

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
February 27, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close, at 8:05 a.m., Friday, February 27, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Melvin D. Close, Chairman
Senator Don W. Ashworth
Senator Jean E. Ford
Senator William H. Hernstadt
Senator William J. Raggio
Senator Sue Wagner

COMMITTEE MEMBER ABSENT:

Senator Keith Ashworth, Vice Chairman

STAFF MEMBERS PRESENT:

Shirley LaBadie, Committee Secretary

SENATE BILL NO. 32--Requires juvenile judges and masters to attend National College of Juvenile Justice.

Chairman Close stated that the Assembly had made an amendment to the bill.

Senator Don Ashworth moved that the assembly amendment be accepted.

Senator Sue Wagner seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

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SENATE BILL NO. 13--Adds supervised work as optional condition or punishment for misdemeanor.

Chairman Close gave the committee copies of the amendments to S. B. No. 13. The committee examined the amendments and made the following recommendation:

Senator Don Ashworth moved to amend S. B. 13 and re-refer back to the committee.

Senator Ford seconded the motion.

- The motion carried unanimously. (Senators Keith Ashworth and Wagner were absent for the vote.)

SENATE BILL NO. 251--Revises provisions relating to parentage. (Exhibit C)

Senator Wagner moved to Do Pass S. B. No. 251 as amended.

Senator Hernstadt seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

SENATE BILL NO. 252--Strengthens provisions for assignment of earnings in child support cases and revises provisions for reciprocal enforcement of support.

Chairman Close stated the district attorneys have enough to do without becoming involved with child support between two former spouses in the same county. This is a requirement of the federal government but has not been enforced in the last two years. It was suggested that Section 7 of the bill be taken out and put back as it was before.

Senator Wagner stated she would take a strong position on this bill. Senator Raggio stated the court has the right to make an assignment of wages. The wording in Section 9, subsection 1, page 4, line 5, was discussed.

Senator Don Ashworth moved that the language on line 5 should be left in as written.

Senator Sue Wagner seconded the motion.

The motion failed to carry. (Senators Don Ashworth, Wagner and Hernstadt voted for the motion. Senators Close, Raggio and Ford voted against the motion.)

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Senator Raggio stated that only in serious situations should the court be mandate to do something. Senator Don Ashworth said the language in Section 9, lines 7 through 17 was too restrictive. He suggested that testimony from district court judges would help the committee clear up some of the questions confronting the committee. Chairman Close stated he would get additional testimony from judges before making a decision on S. B. NO. 252.

SENATE BILL NO. 253--Allows district attorney to assess fees against applicant for child support or establishment of paternity who is not indigent.

Senator Hernstadt questioned if the testimony on S. B. No. 253 indicated putting language in the bill to the effect that any of the fees collected would be used for the development and enforcement of this program. Senator Raggio stated additional testimony was needed before making a decision on this bill. He said the district attorneys in Washoe and Clark County could supply some information.

SENATE BILL NO. 36--Relaxes requirements for assignment of prisoners to honor camps. (Exhibit D)

Chairman Close stated the way the wording of the present bill reads, if an assault is committed on anyone at any time, this bill would preclude that person from going to the honor camp. He suggested the wording be change from assault to battery. Senator Wagner stated the reason this bill was introduced is because there is considerable feeling for honor camps among the Senate Finance Committee and there will not be enough inmates for them if this restrictive language is left in the bill. Senator Raggio suggested language such as the following be put in the bill: has been convicted of an offense involving a serious physical or sexual assault within a period of three years. Chairman Close advised the committee this bill has already received action of amend and do pass after a motion by Senator Ford and a second by Senator Hernstadt.

Senator Raggio moved that the committee reconsider the previous action on S. B. No. 36.

Senator Don Ashworth seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

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SENATE BILL NO. 36

Senator Ford moved to amend and Do Pass S. B. No. 36.

Senator Hernstadt seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

SENATE BILL NO. 224--Limits deficiency judgments against guarantors and sureties.

There was no one available to testify on S. B. No. 224. Senator Hernstadt stated in reading the summary that it was inaccurate. He said in answer to a question by Senator Wagner of an explanation of the bill, that if a person sells a house and not enough money is received to pay off the note, a co-signer is responsible for the note. The bill was held pending additional information.

SENATE BILL NO. 223--Enlarges power of executor to designate substitute, alternate or coexecutor. (Exhibit E)

Chairman Close advised the committee that S. B. No. 223 was one of his bills. He said presently if a person is named as an executor of a will and for some reason is unable or unwilling to serve in that capacity, that person does not have the power to name a successor. Discussion on the bill resulted in the following action:

Senator Raggio moved to Do Pass S. B. No. 223.

Senator Hernstadt seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

SENATE BILL NO. 199--Revises laws relating to consents for adoption and subsidized adoptions.

Discussion on S. B. No. 199 resulted in the bill being held for an amendment from the Attorney General office.

SENATE JOINT RESOLUTION NO. 20--Proposes constitutional amendment to provide for selection of supreme court justices by merit. (Exhibit F)

Senator Ford stated that if additional courts were added under this bill, it should be introduced under a separate resolution. Senator Ford said there could be some merit in cutting back the term from six to four years. Senator Raggio suggested that a

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six year term is very short, considering what it is nationwide. The following action was taken on S. J. R. No. 20.

SENATE JOINT RESOLUTION NO. 20

Senator Wagner moved to Do Pass S. J. R. No. 20.

Senator Ford seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

SENATE BILL NO. 30--Extends power of state gaming control board to examine enterprises related to gaming. (Exhibit G)

Chairman Close recommended the language on line 21, page 2, be changed to delete reason to believe and finds be inserted. He stated the word, audit, on line 25 could present a problem. He said the language on line 27, page 2, should be deleted as follows: by his business and verification of income,. Chairman Close did not feel the gaming control board should have the authority to audit a business. Senator Don Ashworth pointed out this audit is only in relation to the gross income produced from the licensee.

SENATE BILL NO. 30

Senator Don Ashworth moved to amend and Do Pass S. B. No. 30.

Senator Hernstadt seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

SENATE BILL NO. 31--Extends admissibility of intercepted communications into evidence. (Exhibit H)

Senator Raggio moved to amend and Do Pass S. B. No. 31 with proposed amendment number 2 from the gaming control board.

Senator Hernstadt seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

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Chairman Close stated Mr. Richard Bunker from the gaming control board would provide additional testimony on S. B. No. 33.

The committee decided decisions regarding S. B. Numbers 33, 34, 35, 39, 47 and 149 would be held pending additional information.

SENATE BILL NO. 170--Limits special provisions for public officers relating to justifiable homicide.

Senator Don Ashworth moved to indefinitely postpone S. B. No. 170.

Senator Hernstadt seconded the motion.

The motion failed to carry. (Senators Don Ashworth, Hernstadt and Close voted for the motion. Senators Wagner, Ford and Raggio voted against the motion.)

SENATE BILL NO. 188--Makes various changes concerning custody of children in cases of parents' separation or divorce.

Chairman Close stated this bill goes further in the country than in any other state, even California does not have a presumption of joint custody in the legislation. It allows for joint custody but does not have the presumption. Senator Ford asked to have time to review the minutes on S. B. No. 188 as she was absent during the testimony. The bill was held pending further review by the committee.

SENATE BILL NO. 212--Changes place to file to perfect certain security interests and provides filing and indexing fee and procedure for federal tax liens. (Exhibit I)

Chairman Close advised the committee this bill came from Mr. Bill Swackhamer, Secretary of State. Mr. Swackhamer asked to have the bill changed, the only portion needed is on page 2, lines 27 through 31. The rest of the bill could be deleted.

Senator Raggio moved to amend and Do Pass S. B. No. 212.

Senator Wagner seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

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SENATE BILL NO. 225--Specifies number of jurors in civil actions. (Exhibit J)

Senator Raggio stated he had some information on S. B. No. 225 that needed to be reviewed before a decision was made. Chairman Close stated there was not sufficient reason to hold up the bill.

Senator Don Ashworth moved to Do Pass S. B. 225.

Senator Raggio seconded the motion.

The motion carried unanimously.

Voting was concluded on the bills.

Senator Don Ashworth moved to approved the minutes of February 23, 1981.

Senator Sue Wagner seconded the motion.

The motion carried unanimously. (Senator Keith Ashworth was absent for the vote.)

There being no further business, the meeting adjourned at 11:00 a.m.

Respectfully submitted:


Shirley LaBadie, Secretary

APPROVED BY:


Senator Melvin D. Close, Chairman

DATE: March 3 1981

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on JUDICIARY, Room 213.

Day Friday, Date February 27, Time 9:00 a.m.

S. B. NO. 223--Enlarges power of executor to designate substitute, alternate or coexecutor.

S. B. NO. 224--Limits deficiency judgments against guarantors and sureties.

600

ATTENDANCE ROSTER FOR

COMMITTEE MEETINGS

SENATE COMMITTEE ON JUDICIARY

EXHIBIT B

DATE: February 27, 1981

PLEASE PRINT

PLEASE PRINT

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NAME

ORGANIZATION & ADDRESS

TELEPHONE

James Shea

Weyerhaeuser Mortgage Co 1005 Terminal Road

323-1850

Ross C. HAYSON

NEW HOME BUILDERS

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 251

SENATE BILL NO. 251—COMMITTEE ON JUDICIARY

FEBRUARY 18, 1981

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to parentage. (BDR 11-181)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to parentage; revising provisions for notice in actions to determine paternity; clarifying provisions establishing periods of limitation; prohibiting the assessment of costs against the state; revising provisions relating to the district attorney's role in bringing actions to establish parentage and the obligation of support; clarifying the existence of a privilege between lawyer and client in communications relating to such actions; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Chapter 126 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 *In an action brought to determine the existence or nonexistence of the*
4 *father and child relationship, unless the person mentioned is a party to*
5 *the action:*
6 1. *Except as otherwise provided in subsection 2, every person*
7 *identified as the natural father or a possible natural father must be given*
8 *notice of the proceeding in the manner provided by Rule 4(d) of*
9 *N.R.C.P. or, where applicable, as provided in NRS 126.091.*
10 2. *Where a person is alleged to be, is presumed to be or claims to*
11 *be the father and a determination is sought that he is not the father, he*
12 *may be served as provided in Rule 4(e) of N.R.C.P. if his place of*
13 *residence is unknown or he is not subject to the jurisdiction of the court.*
14 3. *The natural mother must be given notice in a manner prescribed*
15 *by the court.*
16 SEC. 2. NRS 126.081 is hereby amended to read as follows:
17 126.081 1. *Except as otherwise provided in subsection 3, an action*
18 *brought by or on behalf of a child whose paternity has not been deter-*
19 *mined is not barred until 3 years after the child reaches the age of*
20 *majority.*

1 2. Except as otherwise provided in NRS 41.210 to 41.260, inclu-
2 sive, and in this chapter, an action to determine the existence of the
3 father and child relationship as to a child who has no presumed
4 father under NRS 126.051 may not be brought *other than by or on*
5 *behalf of the child* later than 3 years after the birth of the child, or
6 July 1, 1982, whichever is later.

7 3. The welfare division of the department of human resources acting
8 on behalf of a child receiving public assistance may bring an action
9 to establish paternity within 1 year after the child becomes a recipient
10 of public assistance or within 3 years after the birth of the child, which-
11 ever is later. [But an action brought by or on behalf of a child whose
12 paternity has not been determined is not barred until 3 years after the
13 child reaches the age of majority.]

14 4. NRS 126.071 and this section do not alter the time within which
15 a right of inheritance or a right to a succession may be asserted beyond
16 the time provided by law relating to distribution and closing of decedents'
17 estates or to the determination of heirship, or otherwise.

18 SEC. 3. NRS 126.101 is hereby amended to read as follows:

19 126.101 The child must be made a party to the action. If he is a
20 minor he must be represented by his general guardian or a guardian ad
21 litem appointed by the court. The child's mother or father may not
22 represent the child as guardian or otherwise. The court may appoint the
23 welfare division of the department of human resources as guardian ad
24 litem for the child. The natural mother, each man presumed to be the
25 father under NRS 126.051, and each man alleged to be the natural
26 father must be made parties or, if not subject to the jurisdiction of the
27 court, be given notice of the action [in a manner prescribed by the
28 court] and an opportunity to be heard. The court may align the parties.

29 SEC. 4. NRS 126.171 is hereby amended to read as follows:

30 126.171 The court may order reasonable fees of counsel, experts
31 and the child's guardian ad litem, and other costs of the action and pre-
32 trial proceedings, including blood tests, to be paid by the parties in pro-
33 portions and at times determined by the court. The court may order the
34 proportion of any indigent party to be paid by the county. *In no event*
35 *may the state be assessed any costs when it is a party to an action to*
36 *determine parentage.*

37 SEC. 5. NRS 126.381 is hereby amended to read as follows:

38 126.381 1. The district attorney of the county of residence of the
39 child shall take such action as is necessary to establish parentage of the
40 child and locate and take legal action against a deserting or nonsupport-
41 ing parent of the child when requested to do so by the custodial parent
42 or a public agency which provides assistance to the parent or child. If
43 the court for cause transfers the action to another county, the clerk of
44 the receiving court shall notify the district attorney of that county and
45 that district attorney shall proceed to prosecute the cause of action and
46 take such further action as is necessary to establish parentage and the
47 obligation of support.

48 2. In a county where the district attorney has deputies to aid him in

1 the performance of his duties, such district attorney shall designate him-
2 self or a particular deputy as responsible for performing the duties
3 imposed by subsection 1.

4 3. The district attorney and his deputies do not [become representa-
5 tives of] *represent* the parent or *the* child [by reason of performing]
6 *in the performance of* their duties pursuant to this chapter [. Except as
7 to disclosures of criminal activity, the] , *but are rendering a public serv-*
8 *ice as representatives of the state.*

9 4. *Subject to the exceptions in subsections 5 and 6, a privilege*
10 *between lawyer and client arises [from the performance of those duties,*
11 *but officials] between the parent or child to whom the public service is*
12 *rendered and the district attorney.*

13 5. *Officials of the welfare division of the department of human*
14 *resources are entitled to access to the information obtained by the district*
15 *attorney if that information is relevant to the performance of their duties.*
16 *The district attorney or his deputy shall inform each person who provides*
17 *information pursuant to this section concerning the limitations on the*
18 *privilege between lawyer and client under these circumstances.*

19 6. *Disclosures of criminal activity by a parent or child are not privi-*
20 *leged.*

S. B. 36

SENATE BILL NO. 36—COMMITTEE ON JUDICIARY

JANUARY 21, 1981

Referred to Committee on Judiciary

SUMMARY—Relaxes requirements for assignment of prisoners to honor camps. (BDR 16-58)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to prisons; relaxing the requirements for the assignment of prisoners to honor camps; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 209.481 is hereby amended to read as follows:
2 209.481 1. The director shall not assign any prisoner to an honor
3 camp which is established for conservation projects if the prisoner:
4 (a) Is not eligible for parole or release from prison within a reason-
5 able period of time;
6 (b) Has recently committed a serious infraction of the rules of an insti-
7 tution of the department of prisons;
8 (c) Has not performed the duties assigned to him in a faithful and
9 orderly manner; *or*
10 (d) Has committed an assault upon any person; or
11 (e) Has attempted to escape or has escaped from an institution of
12 the department of prisons.
13 2. The director shall, by regulation, establish procedures for classify-
14 ing and selecting qualified prisoners.

S. B. 223

SENATE BILL NO. 223—COMMITTEE ON JUDICIARY

FEBRUARY 12, 1981

Referred to Committee on Judiciary

SUMMARY—Enlarges power of executor to designate substitute, alternate or coexecutor. (BDR 12-1443)

**FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.**

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to executors of estates; enlarging the power of executors to designate substitutes, alternates and coexecutors; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 **SECTION 1. NRS 138.045 is hereby amended to read as follows:**
2 **138.045 1. Any person who is named as executor under a will, either**
3 **alone or with another or others, who is not incompetent by virtue of NRS**
4 **138.020, may appoint a substitute if:**
5 **(a) The person so named is *unwilling or unable* [by reason of absence**
6 **from the state or other personal reason] to undertake *or continue* the**
7 **execution of the will; and**
8 **(b) The testator has not designated an alternate to serve in place of**
9 **the named executor, or [such] *that* alternate is *unwilling or unable* to**
10 **serve.**
11 **2. A person named as alternate executor who is not incompetent by**
12 **virtue of NRS 138.020 may appoint a substitute if:**
13 **(a) The named alternate is *unwilling or unable* to [serve;] *undertake***
14 ***or continue the execution of the will*; and**
15 **(b) A named executor *is incompetent or has not designated a substi-***
16 ***tute [.] within 30 days after being notified that the named alternate is***
17 ***unwilling or unable to serve.***
18 **3. *Any person who alone is named as the executor under a will and***
19 ***is not incompetent may appoint a coexecutor if:***
20 ***(a) The person so named is unwilling or unable to undertake or con-***
21 ***tinue the sole execution of the will; and***
22 ***(b) The testator has not designated an alternate to serve in place of the***
23 ***named executor, or that alternate is unwilling or unable to serve.***

- 1 **[3.] 4. The substitute [3.] or coexecutor, unless otherwise disquali-**
- 2 **fied under this chapter, is entitled to letters testamentary in like manner**
- 3 **as if he had been named in the will.**
- 4 **SEC. 2. This act shall become effective upon passage and approval.**

SENATE BILL NO. 224 COMMITTEE ON JUDICIARY

FEBRUARY 12, 1931

RETURN TO COMMITTEE ON JUDICIARY

SUMMARY—Enacts provisions for executor in absence of testator.
 (H.B. 1714-1715)
 SPECIAL NOTE: Effect on Local Government No.
 Effect on the State or on Federal Government No.



LEGISLATION—MAY BE OPEN TO PUBLIC INSPECTION IN SENATE CHAMBER

AN ACT to amend the laws relating to the power of executor in the absence of testator, and to provide for the appointment of an executor in such cases.

The title of the laws amended is hereby amended to read as follows:

Section 1. (a) The laws amended are hereby amended to read as follows:
 (b) Any person who is named as executor in a will shall be entitled to letters testamentary in like manner as if he had been named in the will.

(c) The provisions of this act shall be in addition to the provisions of the laws amended.

(d) The amendments shall be in effect on the date of the passage of this act.

(e) A person named as executor in a will shall be entitled to letters testamentary in like manner as if he had been named in the will.

(f) The amendments shall be in effect on the date of the passage of this act.

(g) A person named as executor in a will shall be entitled to letters testamentary in like manner as if he had been named in the will.

(h) The amendments shall be in effect on the date of the passage of this act.

(i) A person named as executor in a will shall be entitled to letters testamentary in like manner as if he had been named in the will.

S. J. R. 20

SENATE JOINT RESOLUTION NO. 20—COMMITTEE
ON JUDICIARY

FEBRUARY 5, 1981

Referred to Committee on Judiciary

SUMMARY—Proposes constitutional amendment to provide for
selection of supreme court justices by merit. (BDR C-548)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

SENATE JOINT RESOLUTION—Proposing to amend the constitution of the
State of Nevada, relating to the judicial department, by providing for the
appointment of justices of the supreme court according to merit.

1 *Resolved by the Senate and Assembly of the State of Nevada, jointly,*
2 That sections 3 and 20 of article 6 of the constitution of the State of
3 Nevada be amended to read respectively as follows:

4 [Sec:] Sec. 3. 1. The [Justices of the Supreme Court, shall be
5 elected by the qualified electors of the State at the general election, and
6 shall hold office for the term of Six Years from and including the first
7 Monday of January next succeeding their election; Provided, that there
8 shall be elected, at the first election under this Constitution, Three Jus-
9 tices of the Supreme Court who shall hold Office from and including the
10 first Monday of December AD. Eighteen hundred and Sixty four, and
11 continue in Office thereafter, Two, Four and Six Years respectively, from
12 and including the first Monday of January next succeeding their elec-
13 tion. They shall meet as soon as practicable after their election and
14 qualification, and at their first meeting shall determine by lot, the term
15 of Office each shall fill, and the Justice drawing the shortest term shall be
16 Chief Justice, and after the expiration of his term, the one having the
17 next shortest term shall be Chief Justice, after which the] *full term of*
18 *office of a justice of the supreme court is 6 years. The Senior Justice in*
19 *Commission shall be Chief Justice; and in case the commission of any*
20 *two or more of said Justices shall bear the same date, they shall deter-*
21 *mine by lot, who shall be Chief Justice.*

22 2. *Each justice who wishes to succeed himself in office shall, on or*
23 *before July 1 next preceding the expiration of his term of office, file a*
24 *declaration of candidacy. With respect to each justice who files, the*
25 *question must be presented to the electorate at the next general election,*

1 in a form which must be provided by law, whether he shall succeed him-
2 self.

3 3. If a justice does not declare his candidacy, or if a majority of the
4 votes cast on the question are cast against his succeeding himself, the
5 vacancy resulting from the expiration of the term of office must be filled
6 by appointment pursuant to section 20 of this article.

7 SEC. 20. 1. When a vacancy occurs before or on the expiration of
8 any term of office in the supreme court or before the expiration of any
9 term of office among the district judges, the governor shall appoint a jus-
10 tice or judge from among three nominees selected for such individual
11 vacancy by the commission on judicial selection.

12 2. The term of office of any [justice or] judge so appointed expires
13 on the first Monday of January following the next general election. *The*
14 *term of office of any justice who is appointed before the expiration of a*
15 *term expires at the end of the full term of the justice whom he succeeds.*
16 *Each justice who is appointed on the expiration of any term of office*
17 *serves a full term.*

18 3. Each nomination for the supreme court shall be made by the
19 permanent commission, composed of:

- 20 (a) The chief justice or an associate justice designated by him;
21 (b) Three members of the State bar of Nevada, a public corporation
22 created by statute, appointed by its board of governors; and
23 (c) Three persons, not members of the legal profession, appointed by
24 the governor.

25 4. Each nomination for the district court shall be made by a tem-
26 porary commission composed of:

- 27 (a) The permanent commission;
28 (b) A member of the State Bar of Nevada resident in the judicial dis-
29 trict in which the vacancy occurs, appointed by the board of governors
30 of the State Bar of Nevada; and
31 (c) A resident of such judicial district, not a member of the legal pro-
32 fession, appointed by the governor.

33 5. If at any time the State Bar of Nevada ceases to exist as a public
34 corporation or ceases to include all attorneys admitted to practice before
35 the courts of this state, the legislature shall provide by law, or if it fails
36 to do so the court shall provide by rule, for the appointment of attorneys
37 at law to the positions designated in this section to be occupied by mem-
38 bers of the State Bar of Nevada.

39 6. The term of office of each appointive member of the permanent
40 commission, except the first members, is 4 years. Each appointing author-
41 ity shall appoint one of the members first appointed for a term of 2 years.
42 If a vacancy occurs, the appointing authority shall fill the vacancy for the
43 unexpired term. The additional members of a temporary commission
44 shall be appointed when a vacancy occurs, and their terms shall expire
45 when the nominations for such vacancy have been transmitted to the
46 governor.

47 7. An appointing authority shall not appoint to the permanent com-
48 mission more than:

- 49 (a) One resident of any county.
50 (b) Two members of the same political party.

1 No member of the permanent commission may be a member of a com-
2 mission on judicial discipline.

3 8. After the expiration of 30 days from the date on which the com-
4 mission on judicial selection has delivered to him its list of nominees for
5 any vacancy, if the governor has not made the appointment required by
6 this section, he shall make no other appointment to any public office until
7 he has appointed a justice or judge from the list submitted.
8 If a commission on judicial selection is established by another section
9 of this constitution to nominate persons to fill vacancies on the supreme
10 court, such commission shall serve as the permanent commission estab-
11 lished by subsection 3 of this section.



(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 30

SENATE BILL NO. 30—COMMITTEE ON JUDICIARY

JANUARY 21, 1981

Referred to Committee on Judiciary

SUMMARY—Extends power of state gaming control board to examine enterprises related to gaming. (BDR 41-428)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to gaming; extending the power of the state gaming control board to require audits to include purveyors of services and equipment; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 **SECTION 1.** NRS 463.140 is hereby amended to read as follows:
2 463.140 1. The *Nevada gaming commission and the state gaming*
3 *control board shall administer the provisions of this chapter with respect*
4 *to state gaming licenses and manufacturer's, seller's and distributor's*
5 *licenses [shall be administered by the state gaming control board and the*
6 *Nevada gaming commission, which shall administer them]* for the protec-
7 *tion of the public and in the public interest in accordance with the policy*
8 *of this state.*
9 2. The board shall investigate the qualifications of each applicant
10 under this chapter before any license is issued or any registration, finding
11 of suitability or approval of acts or transactions for which commission
12 approval is required or permission is granted, and shall continue to
13 observe the conduct of all licensees and other persons having a material
14 involvement directly or indirectly with a licensed gaming operation or
15 registered holding company to the end that licenses [shall not be] *are not*
16 *issued to nor held by [nor shall there be any] and there is no* material
17 involvement directly or indirectly with a licensed gaming operation or
18 registered holding company by unqualified or disqualified persons, unsuit-
19 able persons or persons whose operations are conducted in an unsuitable
20 manner or in unsuitable or prohibited places or locations. The board has
21 full and absolute power and authority to recommend the denial of any
22 application, the limitation, conditioning or restriction of any license,

1 registration, finding of suitability or approval, the suspension or revoca-
2 tion of any license, registration, finding of suitability or approval or the
3 imposition of a fine upon any person licensed, registered, found suitable
4 or approved for any cause deemed reasonable by the board. The com-
5 mission has full and absolute power and authority to deny any application
6 or limit, condition, restrict, revoke or suspend any license, registration,
7 finding of suitability or approval, or fine any person licensed, registered,
8 found suitable or approved, for any cause deemed reasonable by the
9 commission.

10 3. The board and the commission and their agents may:

11 (a) Inspect and examine all premises wherein gaming is conducted or
12 gambling devices or equipment are manufactured, sold or distributed.

13 (b) Inspect all equipment and supplies in, upon or about such prem-
14 ises.

15 (c) Summarily seize and remove from such premises and impound
16 any equipment or supplies for the purpose of examination and inspection.

17 (d) Demand access to and inspect, examine, photocopy and audit all
18 papers, books and records of applicants and licensees, on their premises
19 and in the presence of the licensee or his agent, respecting the gross
20 income produced by any gaming business, and require verification of
21 income, and all other matters affecting the enforcement of the policy or
22 any of the provisions of this chapter.

23 (e) *If a person furnishes any services or property to a licensed gaming*
24 *establishment for a compensation which the board or commission finds to*
25 *be grossly disproportionate to the value of the services or property,*
26 *demand access to and inspect, examine, photocopy and audit all papers,*
27 *books and records of the person so furnishing them, on his premises and*
28 *in his presence or the presence of his agent, respecting the gross income*
29 *derived from the licensee or licensees.*

30 4. For the purpose of the administration and enforcement of chapters
31 463, 464 and 465 of NRS, and of chapter 205 of NRS so far as it
32 involves crimes against the property of gaming licensees, the board, the
33 commission and the executive, supervisory and investigative personnel of
34 both the board and the commission have the powers of a peace officer of
35 the State of Nevada.

36 5. The board and the commission or any member thereof [shall]
37 each have full power and authority to issue subpoenas and compel the
38 attendance of witnesses at any place within this state, to administer oaths
39 and to require testimony under oath. Any process or notice may be served
40 in the manner provided for service of process and notices in civil actions.
41 The board or the commission may pay such transportation and other
42 expenses of witnesses as it may deem reasonable and proper. Any person
43 making false oath in any matter before either the board or commission is
44 guilty of perjury. The board and commission or any member thereof may
45 appoint hearing examiners who may administer oaths and receive evi-
46 dence and testimony under oath.

47 SEC. 2. NRS 463.160 is hereby amended to read as follows:

48 463.160 1. It is unlawful for any person, either as owner, lessee or
49 employee, whether for hire or not, either solely or in conjunction with
50 others:

1 (a) To deal, operate, carry on, conduct, maintain or expose for play
2 in the State of Nevada any game or slot machine as defined in this chap-
3 ter, or to operate, carry on, conduct or maintain any horserace book or
4 sports pool;

5 (b) To provide or maintain any information service the primary pur-
6 pose of which is to aid the placing or making of wagers on events of any
7 kind; or

8 (c) To receive, directly or indirectly, any compensation or reward or
9 any percentage or share of the money or property played, for keeping,
10 running or carrying on any game, slot machine, horserace book or sports
11 pool,

12 without having first procured, and thereafter maintaining in effect, all
13 federal, state, county and municipal gaming licenses as required by statute
14 or ordinance or by the governing board of any unincorporated city or
15 town.

16 2. It is unlawful for any person to lend, let, lease or otherwise deliver
17 or furnish any equipment of any gambling game, including any slot
18 machine, for any interest or any percentage or share of the money or
19 property played, under guise of any agreement whatever, without having
20 first procured a state gaming license for it.

21 3. It is unlawful for any person to lend, let, lease or otherwise
22 deliver or furnish, except by a bona fide sale or capital lease, any slot
23 machine under guise of any agreement whatever whereby any considera-
24 tion whatever is paid or is payable for the right to possess or use that
25 slot machine, whether the consideration is measured by a percentage of
26 the revenue derived from the machine or by a fixed fee or otherwise, with-
27 out having first procured a state gaming license for the slot machine.

28 4. It is unlawful for any person to furnish services or property, real
29 or personal, on a contract, lease or license basis, pursuant to which that
30 person receives payments based on earnings or profits or otherwise from
31 any gambling game, including any slot machine, without having first pro-
32 cured a state gaming license.

33 5. It is unlawful for any person knowingly to permit any gambling
34 game, slot machine or device to be conducted, operated, dealt or carried
35 on in any house or building or other premises owned by him, in whole or
36 in part, except by a person who is licensed hereunder, or his employee.

37 6. The provisions of subsections 2, 3 and 4 do not apply to any
38 person:

39 (a) Whose payments are a fixed sum determined in advance on a
40 bona fide basis for the furnishing of services or property other than a
41 slot machine.

42 (b) Who furnishes services or property under a bona fide rental agree-
43 ment or security agreement for gaming equipment.

44 (c) Which is a wholly owned subsidiary of:

45 (1) A corporation or limited partnership holding a state gaming
46 license; or

47 (2) A holding company or intermediary company, or publicly
48 traded corporation, which has registered pursuant to NRS 463.585 or
49 463.635 and which has fully complied with the laws applicable to it as
50 such.

1 (d) Who is licensed as a distributor and who rents or leases any equip-
2 ment of any gambling game including any slot machine, under a bona
3 fide agreement where the payments are a fixed sum determined in
4 advance and not determined as a percentage of the revenue derived from
5 the equipment or slot machine.

6 Receipts or rentals or charges for real property, personal property or
7 services do not lose their character as payments of a fixed sum or as bona
8 fide because of contract, lease or license provisions for adjustments in
9 charges, rentals or fees on account of changes in taxes or assessments,
10 cost-of-living index escalations, expansions or improvement of facilities,
11 or changes in services supplied; and receipts of percentage rentals or per-
12 centage charges between a corporate or limited partnership licensee and
13 the entities enumerated in paragraph (c) are permitted under this subsec-
14 tion.

15 7. The commission may determine the suitability, or may require the
16 licensing, of any person who furnishes services or property to a state
17 gaming licensee under any arrangement pursuant to which the person
18 receives payments based on earnings, profits or receipts from gaming. The
19 commission may require any such person to comply with the requirements
20 of this chapter and with the regulations of the commission. If the com-
21 mission determines that any such person is unsuitable, it may require the
22 arrangement to be terminated.

23 8. If the premises of a licensed gaming establishment are directly or
24 indirectly owned or under the control of the licensee therein, or of any
25 person controlling, controlled by, or under common control with the
26 licensee, the commission may, upon recommendation of the board,
27 require the application of any [business or] person for a determination of
28 suitability to be associated with a gaming enterprise if the person: [or
29 business:]

30 (a) Does business on the premises of the licensed gaming establish-
31 ment;

32 (b) Does business with the licensed gaming establishment as a junket
33 representative or ticket purveyor; or

34 (c) [Provides any goods or services] *Furnishes any services or prop-*
35 *erty to the licensed gaming establishment for a compensation which the*
36 *board finds to be grossly disproportionate to the value of the [goods or*
37 *services.] services or property.*

38 If the commission determines that the [business or] person is unsuitable
39 to be associated with a gaming enterprise, the association must be termi-
40 nated. Any agreement which entitles a [business other than gaming to be
41 conducted on the premises, or entitles a person or business other than
42 gaming] *person to conduct a business other than gaming on the prem-*
43 *ises or to conduct business with the licensed gaming establishment as*
44 *set forth in paragraph (b) or (c) of this subsection, is subject to termina-*
45 *tion upon a finding of unsuitability of the business or of any person asso-*
46 *ciated therewith. Every such agreement [must] shall be deemed to*
47 *include a provision for its termination without liability on the part of the*
48 *licensee upon a finding by the commission that the business or any person*
49 *associated therewith is unsuitable to be associated with a gaming enter-*
50 *prise. Failure expressly to include that condition in the agreement is not*

1 a defense in any action brought pursuant to this section to terminate the
2 agreement. If the application is not presented to the board within 30 days
3 following demand or the unsuitable association is not terminated, the
4 commission may pursue any remedy or combination of remedies provided
5 in this chapter.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 31

SENATE BILL NO. 31—COMMITTEE ON JUDICIARY

JANUARY 21, 1981

Referred to Committee on Judiciary

SUMMARY—Extends admissibility of intercepted communications into evidence. (BDR 4-481)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to evidence; declaring positively the admissibility of communications lawfully intercepted; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Chapter 48 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 *Except as limited by this section, in addition to the matters made*
4 *admissible by NRS 179.465, the contents of any communication lawfully*
5 *intercepted under the laws of the United States or of another jurisdiction*
6 *before, on or after July 1, 1981, if the interception took place within that*
7 *jurisdiction, and any evidence derived from such a communication, is*
8 *admissible in any action or proceeding in a court or before an administra-*
9 *tive body of this state, including without limitation the Nevada gaming*
10 *commission and the state gaming control board. Matter otherwise privi-*
11 *leged under this Title does not lose its privileged character by reason of*
12 *any interception.*
13 SEC. 2. The legislature in enacting section 1 of this act clarifies the
14 admissibility of evidence of intercepted communications in administrative
15 proceedings and of such evidence obtained within the territorial limits of
16 the United States, and extends admissibility to such evidence lawfully
17 obtained in other jurisdictions.

EXHIBIT I

S. B. 212

SENATE BILL NO. 212—COMMITTEE ON
COMMERCE AND LABOR

FEBRUARY 10, 1981

Referred to Committee on Judiciary

SUMMARY—Changes place to file to perfect certain security interests and provides filing and indexing fee and procedure for federal tax liens. (BDR 9-140)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to federal liens; changing the proper place for filing to perfect a security interest on certain kinds of collateral; specifying the amount to be charged by the secretary of state and the county recorder for filing and indexing; changing procedures for filing a federal tax lien; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 104.9401 is hereby amended to read as follows:
2 104.9401 1. The proper place to file in order to perfect a security
3 interest is as follows:
4 (a) [When the collateral is equipment used in farming operations, or
5 farm products, or accounts or general intangibles arising from or relating
6 to the sale of farm products by a farmer, or consumer goods, then in the
7 office of the county recorder in the county of the debtor's residence or if
8 the debtor is not a resident of this state then in the office of the county
9 recorder in the county where the goods are kept, and in addition when
10 the collateral is crops, growing or to be grown, in the office of the county
11 recorder in the county where the land on which the crops are growing or
12 to be grown is located.
13 (b)] Except as otherwise provided in subsection 5, when the col-
14 lateral is timber to be cut or is minerals or the like (including oil and
15 gas) or accounts subject to subsection 5 of NRS 104.9103, or when the
16 financing statement is filed as a fixture filing (NRS 104.9313) and the
17 collateral is goods which are or are to become fixtures, then in the office
18 where a mortgage on the real estate would be filed or recorded.
19 [(c)] (b) In all other cases, in the office of the secretary of state.
20 2. A filing which is made in good faith in an improper place or not
21 in all of the places required by this section is nevertheless effective with

1 regard to any collateral as to which the filing complied with the require-
2 ments of this article and is also effective with regard to collateral covered
3 by the financing statement against any person who has knowledge of the
4 contents of such financing statement.

5 3. A filing which is made in the proper place in this state continues
6 effective even though the debtor's residence or place of business or the
7 location of the collateral or its use, whichever controlled the original
8 filing, is thereafter changed.

9 4. The rules stated in NRS 104.9103 determine whether filing is
10 necessary in this state.

11 5. Notwithstanding [the preceding subsections, and] subsection 3 of
12 NRS 104.9302, the proper place to file in order to perfect a security
13 interest in collateral, including fixtures, of a transmitting utility is set
14 forth in NRS 704.205. This constitutes a fixture filing (NRS 104.9313)
15 as to the collateral described therein which is or is to become fixtures.

16 6. For the purposes of this section, the residence of an organization
17 is its place of business if it has one or its chief executive office if it has
18 more than one place of business.

19 SEC. 2. NRS 108.833 is hereby amended to read as follows:

20 108.833 1. *The secretary of state and the county recorder shall*
21 *charge, [the standard fee] for filing and indexing each notice of lien,*
22 *certificate or notice affecting the lien [.] , a fee of \$6 for each notice of*
23 *federal lien filed and indexed. This fee includes the subsequent recording*
24 *of a certificate of discharge, nonattachment, release or subordination of*
25 *the lien. No fee may be charged for recording the release of any federal*
26 *tax lien which was filed before March 24, 1967.*

27 2. *The secretary of state shall accept, file and index all notices of*
28 *federal tax liens filed on behalf of the Federal Government without*
29 *requiring payment of the fee at the time of filing. He shall then submit an*
30 *invoice each month to the district director of internal revenue for all fees*
31 *accrued during the billing period.*

EXHIBIT J

S. B. 225

SENATE BILL NO. 225—COMMITTEE ON JUDICIARY

FEBRUARY 12, 1981

Referred to Committee on Judiciary

SUMMARY—Specifies number of jurors in civil actions. (BDR 2-698)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to civil actions; specifying the number of jurors;
and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 16.030 is hereby amended to read as follows:
2 16.030 1. In preparing for the selection of the jury, the clerk, under
3 the direction of the judge, shall place in a box ballots containing the
4 names of the persons summoned who have appeared and have not been
5 excused. The clerk shall mix the ballots and draw from the box the
6 number of names needed to complete the jury in accordance with the
7 procedure provided either in subsection 2 or subsection 3, as the judge
8 directs.
9 2. The judge may require that eight names be drawn, and the per-
10 sons whose names are called shall be examined as to their qualifications to
11 serve as jurors. If any persons are excused or discharged, or if the ballots
12 are exhausted before the jury is selected, additional names shall be
13 drawn from the jury box and those persons summoned and examined as
14 provided by law until the jury is selected.
15 3. The judge may require that the clerk draw a number of names to
16 form a panel of prospective jurors equal to the sum of the number of
17 regular jurors and alternate jurors to be selected and the number of
18 peremptory challenges to be exercised. The persons whose names are
19 called shall be examined as to their qualifications to serve as jurors. If
20 any persons on the panel are excused for cause, they [shall] *must* be
21 replaced by additional persons who [shall] *must* also be examined as to
22 their qualifications. *The jury must consist of eight persons, unless the*
23 *parties consent to a lesser number. The parties may consent to any num-*
24 *ber not less than four. This consent must be entered by the clerk in the*
25 *minutes of the trial.* When a sufficient number of prospective jurors has

1 been qualified to complete the panel, each side shall exercise its per-
2 emptory challenges out of the hearing of the panel by alternately striking
3 names from the list of persons on the panel. After the peremptory chal-
4 lenges have been exercised, the persons remaining on the panel who are
5 needed to complete the jury shall, in the order in which their names were
6 drawn, be regular jurors or alternate jurors.

7 4. Before persons whose names have been drawn are examined as to
8 their qualifications to serve as jurors, the judge or his clerk shall admin-
9 ister an oath or affirmation to them in substantially the following form:

10 Do you, and each of you, (solemnly swear, or affirm under the
11 pains and penalties of perjury) that you will well and truly answer
12 all questions put to you touching upon your qualifications to serve
13 as jurors in the case now pending before this court (so help you
14 God)?

15 5. The judge shall conduct the initial examination of prospective
16 jurors and the parties or their attorneys are entitled to conduct supple-
17 mental examinations which must not be unreasonably restricted.