

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fifth Session
May 26, 2009**

The Senate Committee on Judiciary was called to order by Chair Terry Care at 8:39 a.m. on Tuesday, May 26, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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 Terry Care, Chair
Senator Valerie Wiener, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator Mike McGinness
Senator Mark E. Amodei

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington

GUEST LEGISLATORS PRESENT:

Assemblyman Bernie Anderson, Assembly District No. 31

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Bradley A. Wilkinson, Chief Deputy Legislative Counsel
Judith Anker-Nissen, Committee Secretary

OTHERS PRESENT:

Kate Kruse, Law Professor, Director, Innocence Clinic, William S. Boyd School of Law, University of Nevada, Las Vegas

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Chuck Callaway, Sergeant, Intergovernmental Services, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association; Washoe County Sheriff's Office

Ernie Adler, former Senator

Lucy Flores, External Affairs and Development Specialist, Office of the Vice President for Diversity and Inclusion, University of Nevada, Las Vegas; Rocky Mountain Innocence Center

P. K. O'Neill, Chief, Records and Technology Division, Department of Public Safety

Julie Butler, Records Bureau Chief, Records and Technology Division, Department of Public Safety

CHAIR CARE:

I will open the hearing on Senate Bill (S.B.) 82.

[SENATE BILL 82 \(2nd Reprint\)](#): Makes various changes relating to prepaid or stored value cards. (BDR 14-266)

This bill deals with prepaid or stored valued cards. There are multiple deletions and everything is rolled into section 1, which, according to the Legislative Counsel's Digest, establishes procedures to allow law enforcement to identify funds associated with prepaid or stored value cards. This bill allows a peace officer to determine the name, personal information and the amount of funds associated with a prepaid or stored value card in certain circumstances where there is probable cause the prepaid or stored value card is an instrumentality of a crime.

Finally, this bill allows the Attorney General or a State or local law enforcement agency to enter into a contract to carry out the provisions of this bill concerning identification of funds.

SENATOR WIENER:

Mr. Chair, my thought is the Attorney General would like a tool to use.

SENATOR WIENER MOVED TO CONCUR WITH AMENDMENT NO. 733
TO S.B. 82.

CHAIR CARE:

I received an e-mail from Brett Kandt.

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LINDA J. EISSMANN (Committee Policy Analyst):

I was copied in the e-mail to you from Brett Kandt. He is talking about two bills, S.B. 35 and S.B. 82. He said the amendments in the Assembly Judiciary were assented to by the Attorney General's Office to ensure passage of each bill and they hope the bills can be concurred in the Senate Committee.

[SENATE BILL 35 \(2nd Reprint\)](#): Revises provisions relating to the prosecution of certain offenses. (BDR 15-272)

SENATOR WIENER:

I withdraw the motion on S.B. 82.

CHAIR CARE:

We are going to have floor today. The Committee is now briefed. We may have a meeting at the side of the bar to take action on S.B. 35.

MS. EISSMANN:

Mr. Chair, we already decided not to concur with the amendment on S.B. 35.

CHAIR CARE:

I will open the hearing on S.B. 84.

[SENATE BILL 84 \(2nd Reprint\)](#): Authorizes cities to create departments of alternative sentencing. (BDR 16-257)

The City of Henderson wanted a program for alternative sentencing. When they came before us, they wanted to make it discretionary so it was more along the lines that if a municipality ever determined to do this, it could. Looking at the Digest, there was a deletion of section 7.

I received word from the City of Henderson that the changes made by the Assembly are acceptable. Mr. Wilkinson, can you tell us what the effect of that would be?

MS. EISSMANN:

Mr. Chair, I have the amendment summary the Assembly staff wrote. The amendment deletes, "authorization for the chief of a city's department of alternative sentencing to administer a program of supervision for those

sentenced by the county's justice court when the county does not have such a department." It deletes,

the requirement that the chief of a county's department of alternative sentencing supervise offenders sentenced by municipal court if the city does not have such a department and also in counties and cities that do not have a department of alternative sentencing, the justice courts and municipal courts may contract with a qualified person to administer the program of supervision, similar to existing law.

CHAIR CARE:

Senator Carlton raised a question on the floor about that last provision. The response I received as to whom that person would be was the county. We do not have to accept it.

SENATOR WIENER MOVED TO NOT CONCUR WITH AMENDMENT NO. 723 TO S.B. 84.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR CARE:

I will open the hearing on S.B. 68.

SENATE BILL 68 (3rd Reprint): Establishes responsibility for the maintenance of certain security walls within certain common-interest communities. (BDR 10-281)

This bill was brought by the City of Henderson. It was supposed to be perspective. The Assembly said no, it is going to apply to all homeowners' associations (HOA).

Ms. EISSMANN:

Yes, Mr. Chair. The bill had a provision making responsibility for security walls only in HOAs created after October 1. The amendment now makes it apply to all HOAs after October 1, including those created before.

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CHAIR CARE:

I received an e-mail from an association in Summerlin that takes exception to that. This started out as pertaining to the City of Henderson, but now we are talking about every HOA in the State.

BRADLEY A. WILKINSON (Chief Deputy Legislative Counsel):

Mr. Chair, there are two amendments. The first one took away the perspective application and made it apply to all common-interest communities (CIC). The second one made it apply to all CICs but not until January 1, 2013. If they had an existing one, they would have three years and three months to decide what to do about the security wall.

CHAIR CARE:

Does anyone want to do anything with this bill? No?

I will close S.B. 68 and open the hearing on S.B. 396.

[SENATE BILL 396 \(2nd Reprint\)](#): Revises provisions governing an investigation of a peace officer by a law enforcement agency. (BDR 23-1098)

CHAIR CARE:

This was the police bill of rights and had an amendment. I received e-mails from both David Kallas and Frank Adams saying they were agreeable to the amendment before the Assembly deleted portions of section 3 of the bill requiring the law enforcement agency to let the peace officer review certain compiled evidence prepared by the law enforcement agency before conducting an interrogation or hearing. It also prohibits the law enforcement agency from taking various other actions concerning a peace officer.

You might remember that discussion. That is the only change. My recommendation based on the correspondence from Mr. Adams and Detective Kallas is to concur.

SENATOR WIENER MOVED TO CONCUR WITH AMENDMENT NO. 658
TO S.B. 396.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR CARE:

I will open the hearing on S.B. 354.

SENATE BILL 354 (3rd Reprint): Revises provisions governing land use planning.
(BDR 22-235)

Part of what the Assembly did is contained in section 1, subsection 6. Mr. Wilkinson, would you explain the significance of that?

MR. WILKINSON:

This has two aspects. Section 1, subsection 6 says the provision about review of a decision of a planning commission does not apply to a petition to designate the location as a gaming enterprise district. That is a clarification of chapter 463 of the *Nevada Revised Statutes* (NRS) a set of procedures that have to do with review of decisions to designate gaming enterprise districts.

The other amendment, the main amendment, would be section 1.5, which contains an expansion of the Las Vegas Boulevard gaming corridor. That provision is identical to the provision added to the first reprint of Assembly Bill (A.B.) 218. What it does is incorporate the provisions of the first reprint of A.B. 476, which was the change to the Las Vegas Boulevard gaming corridor Mark Fiorentino was seeking.

ASSEMBLY BILL 218 (2nd Reprint): Makes various changes relating to gaming.
(BDR 41-603)

ASSEMBLY BILL 476 (1st Reprint): Makes changes relating to gaming enterprise districts. (BDR 41-659)

CHAIR CARE:

I am going to hold on to S.B. 354 for further discussion. I will now open the hearing on S.B. 55.

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[SENATE BILL 55 \(2nd Reprint\)](#): Makes various changes concerning commercial recordings. (BDR 7-413)

There were changes and additions made. This bill is the one that has the charging order, which we did not discuss. Last Session, we created charging orders from 75 shareholders or fewer and expanded here to 100 shareholders. We did not have the testimony on the charging orders, so my recommendation is we not concur.

SENATOR AMODEI MOVED TO NOT CONCUR WITH AMENDMENT NO. 588 TO S.B. 55.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR CARE:

I will open the hearing on A.B. 279.

[ASSEMBLY BILL 279 \(2nd Reprint\)](#): Requires the preservation of certain biological evidence under certain circumstances. (BDR 14-518)

ASSEMBLYMAN BERNIE ANDERSON (Assembly District No. 31):

This particular piece of legislation was originally introduced with the hope of establishing a cleaner DNA base for evidence to trace various people within the system who may or may not be innocent or guilty, or guilty of other crimes.

A tragic murder and rape in northern Nevada caused a great deal of concern in the immediate university community. Brianna Dennison was the victim of a home invasion who ultimately met her death. The finding of her body in a field led to the hope we would be able to use DNA evidence as a factor in searching for the criminal.

That did not prove to be the determining factor in finding the individual who is now accused of the crime. However, the community itself had to come up with dollars in order to facilitate the testing of the DNA samples. While the cost of

doing this for individuals remains a major problem, it also demonstrates the need for a solid DNA base.

Because of the financial restraints, the bill has been modified in the Assembly Committee on Ways and Means from its original intent. It clarifies we are trying to have a solid DNA base so those convicted people have their DNA acquired. The other part of this issue still remains unresolved.

I do not know whether you want to deal with it. I am of the opinion that it should be dealt with by some Judiciary Committee for the people who maintain their innocence and wish to avail themselves of the opportunity to pay for it themselves. Everybody in prison maintains they are there incorrectly. If even one innocent person is there, we would want to make sure that person did not stay. This is going to help us solidify and clarify our law. I would encourage your Committee to pass it.

CHAIR CARE:

Do you know what the practice is now? It probably varies from jurisdiction to jurisdiction. How long is DNA evidence preserved?

ASSEMBLYMAN ANDERSON:

It depends upon the type of materials. You would need to ask one of the professionals.

CHAIR CARE:

I will go to the expert. Professor Kruse?

KATE KRUSE (Law Professor, Director, Innocence Clinic, William S. Boyd School of Law, University of Nevada, Las Vegas):

The Innocence Clinic from the William S. Boyd School of Law works in collaboration with the Rocky Mountain Innocence Center.

CHAIR CARE:

I do not know if you have prepared remarks. We want to know the current practice, what other jurisdictions do, how long it is possible to preserve biological DNA evidence and how that is done.

PROFESSOR KRUSE:

My prepared remarks ([Exhibit C](#)) include addressing some of the questions you have raised. First of all, criminal justice agencies have different policies regarding the preservation of evidence, from what I understand through talking to the people with whom I am familiar who run the crime laboratories and the evidence vault at Clark County. There may be other evidence stored by other agencies, and these are conservative policies regarding destruction. Nobody is eager to destroy evidence that may be needed.

Everyone has an interest in saving evidence. District attorneys want it saved in the event someone's conviction is overturned on other grounds and they need to retry them. Law enforcement agents like to have this evidence available because it can be useful in cold cases by linking crimes together with perpetrators from previous unsolved cases. There is widespread interest in preserving evidence, and the decision to destroy evidence is not made lightly.

This bill would bring uniformity and clarity to the policies that already exist. Right now, the main question is storage space, how long things need to be saved, and what needs to be saved. This bill clarifies Category A and B felonies as to the length of time and the expiration of the sentences. The bill includes a provision saying agencies can have policies in other crime categories that would cover additional storage and storage for longer periods of time. It also clarifies what needs to be saved is biological evidence. For example, it does not need to be the entire couch; the blood stain from the couch needs to be cut out and preserved.

The reason A.B. 279 draws this line with biological evidence is important because DNA technology is different from other kinds of evidence used in a criminal case. Because DNA technology has continued to grow, the value of biological evidence increases over time. As technology advances, we can test and get more definite answers on things that could not be tested before.

The Rickie Johnson case from a jurisdiction in Louisiana illustrates this. Rickie Johnson was convicted in 1983 of rape and sentenced to life without parole. When he was convicted, the technology available was serological testing of semen stains and an eye witness identification made by the victim. The DNA technology did not exist at the time, as the first DNA exoneration occurred in 1989.

In 2006, the Innocence Project in New York took over Mr. Johnson's case and agreed to test the evidence from the rape kit. They used DNA short tandem repeat (STR) testing. The STR test results produced enough DNA markers to show he was excluded and he was innocent. In 2007, there was further advance in DNA technology; they were able to identify more markers from the DNA evidence, run it through the FBI database for felons' DNA samples and identify the perpetrator. It is an example of how, when you keep the evidence around and wait for technology to improve, you can get more clear answers to the questions you may have.

I commend Assemblyman Anderson for bringing this bill to us. It came through the Advisory Commission on the Administration of Justice, where a number of people were consulted in the process of drafting and developing this bill. It was originally drafted by the district attorneys. There were many discussions through the process of developing the bill language with myself, defense attorneys and the people who run the crime laboratories. I am confident as a result of those discussions; this bill does a good job in drawing lines and balancing the needs and looking at existing practices. It provides clear guidance—guidance that is realistic for the agencies that are going to be affected.

CHAIR CARE:

Any questions of Professor Kruse?

SENATOR WIENER:

Thank you for your informative testimony. Because you work with the Innocence Project, how many people in our correction system are serving Category A and B felony crimes?

PROFESSOR KRUSE:

I do not have the numbers on that.

CHAIR CARE:

Ms. Eissmann, there was a fiscal note from the Department of Corrections in excess of \$600,000, and Carson City has one for \$16,000. They may have been obviated because this is the second reprint with the deletions and amendments, and there may not be a fiscal impact anymore.

PROFESSOR KRUSE:

I believe the fiscal impact from the Department of Corrections came from a previous section of the bill that involved DNA testing, which was assigned to Corrections. Another section had to do with assessments, the 120-day assessment period for people prior to probation.

CHAIR CARE:

Thank you. Chuck Callaway is the only remaining proponent of the bill. Nobody has signed up in opposition.

CHUCK CALLAWAY, SERGEANT (Intergovernmental Services, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association; Washoe County Sheriff's Office):

Metro supports A.B. 279. The bill is important to ensure the people incarcerated are the correct people who have committed crimes.

To answer the question brought up earlier, specifically with Metro: Any biological or DNA evidence we have involving homicide and sexual assault crimes is kept indefinitely. Other felony crime evidence is kept for a period of approximately six months after adjudication of the case. After that six-month period, the court would have to be petitioned to obtain the right to destroy or auction the evidence, depending on the type of evidence, if the evidence is released back to the owner. The investigating detective fills out a form that requests action be taken after adjudication of the case.

VICE CHAIR WIENER:

Any additional questions, Committee?

ERNIE ADLER (Former Senator):

I am testifying as a private individual on this bill. I strongly support this bill because I used to be a prosecutor with the Attorney General's Office. It is important that we categorize this evidence. The unfortunate part of this bill is, in its original form on the Assembly side, it had funding in it so we could do a number of DNA tests and get the backlog caught up in both Clark and Washoe Counties. That will continue to be an issue in future sessions of the Legislature.

I know there has been talk this Session about the necessary functions of government. The DNA testing of crime samples is a necessary function that does need to be funded. I am unhappy with the backlog we have.

Assemblyman Anderson talked about the Brianna Dennison case. He was modest, since he worked hard on raising funds for DNA testing in that case. You should not have to do community fundraisers in order to do DNA testing to determine the perpetrator of a violent crime. I urge people to look at that in the future and see if we can possibly fund this.

SENATOR PARKS:

I noticed quite a few responses as far as the fiscal impact. Were all of those costs removed, or was something put into the budget that would assist with this?

CHAIR CARE:

I do not know the answer, but the testimony so far was that the fiscal note may have gone away with the deletions.

LUCY FLORES (External Affairs and Development Specialist, Office of the Vice President for Diversity and Inclusion, University of Nevada, Las Vegas; Rocky Mountain Innocence Center):

The fiscal impact was associated with portions of the bill eventually deleted. All that is left now is codifying current practice. The fiscal impact involved is what is being done. Therefore, there is nothing additional. The crime laboratories are, as far as we understand, doing this.

SENATOR WIENER MOVED TO DO PASS A.B. 279.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY

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CHAIR CARE:

I will open the hearing on A.B. 81.

[ASSEMBLY BILL 81 \(1st Reprint\)](#): Makes various changes relating to the Central Repository for Nevada Records of Criminal History. (BDR 14-314)

P. K. O'NEILL (Chief, Records and Technology Division, Department of Public Safety):

I bring to you today A.B. 81, which we call our cleanup bill. In the past few years, we have reviewed our various business practices—what we do, what we do not do, what we do properly. We brought you this bill today to correct our issues and address them in a more professional manner. I also have with me Julie Butler, who is the Records Bureau Chief, to go through each section.

JULIE BUTLER (Records Bureau Chief, Records and Technology Division, Department of Public Safety):

I will read from my testimony ([Exhibit D](#)).

CHAIR CARE:

Section 3 is statute; subsection 7 on page 8, begins at line 21, "Records of criminal history must be disseminated ... upon request to the following persons ... ," and on page 9, subsection 7, paragraph (l), line 10, "Any reporter for the electronic or printed media in his professional capacity for communication to the public." I have always argued that you must give it to a reporter, and the report becomes public information once the reporter has it. I have always wondered why the statute does not say you give it to anybody who asks for it. Having said that, how frequently do you get requests from reporters?

MS. BUTLER:

Infrequently, as it does not come up very often. This language mirrors the federal regulations that say that information has to be provided to the press in their professional capacity.

CHAIR CARE:

How often do you get a request from somebody not on this list, just a member of the general public? Does that ever happen?

MS. BUTLER:

No. Not to my knowledge.

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CHAIR CARE:

Somebody could ask a reporter to get information on someone.

MS. BUTLER:

It is only in his professional capacity. If he is doing a story on somebody, you cannot ask a reporter to get your neighbor's criminal history record.

CHAIR CARE:

I understand, but it puts the State in the business of determining whether a reporter is acting as a reporter or not, so there is a First Amendment issue.

SENATOR WIENER MOVED TO DO PASS A.B. 81.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR CARE:

I will open the hearing on A.B. 554.

ASSEMBLY BILL 554: Ratifies certain technical corrections made to NRS and Statutes of Nevada. (BDR S-963)

MR. WILKINSON:

Mr. Chair, this is the ratification bill which the Legislative Counsel presents every session following the process of codification. We are seeking to ratify all changes we made during that codification. I will not belabor how this came to be or what changes are included in the bill. But let me give you one example of a bill you are familiar with that I worked on.

For example, section 12 was the Model Registered Agents Act. In that Act, we changed the effective date to July 1, 2008, but we still had a reference in there to July 1, 2007. That was the kind of thing we occasionally miss. That was an obvious error, in codifying, we changed it to refer to the correct date. If this is enacted, it makes the NRS appear just as it is now.

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SENATOR WIENER:
Do we not get the reviser's bill anymore?

MR. WILKINSON:
The reviser's bill would make more of a substantive change than we would include in the NRS. Those would be things we would recommend be changed.

SENATOR WIENER:
That comes before this Committee as well?

MR. WILKINSON:
Yes. It typically does.

SENATOR WIENER:
There was a proposal to no longer use or fix the wordsmithing including, "without limitation." We all leaped out of chairs to say no, leave that there. That will not be coming our way? We need that little piece in drafting.

MR. WILKINSON:
The "without limitation" debate was with former Senator Mark A. James who chaired this committee and did not like that change.

SENATOR WIENER:
None of us did.

MR. WILKINSON:
No. We will be bringing that back again any time soon.

SENATOR WIENER:
I just want to make sure that is not coming in either one of these measures.

CHAIR CARE:
Any other questions? I am willing to entertain a motion.

SENATOR WIENER MOVED TO DO PASS A.B. 554.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR CARE:

We need to appoint members to a conference committee regarding S.B. 101; this was the Secretary of State's bill which dealt with securities. There are two time periods. Originally, the bill was 30 days and 60 days, which were moved to 60 days and 120 days. That seemed a lengthy period to this Committee for the Secretary of State to inform certain people that their records had been reviewed.

[SENATE BILL 101 \(2nd Reprint\)](#): Makes various changes relating to securities.
(BDR 7-416)

MR. WILKINSON:

That is correct.

CHAIR CARE:

That is the only issue on this particular bill. We are going to appoint a conference committee. Appointees do not have to be a member of this Committee, is this correct? I can appoint Senator Raggio? Senator Copening and I will do it along with Senator Raggio.

I will open the hearing on A.B. 46. The Assembly has refused to concur with our amendment to A.B. 46 and has requested we recede from that amendment.

[ASSEMBLY BILL 46 \(2nd Reprint\)](#): Makes various changes concerning the right of certain persons to purchase or possess a firearm. (BDR 14-271)

The issue was at what point could a person petition to have his records expunged from the Central Repository for Nevada Records of Criminal History. Initially, the bill was five years; we changed that to three years and it came back five years.

MS. EISSMANN:

They did not concur in our amendment to change it to three years.

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CHAIR CARE:

We are down to five years versus three.

CAPTAIN O'NEILL:

Regarding A.B. 46, the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives contacted us. They had an issue with the five-year time period. They thought it was a little too long, although the model legislation they provide does not specify how long they want for the reinstatement period. They expressed to us that five years was a little long and that three was a better choice. I ask to work with some of the Committee members to find a medium point on the year in time, possibly staying at the three years.

CHAIR CARE:

Three years is what this Committee agreed to.

CAPTAIN O'NEILL:

Yes. I am not sure how it works when the two sides do not always agree. But I would ask you hold this for a day and give me a chance to speak to the Assembly side and whatever I have to on the Senate side to see if we can give you another concurrence.

CHAIR CARE:

I do not know if it may make a difference because I am keeping in mind midnight or 1 a.m. of June 2. I do not want things to stall. Maybe the simplest thing to do is say we are not going to recede. In the meantime, it gets worked out and you will have a two-second conference committee.

CAPTAIN O'NEILL:

This is a very important bill to us. There are some large amounts of money available. There is a \$10 million grant which requires that to qualify, you either have to be in progress of enacting this legislation or have it enacted. Only three states, of which we are one, right now would qualify for that money. After that, several hundred million dollars that could go to the improvement of our criminal records section. It is a very important bill to the State and to our Division.

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SENATOR WIENER:

It looks like we should go to conference to reconcile this and make sure that you are there to render your input because that is important for people in conference to know.

CHAIR CARE:

Any Republicans wishing to serve on this conference committee? Senator Wiener, I will let you chair it, then, Senator McGinness and Senator Copenig.

SENATOR WIENER:

We will go to conference so we can reconcile the differences, and we will notify you so you can give your input.

MS. EISSMANN:

Mr. Chair, just as an information piece for Captain O'Neill and anybody else who may wonder, there is a link to conference committees on our legislative Website.

CHAIR CARE:

And you may want to forewarn Assemblyman Anderson about this issue because it sounds like an easy one to resolve.

I will open the hearing on A.B. 350.

[ASSEMBLY BILL 350 \(2nd Reprint\)](#): Makes various changes relating to common-interest communities. (BDR 10-620)

This is Assemblyman Harvey J. Munford's bill. We deleted several sections but added the provisions about punitive damages not being available for any actions against board members. We left in that interest charged on late fees would be at the legal rate. The Assembly has refused to concur. Senator Parks has indicated to me that he would like to serve on this conference committee. Senator Parks will chair it. Any northern Nevadans interested in serving on this HOA conference committee? Senator Copenig and Senator Washington.

I will open the hearing on A.B. 259 where the Assembly has chosen not to concur.

[ASSEMBLY BILL 259 \(2nd Reprint\)](#): Makes various changes relating to criminal offenders. (BDR 16-631)

There is a restitution issue. I am looking at section 5, subsection 6, after the Assembly had amended it, "except as otherwise provided in subsection 7, a person described in subsection 5 must be allowed for the period of his probation a deduction of," and then subsection 7 goes on, "a person who is sentenced to serve a period of probation for a felony or a gross misdemeanor and who owes any restitution ordered by the court, including" Do you want to explain the impact to us Mr. Wilkinson?

MR. WILKINSON:

Mr. Chair, you may recall the Committee made that amendment at the request of Mark Woods who wanted to ensure—rather than getting enough credits so someone would expire a sentence before paying off restitution—the credits could not be given until the full amount of restitution was paid.

CHAIR CARE:

Committee, any thoughts on receding or not receding? They did not accept our amendment. I do not know what they want. It is Assemblyman Horne's bill.

MS. EISSMANN:

Mr. Chair, as indicated to the Committee, I was told by the Assembly staff that Assemblyman Horne was concerned that folks who were genuinely not able to pay restitution would be prohibited from expiring their sentence by good-time credits.

CHAIR CARE:

Any thoughts, Committee? Want to go to conference?

SENATOR COPENING:

Would you repeat the amendment that we put on it?

CHAIR CARE:

Assemblyman Horne's concern is that some defendants are never going to pay their restitution, even though under order. That is what usually happens. They would not be able to take advantage of the provisions as to probation or good-time credits.

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MS. EISSMANN:

And to answer Senator Copeney's question, our amendment was requested by the Division of Parole and Probation. As Mr. Wilkinson described it, we would allow a person on probation to earn credits toward the reduction of his sentence, but only if he pays the full amount of his restitution.

SENATOR WIENER:

Then they would have to expire their full sentence if they cannot get their good-time credits?

CHAIR CARE:

Sounds like conference to me. Volunteers? Senator Parks will Chair the Conference Committee, Senator Wiener and Senator Washington.

I will open the hearing on S.B. 183. We received a concur-not concur, which was one of the lengthy HOA bills.

[SENATE BILL 183 \(2nd Reprint\)](#): Revises various provisions governing common-interest communities. (BDR 10-70)

I am waiting for the Real Property Section of the State Bar of Nevada to view it. They did delete the language about motorcycles and radar guns. I will bring this back to the Committee when I have that review.

I will reopen the hearing on S.B. 354 and the amendments relating to the gaming enterprise districts. I spoke with Assemblyman Anderson. You will recall A.B. 218, which was brought forth by the students of Boyd School of Law. That bill was amended to add the provisions relating to an expanded definition of event or sporting event and the pari-mutuel language requested by Alfredo Alonso. Then there were two amendments relating to gaming enterprise districts. Later that day, this bill was amended by the Assembly to add one but not both of the amendments relating to the gaming enterprise districts.

Assemblyman Anderson's sentiment is the same as mine: that as far as A.B. 218 is concerned, the students' bill should survive, and there is no reason for the first two amendments on that bill, meaning the sporting event and pari-mutuel issues, to not survive. There is going to be a conference committee on that bill, and those provisions will survive. What we are left with is the issue of gaming enterprise districts.

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Because that is going to require some negotiations and resolutions, my recommendation is we not concur with what has happened with S.B. 354 so those issues can be further pursued.

SENATOR WIENER MOVED TO NOT CONCUR WITH AMENDMENT NO. 938 TO S.B. 354.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR CARE:

I will open the hearing on A.B. 64, A.B. 65 and A.B. 99.

ASSEMBLY BILL 64 (1st Reprint): Increases the number of judges in the Second and Eighth Judicial Districts. (BDR 1-371)

ASSEMBLY BILL 65 (2nd Reprint): Provides for the collection and disposition of additional court fees. (BDR 2-372)

ASSEMBLY BILL 99 (1st Reprint): Makes various changes relating to public safety. (BDR 15-410)

Ms. EISSMANN:

Mr. Chair, we did take action on A.B. 65, so A.B. 64, A.B. 99 and A.B. 461 remain.

ASSEMBLY BILL 461 (2nd Reprint): Makes various changes relating to older persons. (BDR 15-126)

CHAIR CARE:

I am going to put a hold on those. We can do all of the rest of it at the bar. We do not have any other bills that have been introduced, do we?

Ms. EISSMANN:

We have no others waiting to be heard at this time.

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CHAIR CARE:

With those exceptions, this Committee has heard every bill introduced and assigned to this Committee. The Committee is adjourned at 9:40 a.m.

RESPECTFULLY SUBMITTED:

Judith Anker-Nissen,
Committee Secretary

APPROVED BY:

Senator Terry Care, Chair

DATE: _____