rea required for the circumstances that gave rise to the bill seems to lend itself more to creating some rights in the fetus similar to what other states have done.

In reviewing material for tomorrow, I am not automatically looking at all or nothing one way or the other because the focus was public safety to ensure a crime-and-punishment solution. That is not to indicate I know how I will vote, but when you look at the elements of crime, crime and punishment, and prosecution, it is possible to think that way in one respect or another.

Senate Bill 299 and S.B. 302 will be taken up tomorrow, April 11. The hearing is opened on S.B. 317.

**SENATE BILL 317**: Makes various changes to provisions relating to agents for service of process. (BDR 7-445)

SENATOR CARE:

In testimony on the ambulation of corporation sole contained in section 6 of S.B. 317, a proposed amendment does not disturb the corporation sole. This

amendment was worked out with the resident agents industry, and everybody is on board. It does not include language from the Office of the Secretary of State, which can be handled in other legislation. For purposes of legislative history, we may want a quick rundown on the amendment.

CHAIR AMODEI:

I suggest addressing the amendment on S.B. 317 on April 12. The hearing is opened on S.B. 354.

**SENATE BILL 354**: Makes various changes to provisions relating to the safety of children. (BDR 15-1062)

SENATOR HORSFORD:

A proposed amendment from the Washoe County School District was brought forth after the work session. The other amendments proposed by the Washoe County Public Defender's Office are agreeable.

CHAIR AMODEI:

Due to time constraints, the amendment will be presented tomorrow, April 11. Senate Bill 378 and S.B. 380 will be continued on April 11. The hearing is opened on S.B. 381.

**SENATE BILL 381**: Authorizes the Chairman of the State Gaming Control Board to allow the partial abatement of certain license fees paid by certain gaming licensees. (BDR 41-1130)

CHAIR AMODEI:

A proposed amendment was suggested. The fiscal presentation indicated the bill would end up making money for the state. Given further amendments to sunset the bill four years after the accrual in order for a legislative study—and abatements based on testimony indicating the state would come out ahead in terms of job generation, sales tax revenue and so forth to create an oversight link—we then ascertain whether value judgments, with which you were asked to agree, paid out over the course of the first 48 months of the bill enactment. Proponents do not object to an oversight provision in the bill which would make it stronger when heard by the Senate Committee on Finance.

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SENATOR WASHINGTON:

I would move to amend and do pass with the proposed amendments suggested by the proponents on pages 115 through 118 in [Exhibit C](#).

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 381.

SENATOR MCGINNESS SECONDED THE MOTION.

SENATOR MCGINNESS:

As Chair of the Senate Committee on Taxation, I have heard many people promising if this program is instituted, it will come back twofold. It would be doable with the sunset clause. Gamers were concerned they would be mandated by the State Gaming Control Board and Nevada Gaming Commission to institute new systems costing them a lot of money. Businesses throughout the state face that problem on a daily basis but do not ask this Committee or the Senate Committee on Taxation for a tax break. I will be convinced it is a good idea if we have a chance to ascertain what this brings back to the state in hard-and-fast numbers.

SENATOR HORSFORD:

I appreciate the Chair's recommendation to add the oversight component. While it helps strengthen the bill, my concern still rests with not having the information before we make the policy decision. I am a big proponent of economic development and believe small gaming operators need reinvestment to grow their operations. Under the tight fiscal constraint this biennium and the one the Governor and fiscal staff indicate we will be under in 2009, I am concerned about making a policy decision committing a future Legislature to forego tax revenues that otherwise pay for needed government expenses, including education. I have listened and read the materials provided which make a good case why small operators need reinvestment, but we must balance that against the rest of the state's priorities. I will remain open as the bill comes to the Senate Floor but will not support the motion at this time.

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

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CHAIR AMODEI:

The hearing is opened on S.B. 420.

**SENATE BILL 420**: Makes various changes to provisions relating to property.  
(BDR 13-1305)

SENATOR CARE:

Former Probate Commissioner Don Ashworth testified on S.B. 420 and clarified that a settlor could be the beneficiary of a spendthrift trust. I would be comfortable passing the bill with the technical amendment.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 420.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR AMODEI:

Senator Care will present S.B. 420 on the Senate Floor. The hearing is opened on S.B. 471.

**SENATE BILL 471**: Revises provisions relating to the registration of sex offenders and offenders convicted of a crime against a child.  
(BDR 14-1426)

SENATOR CARE:

Would the proposed amendment to S.B. 471 require two-thirds vote on the Senate Floor?

MR. WILKINSON:

Yes.

CHAIR AMODEI:

The hearing on S.B. 471 is closed. Senate Bill 483 will be heard tomorrow, April 11. The hearing is opened on S.B. 519.

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**SENATE BILL 519**: Makes various changes relating to abandoned property.  
(BDR 10-496)

CHAIR AMODEI:

An amendment has been suggested by the opponent relating to the Millennium Scholarship. What is the pleasure of the Committee on S.B. 519?

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 519.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Senate Bill 553, with a significant amendment, will be heard tomorrow, April 11; S.J.R. 2 has also been moved to tomorrow.

The hearing is opened on S.J.R. 9.

**SENATE JOINT RESOLUTION 9**: Proposes to amend the Nevada Constitution to allow the Legislature to establish an intermediate appellate court. (BDR C-661)

SENATOR CARE MOVED TO DO PASS S.J.R. 9.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MR. WILKINSON:

I would like to clarify that the amendment to S.B. 132 which added cross-country skiing, snowshoeing and road or mountain bike riding was in the bill as it initially existed. Therefore, if the desire was to pass the bill as it existed, the motion would have been a do pass rather than amend and do pass.

SENATOR WASHINGTON MOVED TO RESCIND THE PREVIOUS ACTION  
TAKEN ON S.B. 132.

SENATOR MCGINNESS SECONDED THE MOTION.

SENATOR WIENER:

I voted no on S.B. 132 because I thought we were voting for the existing bill plus the new language. Therefore, I support rescinding the vote taken in which I voted no. I suggest the amendment be made clear in the next vote.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Would a do pass motion on S.B. 132 relate to the bill with no amendments?

MR. WILKINSON:

That is correct.

SENATOR WASHINGTON:

What is the compromise language?

CHAIR AMODEI:

The compromise language included cross-country skiing and so forth, which was already in the bill as heard; therefore, that language does not need to be taken out as an amendment because the bill is being voted on as a whole.

SENATOR CARE:

The motion is to delete the bill as a whole but retain section 1, subsection 6, paragraph (a) of S.B. 132.

CHAIR AMODEI:

Let me recap. Proponents and opponents could not agree on what to do with S.B. 132 regarding trails and liability. They met, returned and said they agreed to add these things to the definition of the statute and get rid of the bill. I said I wanted the Committee, not unelected people, to make the decision whether to get rid of the bill. Therefore, if the Committee wants to provide increased protection for trail-building organizations in accordance with the bill, we would



do pass. If the Committee neither agrees with that nor wants to continue because consensus was not reached by the two sides, we go with the amendment if we want to add those things. If the Committee wants to do nothing, then we do nothing. Is that clear?

That being said, what is the pleasure of the Committee on S.B. 132?

Senator Washington moved to do pass S.B. 132 including the additional language concerning mountain biking, snowshoeing, road biking, and cross-country skiing.

SENATOR WASHINGTON MOVED TO DO PASS S.B. 132.

SENATOR MCGINNESS SECONDED THE MOTION.

SENATOR CARE:

I will vote against the motion on S.B. 132. If the motion fails, I will make another motion to delete the bill as a whole, except for section 1, subsection 6, paragraph (a), which I understand to be the compromise.

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

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CHAIR AMODEI:

There being no further business to come before the Committee, the hearing is adjourned at 10:56 a.m.

RESPECTFULLY SUBMITTED:

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Barbara Moss,  
Committee Secretary

APPROVED BY:

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Senator Mark E. Amodei, Chair

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