

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session  
March 12, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:38 a.m. on Monday, March 12, 2007, 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 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  
Gale Maynard, Committee Secretary

**OTHERS PRESENT:**

Cotter Conway, Washoe County Public Defender  
Michael Pomi, Nevada Association of Juvenile Justice Administrators  
Jennifer Stoll-Hadayia, Washoe County District Health Department  
Kay Panelli, Elder Rights Unit Manager, Aging Services Division, Department of Health and Human Services  
Laura Coger, Consumer Direct Personal Care  
Mark Woods, Captain, Division of Parole and Probation, Department of Public Safety  
R. Ben Graham, Nevada District Attorneys Association  
Raymond J. Flynn, Assistant Sheriff, Las Vegas Metropolitan Police Department  
Patrick G. Foley, Chief Deputy Treasurer, Office of the State Treasurer

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CHAIR AMODEI:

This meeting of Senate Committee on Judiciary is called to order. We will start our work session on Senate Bill (S.B.) 14 (Exhibit C, original is on file in the Research Library). Senator McGinness, do you have any comments?

**SENATE BILL 14**: Provides that a minor who possesses tobacco products or falsely represents his age to obtain tobacco products is subject to the jurisdiction of the juvenile court as a child in need of supervision. (BDR 5-76)

SENATOR MCGINNESS:

I have reviewed and agree with the proposed amendments made by our Legislative Counsel.

CHAIR AMODEI:

Can someone from Legislative Counsel give us an update?

BRAD WILKINSON (Chief Deputy Legislative Counsel):

In the mock-up bill for S.B. 14 (Exhibit C, page 1d), pages 4 through 5, section 11, the actual offense related to smoking is set forth. It provides that a child under the age of 18 shall not purchase or attempt to purchase, possess, use tobacco products or falsely represent permissible age to purchase, possess or obtain tobacco products. Subsection 2 says a child under age 18 who violates the provisions will be subject to section 6 of this act where specific penalties are set forth.

Subsection 3 makes clear this does not apply to a child assisting in an inspection, handling or transporting tobacco products in the course of lawful employment or in the presence of a parent, spouse or legal guardian being of 18 years of age or older.

Section 5 provides a child stopped or detained for violation will be issued a citation, much like a traffic ticket, and not be taken into custody. Section 6, paragraphs (a) through (d), sets forth penalties for violation and fees related to those violations. The fourth violation will yield a fine of \$75 and require attendance and completion of a tobacco awareness and cessation program. The courts can also require the parent or guardian of the child to pay the reasonable cost of the program. Community service by the child can be applied if he is unable to pay for the program.

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Section 8 states the other provisions relating to the disposition of offenses will not apply, and the child will be subject to penalties in section 6. Section 9 provides that if a child attends the tobacco awareness and cessation program, the courts would order all records pertaining to the offenses sealed. The other sections of the bill are internal references.

CHAIR AMODEI:

Any questions from the Committee based on the background?

COTTER CONWAY (Washoe County Public Defender):

I looked at the bill briefly. There may be people present representing the juvenile courts or probation.

MICHAEL POMI (Nevada Association of Juvenile Justice Administrators):

Information forwarded to this Committee as [Exhibit C](#), page 7, mirrors language addressed today. We would like to reduce the fine from \$50 to \$25 which will go to the health department to teach the cessation class. This program comes from Dakota County, Minnesota. Testimony from the district attorneys office and the health department indicates the smokers' corners have been eliminated.

Approximately 190 children go through Minnesota's program in a community with a population base of 400,000 people. Their law enforcement jurisdictions work with health department officials and school officers on this program. The main citers for youth smokers were the school resource officers and not the general jurisdiction officers.

Our proposal for the first offense is to impose a \$25 fine with the youth attending a smoking cessation class; second offense, a \$75 fine with the option of going to class; the third offense, a \$100 fine with possible loss of their driver's license.

JENNIFER STOLL-HADAYIA (Washoe County District Health Department):

We are familiar with the youth accountability program from Dakota County in Minnesota and support this model. We will work with juvenile services, health districts and community organizations exploring the possibility of incorporating this model.

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SENATOR MCGINNESS:

Mr. Conway, your e-mail to the Committee on March 7, 2007, on [Exhibit C](#), page 6, was instrumental in the amendments proposed. This bill should not be stalled waiting to work out a statewide program.

MR. CONWAY:

I looked at this program again and using the citation system seems to be low impact and avoids the outcome it would normally have if filing petitions with the juvenile courts.

SENATOR MCGINNESS:

There is a graduated system for citations of \$25, \$50 and \$75. For the fourth offense, the juvenile can either be fined, sent to a program or do community service. This provides a number of options that should fit within any community.

SENATOR WIENER:

In [Exhibit C](#), pages 2 and 3, sections 5 and 6, I read that the courts are involved in the beginning, stating "If a child is found to have committed an offense related to tobacco, the juvenile court shall." What is the role of the juvenile court? Is an offer or suggestion made by witnesses to get around the loads on courts?

MR. WILKINSON:

This will be treated like a traffic offense. [Exhibit C](#), page 1d, section 3, of the bill provides that a probation officer can act as the hearing master, which is the way it is for minor traffic offenses. It would be treated like a traffic ticket with the exception of specifics in section 6 for specific fines and other terms.

SENATOR WIENER:

I have heard the concerns by the sponsor of the bill and an alternative plan. If passed, how would the counties doing the cessation classes work together with health districts?

CHAIR AMODEI:

We have the overall policy. The juvenile probation department and health department have brought up the Minnesota program. Does the Committee want to move the bill as is or amend for the Minnesota program?

Do those representing juvenile probation and health departments agree the existing bill does away with needless use of juvenile court resources?

MR. POMI:

It gives us some leeway with the courts but not with the juvenile probation side. We will have to staff according to citation numbers, we will be the hearing officers, and there will be an increase to the counties. The fines will help fund the health department and juvenile justice to offset costs.

A survey done in Washoe County said it would cost me \$180 for two full-time employees to deal with entry-level misdemeanors; there will be a larger workload. We support teaching first and consequences at the end. Our goal is to stop them from smoking.

CHAIR AMODEI:

There is work to be done. We will hold this bill for the next work session.

SENATOR MCGINNESS:

The one thing we have not addressed in the bill is where the money will be dispensed. There needs to be an established program by either the health department or juvenile probation. When you talk about teach first, does this mean taking the children from the smokers' corners to a class?

MR. POMI:

Yes. It would be to cite those children and start the process of smoking cessation. The Minnesota program talks about marketing strategies used by tobacco companies to induce children to smoke and how to identify the signs. The program teaches the effects of nicotine and secondhand smoke. You want to give the young person information first. If caught subsequently, it becomes a personal choice.

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SENATOR MCGINNESS:

Are you the juvenile masters when a child comes in with a traffic citation?

MR. POMI:

In our jurisdiction, the family courts assign a probation officer as a hearing master to review those cases. Because a citation of smoking is a misdemeanor, a probation staff person would hear the case.

SENATOR MCGINNESS:

Due to the growth in Clark, Washoe and other counties, are you adding more full-time employees because more children will have traffic citations?

MR. POMI:

We add based on the projected growth and serious criminal behavior. We will have to allow for increases in citations and misdemeanor offenses.

SENATOR HORSFORD:

Is there a parental component to the course? Will this be presented to the Committee?

MR. POMI:

The Minnesota program has a parental component requiring them to also attend class.

SENATOR WASHINGTON:

[Exhibit C](#), page 2, section 5 mentions peace officers. Does this include district officers and will this be an added cost for writing citations?

MR. CONWAY:

I do not know the answer.

SENATOR MCGINNESS:

Was the program in [Exhibit C](#) presented to outline what may be given to the youth offender?

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MR. POMI:

The program can be downloaded from a Website and shared across jurisdictions.

CHAIR AMODEI:

We give credit to Senator McGinness for the article about juvenile smoking ([Exhibit D](#)). We will close the hearing on S.B. 14 and open the hearing on S.B. 16.

**SENATE BILL 16**: Revises the provisions pertaining to the deposit of money with a court in an action in eminent domain. (BDR 3-121)

SENATOR CARE:

There are many proposed amendments; in [Exhibit C](#), page 30, Kermitt Waters testified before the Committee and offered two. I would not endorse the first proposed amendment; however, the second proposed amendment dealing with the date of valuation is acceptable, and I recall no opposition.

Chuck Gardner offered three amendments in [Exhibit C](#), page 31. The third takes us outside the scope of *Nevada Revised Statutes* (NRS) 37 to 355. I received a letter from Barbara J. Griffin, Douglas County Clerk/Treasurer, discussing the need to prepare an Internal Revenue Service Form 1099 at the end of the year for deposits which incurred interest. The cost of managing small deposits is a discussion Mr. Gardner may want to take up with the Assembly, I would not support this proposed amendment.

Another proposed amendment came from the Regional Transportation Commission (RTC) of Washoe County. If any portion of interest is to be returned to the plaintiff, it should be returned to the entity making the deposit. The current law allows it to be the political subdivision or municipality—it might be someone other than subdivision or municipality; therefore, I would support this proposed amendment.

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SENATOR CARE:

I would like to make a motion.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 16 BY ADOPTING THE SECOND AMENDMENT REGARDING DATE OF VALUATION AND THE AMENDMENT FROM THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY.

SENATOR MCGINNESS SECONDED THE MOTION.

CHAIR AMODEI:

Is there any discussion on the motion?

Mr. Wilkinson:

The third proposed amendment from RTC is unnecessary. There is not going to be interest if the money is withdrawn.

SENATOR WASHINGTON:

On Mr. Gardner's proposed amendments, he requested the interest earned by the investment be deposited to the potential investor. Is he negating this amendment?

SENATOR CARE:

*Nevada Revised Statute 355* takes us outside the scope of NRS 37 which is eminent domain proceedings. The bill drafters are correct. It says if the money is deposited with the clerk of courts and earns interest, and the defendant is entitled to judgment, then the interest from the principle goes to the defendant. Amending NRS 355 may cause a debate with the county treasurer and impact passage of the bill.

CHAIR AMODEI:

The simple answer is no. Do we need modification to the motion offered by Senator Care?

MR. WILKINSON:

No.



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CHAIR AMODEI:

Is there any further discussion? Senator Care, please recap your motion.

SENATOR CARE:

The motion is to amend and do pass adopting the proposed amendments from Mr. Waters pertaining to date of valuation and also RTC of Washoe County with clarifying language Mr. Wilkinson offered.

CHAIR AMODEI:

Are there any further comments by the Committee for S.B. 16?

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

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We will open the hearing on S.B. 30.

**SENATE BILL 30**: Revises the provisions governing the early release of prisoners from county or city jails to relieve overcrowding. (BDR 16-362)

LINDA J. EISSMANN (Committee Policy Analyst):

This bill deals with operational capacity. The Committee considered proposed amendment provided by the Nevada Sheriffs' and Chiefs' Association. On the proposed amendment in Exhibit C, both Version 1, page 39, and Version 2, page 41, define operational capacity in statute.

CHAIR AMODEI:

The decision for the Committee is defining operational capacity using the versions presented by counsel. Are there any comments?

SENATOR MCGINNESS:

Both the long and short versions are regulations by the State Board of Health. Is this a change from where we are now? Who is making the decisions, the Department of Corrections or the Board of Health?

MR. WILKINSON:

The jails will still be required to comply with regulations included in chapter 211 of *Nevada Administrative Code*.

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SENATOR CARE:

I am not convinced a definition of operational capacity is needed. The counties and cities would have to defend the law if a suit was filed for violation. If a definition is required, I prefer Version 1 given by counsel.

CHAIR AMODEI:

If there are no other thoughts, what is the pleasure of the Committee?

SENATOR CARE MOVED TO DO PASS S.B. 30 WITH NO DEFINITION OF OPERATIONAL CAPACITY.

THE MOTION FAILED FOR LACK OF A SECOND.

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Is there a second? Hearing none we will move onto S.B. 31. There are people here to testify.

**SENATE BILL 31**: Makes various changes to provisions governing records of criminal history. (BDR 14-595)

SENATOR WASHINGTON:

May we go back to S.B. 30? I would like to make a motion to indefinitely postpone.

CHAIR AMODEI:

Senator Washington has made a motion on S.B. 30.

SENATOR WASHINGTON MOVED TO INDEFINITELY POSTPONE S.B. 30.

SENATOR HORSFORD SECONDED THE MOTION.

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

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CHAIR AMODEI:

We will continue testimony on S.B. 31.

KAY PANELLI (Elder Rights Unit Manager, Aging Services Division, Department of Health and Human Services):

One of the components the Committee asked us to remove will leave our workers in jeopardy. The main reason for appearing before the Committee last time was to make sure social workers and clients are safe. One way is to assess if law enforcement is needed when we investigate a case. If we can find out if there were events or arrests at a location prior to our going to a place, it is helpful. The criminal history sometimes does not reveal this information.

I worked with Mr. Wilkinson to define "other information." Page 4 starting at line 36 in the mock-up proposed amendment ([Exhibit E](#)) has the wording.

CHAIR AMODEI:

Where are we procedurally? The Committee had acted on the bill, but it was held up to acquire additional information.

Mr. Wilkinson:

The Committee needs to rescind the motion of amend and do pass and do a new motion.

CHAIR AMODEI:

For the new language, which colors in the bill signify change?

MR. WILKINSON:

The original amend and do pass in S.B. 31 is in green, except for paragraph (c) of subsection 2; therefore, the only change is to add the language in lines 37 through 40 on page 4.

CHAIR AMODEI:

Should we leave it the way it is or add the summary language? What are the thoughts of the Committee?

SENATOR WASHINGTON:

Does the summary language give you the ability to request information within 90 days from the criminal repository?

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LAURA COGER (Consumer Direct Personal Care):  
We would call law enforcement to ask if there had been disturbances within the past 90 days on a residence we need to investigate.

SENATOR WASHINGTON:  
Would this include persons with dementia or—?

Ms. COGER:  
Yes, this would be for any reason they have been out to a residence. Things in the summary concern where a law enforcement officer is needed.

CHAIR AMODEI:  
Other discussion, what is the pleasure of the Committee?

SENATOR WIENER:  
Let us rescind the previous action and adopt the amended version.

SENATOR WIENER MOVED TO RESCIND THE PREVIOUS ACTION TAKEN  
ON S.B. 31.

SENATOR HORSFORD SECONDED THE MOTION.

CHAIR AMODEI:  
Is there any discussion on the motions?

SENATOR CARE:  
I will vote for the motion, but the Aging Services Division of the Department of Human Health and Services is now 1 of 17 entities entitled to this information. Reporters for the electronic or printed media in their professional capacity for communication to the public may one day include bloggers. It seems this information is public. Private investigators want to be included on the list. The press is entitled to this information, and I would like to see someone challenge the law who is refused in obtaining the information.

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CHAIR AMODEI:

Is there other discussion on the motion to rescind previous action on S.B. 31?

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

What is the pleasure of the Committee on S.B. 31?

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 31 WITH ADDITIONAL LANGUAGE TO INCLUDE THE SUMMARY.

SENATOR NOLAN SECONDED THE MOTION.

CHAIR AMODEI:

Are there any comments or discussion by the Committee?

SENATOR WASHINGTON:

I will vote for the bill with the amended language and ask that when it gets to the Senate Floor, I have an opportunity to reserve my vote.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

We move on to S.B. 33.

**SENATE BILL 33**: Requires the manager of a gated community to provide to parole and probation officers the code or device which allows entry to the community. (BDR 16-560)

Ms. EISSMANN:

Since our last meeting, there has been a proposed amendment and an e-mail sent from Karen Dennison included in [Exhibit C](#), page 44, for S.B. 33.

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

I spoke with representatives from different associations and the word "manager" seemed to be a problem. Some gated communities do not have managers, they have boards. "Responsible person" will replace "manager." This will allow the boards to determine that person.

Ms. EISSMANN:

If you will look at the e-mail in [Exhibit C](#), page 44, from Ms. Dennison, the definition of "responsible party" is "a person designated by the president of the association for the gated community, or if there is no association, the person who has the duty, responsibility or obligation to manage the gated community."

The definition for gated community is " ... a residential area or residential community, including a common-interest community as defined in NRS 116.021, with gated access which is restricted or controlled by a person or device or other means of identification used for access control."

Basically, this is the proposed amendment.

SENATOR NOLAN:

I have considered this bill and do not know why the Division of Parole and Probation is asking permission to enter. They are charged by law to follow up with the parolee. Maybe the bill should be amended to let them do what they are charged to do within the statutes. Inform the manager a parolee lives within their complex and they need access.

Ms. EISSMANN:

One of the proposed amendments is the Division of Parole and Probation would hand deliver its request to enter premises, and the gated community would have seven days to furnish the access code or pay a \$100 a day penalty.

CHAIR AMODEI:

The thought behind the proposed amendment was to cut paperwork and generate a standard form based on the NRS and impose a penalty if there is failure to comply within seven days. Is this the idea, Captain Woods?

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CAPTAIN WOODS:  
Yes.

SENATOR WIENER:  
Are we considering the responsibility of the person supervised as part of this bill?

CHAIR AMODEI:  
There was discussion to make this a condition of probation.

Ms. EISSMANN:  
The discussion was making it a condition of parole; however, are they going to jail for violation? No.

SENATOR WIENER:  
It could be a technical violation.

CAPTAIN WOODS:  
It would be a technical violation; the reality is the parole board or judge will not jail someone because the access code was not provided.

SENATOR WIENER:  
Therefore, the person on parole is not responsible in any way for giving this information.

CAPTAIN WOODS:  
Parole and Probation will ask the parolee for the access code. If they fail, we will take other measures.

SENATOR WIENER:  
Will the parolee feel some level of privacy in providing this information himself rather than a "responsible person?"

CAPTAIN WOODS:  
Yes. After sentencing, some parolees do not show up and are considered absconders. This is another reason for going to the "responsible person" to gain access to investigate a previous address.

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SENATOR WIENER:

In other words, you are looking for a two-step procedure?

CAPTAIN WOODS:

Yes.

CHAIR AMODEI:

I do not recall discussion on identifying the person Parole and Probation is looking for in the complex. Privacy does not seem to be an issue. Is there existing law to identify a person by name under this situation?

CAPTAIN WOODS:

The person in question will still be identified as a convicted person on probation; this is public knowledge.

SENATOR HORSFORD:

Is it possible to see an amended version of the bill as proposed by staff? The two-step process is different from what is written and needs clarification. I am for the burden to be on the parolee and not the associations of the communities. A seven-day window to provide access codes may not be met and charging a civil fine is unfair when due diligence is not done to pursue the parolee.

SENATOR CARE:

What happens in the event a search warrant has to be executed on a unit inside an association?

CAPTAIN WOODS:

Through county ordinances, Clark County has devices on squad cars to access gated communities. It would not be cost-effective for Parole and Probation to obtain these devices.

CHAIR AMODEI:

We will ask counsel to draft what has been discussed in a form that can be tracked. The goal is not to get fine money from these communities; it is to gain the access codes so Parole and Probation can do their jobs.

We close the work session on S.B. 33 and move to S.B. 37.



**SENATE BILL 37**: Makes various changes to provisions governing the testimony and evidence of a witness who is granted immunity in a criminal proceeding. (BDR 14-278)

MS. EISSMANN:

This bill changes the current "transactional immunity" in statute to "use immunity." During testimony, the opponents mentioned changing the statute to provide for both kinds of immunities. No other amendments were submitted nor action taken.

R. BEN GRAHAM (Nevada District Attorneys Association):

I provided the Committee with a brief memorandum ([Exhibit F](#)) indicating that if we had this immunity, it would not be a fishing expedition. Generally, there is evidence to prosecute, and we may need evidence presented to go after a more wrongful culprit. With this immunity, we could have them testify and reserve the ability to prosecute them from evidence separate from testimony.

Present immunity standards preclude any future prosecution, both state and federal.

SENATOR WIENER:

Mr. Graham, can you comment on both types of immunities?

MR. GRAHAM:

This can be amended with both use immunity and transactional immunity.

SENATOR CARE:

Relating to the opponent's comments in [Exhibit C](#), page 46, the testimony section of S.B. 37, [Exhibit C](#), states " ... use immunity weakens the 5th Amendment to the *United States Constitution* by compelling people to testify when there is no evidence against them." Did we invite someone to submit case law with this language?

CHAIR AMODEI:

No, and we have no further discussion on S.B. 37.

SENATOR MCGINNESS MOVED TO DO PASS S.B. 37.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:  
We move to S.B. 15.

**SENATE BILL 15**: Provides that certain governmental employees who enforce local ordinances may be designated as peace officers. (BDR 23-254)

SENATOR MCGINNESS:  
I was asked for this bill to be introduced. There has been concern due to the expansion of peace officers.

SENATOR MCGINNESS MOVED TO DO PASS S.B. 15.

THE MOTION FAILED FOR LACK OF A SECOND.

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CHAIR AMODEI:  
We will move on to S.B. 77.

**SENATE BILL 77**: Amends the Uniform Interstate Family Support Act. (BDR 11-755)

SENATOR CARE:  
I am comfortable with the amendments offered for this bill.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 77 WITH AMENDMENTS FROM EXHIBIT C, PAGES 48 THROUGH 52 FROM DIVISION OF WELFARE AND SUPPORTIVE SERVICES AND FROM FAMILY SUPPORT DIVISION, CLARK COUNTY DISTRICT ATTORNEY'S OFFICE.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

The Committee will move to S.B. 89.

SENATE BILL 89: Makes various changes concerning legal representation of state agencies, officers and employees. (BDR 3-1)

Ms. EISSMANN:

The Attorney General must provide a report to the Legislature concerning each legal representation of state agencies, officers and employees and maintain a record of outside counsel hired for defense. There was no opposition, but an amendment was proposed by the Attorney General's Office and one by Senator Care. A mock-up of the proposed amendment is in Exhibit C, page 54.

MR. WILKINSON:

The mock-up bill for S.B. 89 in Exhibit C makes four changes on page 55, lines 9 through 15 and in subsection 2, line 44. On the last page, section 4 is deleted by request of the Senate Judiciary Committee.

CHAIR AMODEI:

This is a section that involved whether it was in-house opinions or Attorney General's opinions.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 89 WITH AMENDMENTS CONTAINED IN THE MOCK-UP.

SENATOR WASHINGTON SECONDED THE MOTION.

SENATOR WASHINGTON:

With section 4 stricken, it should be clear that an Attorney General's opinion will not supersede any other opinion offered.

CHAIR AMODEI:

We are not touching any other existing statutes.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

The Committee will move to S.B. 93.

**SENATE BILL 93**: Revises the provisions governing the crime of grand larceny of a motor vehicle and an offense involving a stolen vehicle. (BDR 15-697)

Ms. EISSMANN:

This bill deals with grand larceny and possession of a stolen vehicle. A request came from the Committee to research within the Division of Insurance and Parole and Probation for statistics. This information is included in the work session document, [Exhibit C](#), beginning on page 61. The information from Parole and Probation was not clear and Mr. Raymond Flynn is here to offer clarification.

RAYMOND J. FLYNN (Assistant Sheriff, Las Vegas Metropolitan Police Department):

Based on the information provided in [Exhibit C](#), page 64, the conviction numbers for grand larceny and possession for parolees are low. I spoke to the commander of the auto theft detail and these numbers are not disputed. The reality is very few are convicted of this charge so the conviction numbers for attempted grand larceny and attempted possession would be higher.

SENATOR CARE:

The persons convicted of a second charge of grand larceny should be dealt with more severely. If a person knows that a second conviction will lead to no parole or no probation, this may make for stronger bargaining.

It is difficult to validate the bill as written with present conditions of overcrowding in our jail systems. Stronger conviction of a second charge may be more helpful.

MR. FLYNN:

Few people commit the majority of auto thefts. This bill does not target the joy riders or kids looking for transportation. Eighteen people on probation have been convicted two or more times. We are looking for mandatory jail time on a second conviction of grand larceny or possession of a vehicle.

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SENATOR CARE:

A second conviction is for any offense of a stolen vehicle or another crime involving the theft of a motor vehicle. This could mean from chopping to forging title of the vehicle. There are few who are giving you problems. Two convictions for motor vehicle theft seem more reasonable.

MR. FLYNN:

We would appreciate any help and your suggestions to move the bill forward. We will accept the proposal of second conviction of grand larceny auto or attempted grand larceny.

SENATOR NOLAN:

What was the number of vehicles stolen in southern Nevada last year?

MR. FLYNN:

I can get the exact number, but it was over 20,000 vehicles.

SENATOR NOLAN:

I know persons who have had their vehicle stolen. Sometimes their vehicles are recovered but destroyed; in some cases, insurance does not cover the damage. I support the bill in its present form but will support Senator Care's proposed amendment.

CHAIR AMODEI:

Is there any other discussion before a motion is made?

SENATOR NOLAN MOVED TO DO PASS S.B. 93.

SENATOR McGINNESS SECONDED THE MOTION.

CHAIR AMODEI:

Does the Committee have any discussion on the motion?

SENATOR HORSFORD:

I will not support the motion. This bill is an example of legislation where alternative forms of sentencing should be reviewed. Reports on overcrowded jails are available. The report before the Committee shows low numbers of repeat convictions. Eighteen people convicted of theft are in jail.

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

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CHAIR AMODEI:  
Senate Bill 103 is next on the agenda.

**SENATE BILL 103**: Adopts the Uniform Unclaimed Property Act. (BDR 10-718)

SENATOR CARE:

I have been working with Patrick G. Foley and Jim Burke of the State Treasurer's Office, William R. Uffelman of the Bankers Association and persons in Chicago. The proposed amendments are in line with those used in Chicago and consistent to Nevada laws.

Proposed Amendments by the State Treasurer are included in the work session document, Exhibit C, beginning on page 65. In the original bill in section 11, page 7, line 11, the words "that is not unconscionable" are struck and replaced with "of five dollars per month." This change seems agreeable with the Bankers Association.

PATRICK G. FOLEY (Chief Deputy Treasurer, Office of the State Treasurer):  
The Office of the State Treasurer has worked with the Nevada Bankers Association, and we agree that the \$5 is appropriate.

SENATOR CARE:

This bill does not include provisions for gift certificates and Assemblyman Ruben Kihuen has introduced Assembly Bill 279 that will provide for gifts and other additives with all parties in agreement.

**ASSEMBLY BILL 279**: Requires the unused value of certain gift certificates to escheat to the State. (BDR 52-961)

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 103 WITH AMENDMENTS FROM THE WORK SESSION DOCUMENT, EXHIBIT C.

SENATOR WIENER SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR AMODEI:

The Committee moves to S.B. 129.

**SENATE BILL 129**: Makes various changes to provisions relating to guardianships. (BDR 13-1109)

Did the Committee get testimony from Ernest Nielsen and Kim Spoon?

Ms. EISSMANN:

No. There was agreement and disagreement but no combined amendments ([Exhibit C](#), page 97).

CHAIR AMODEI:

We are going to need testimony to work on amendments. We will close on S.B. 129 until the next work session and open S.B. 130.

**SENATE BILL 130**: Repeals the prospective expiration of the provision relating to the use and sale of certain property acquired by a governmental entity through eminent domain. (BDR S-588)

Ms. EISSMANN:

This bill is from Nevada Department of Transportation (NDOT) to eliminate a sunset provision on eminent domain. I have spoken to NDOT Director, Susan Martinovich, who confirmed this bill is no longer needed ([Exhibit C](#), page 102).

CHAIR AMODEI:

We will hold S.B. 130 and move to S.B. 133.

**SENATE BILL 133**: Enacts provisions pertaining to civil actions involving liquefied petroleum gas. (BDR 3-77)

There was no testimony or amendments submitted. There is a memo from staff on affirmative defenses in statute. Is there any comment from the Committee?

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SENATOR CARE:

I requested information from Legislative Counsel on statutory affirmative defenses as opposed to common law. There are only four and they are contained in the work session document, [Exhibit C](#), page 105. If there are only a few, does recognizing them in code set a precedent?

CHAIR AMODEI:

The Committee will move S.B. 133 to the next work session. If there is no more business to come before the Committee, we are adjourned at 11 a.m.

RESPECTFULLY SUBMITTED:

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Gale Maynard,  
Committee Secretary

APPROVED BY:

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Senator Mark E. Amodei, Chair

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