

*Revised*

MINUTES OF THE  
MEETING OF THE SENATE COMMITTEE  
ON JUDICIARY

SIXTY-FIRST SESSION  
NEVADA STATE LEGISLATURE  
April 3, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close at 8:30 a.m., Friday, April 3, 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 Keith Ashworth, Vice Chairman  
Senator William J. Raggio  
Senator William H. Hernstadt  
Senator Sug Wagner

COMMITTEE MEMBERS ABSENT:

Senator Don W. Ashworth  
Senator Jean E. Ford

STAFF MEMBER PRESENT:

Shirley LaBadie, Committee Secretary

SENATE BILL NO. 107--Conforms certain statutory provisions to constitutional provisions relating to jurisdiction of courts of record.

Chairman Close advised the committee the Assembly Judiciary committee had amended S. B. No. 107 and the amendments appeared to be confusing. Assemblyman Jan Stewart was asked to advise the committee on their proposed amendments to the original bill. He stated the language was to clarify what was passed two years ago. In some areas of NRS which dealt with justice courts, there was a listing of jurisdictions. It states justice courts have jurisdiction over the following civil actions and proceedings and no others, but they were not all listed. With reference to page 2, line 22, Assemblyman Stewart advised the committee the amendment resolves conflicts with other bills, S. B. No. 109 and S. B. No. 110.

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Chairman Close asked for a motion to concur with the amendments proposed By Assembly Judiciary.

Senator Wagner moved to concur with Amendment No. 303 to S. B. No. 107

Senator Hernstadt seconded the motion.

The motion carried. (Senators Don Ashworth and Ford were absent for the vote.)

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

Chairman Close advised the committee the amendments to S. B. No. 36 have been worked on by the committee but have never been resolved. He stated Warden Wolff had requested language on lines 10 and 11 to read: has not committed a battery within the last one year. Discussion by the committee of the proposed amendments resulted in the following language to be used in the bill: has not committed a battery within the last year and has not been convicted of a sexual offense.

SENATE BILL NO. 36

Senator Wagner moved to rescind the previous action on S. B. No. 36.

Senator Don Ashworth seconded the motion.

The motion carried. (Senators Don Ashworth and Ford were absent for the vote.)

SENATE BILL NO. 36

Senator Wagner moved to amend and Do Pass S. B. No. 36 with the proposed language of the committee.

Senator Keith Ashworth seconded the motion.

The motion carried. (Senators Don Ashworth and Ford were absent for the vote.)

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SENATE BILL NO. 446--Authorizes certain trustees to make specified sales. (Exhibit)

Mr. John Cockle, Senior Vice President and general counsel of Nevada National Bank, also representing Nevada Bankers Association Division, Trust Division, stated he had requested for the introduction of S. B. No. 446. This bill is primarily for the benefit of the beneficiaries in regulated banks, trust departments. There are approximately 3,000 trusts in Nevada which are handled by trust departments. In day to day purchase of securities, it becomes convenient, depending on market value, to sell from one trust to another. The comptroller has a study of regulations of trust departments and for many years, the provision is that regulation applicable to this subject is to the effect that a trust may sell assets from one trust to another so long as the sale is fair to both trusts and is not in contravention of state law.

Chairman Close asked if a piece of property could be sold. Mr. Cockle stated that would never be done without an appraisal and the permission of all beneficiaries of both trusts. Chairman Close pointed out the bill does not restrict this from happening. Mr. Cockle stated, he agreed but normal procedure would prevent this from being done. The comptroller regulates and examines the division and watches for conflicts of interest and violation of fairness.

Chairman Close asked what happens when a family trust does not have a bank as the trustee. Mr. Cockle stated in that case you could kill the entire prohibition. He said during the last session there was considerable criticism because it was not confined to regulated banks, and the reason being, it would invite abuses if a family member is a trustee and also a beneficiary and is selling back and forth from one trust to another. Chairman Close suggested language be put in Section 1 to read, excepted as provided by the trust.

Senator Keith Ashworth suggested only securities or listed securities be sold. He did not like having property included, 99% of the activity is securities. Property escalates in value constantly, the value of listed securities is known on any given day and transactions can be justified.

Mr. Cockle suggested the language read, except as provided in the trust document or in subsection 2, a trustee shall not as trustee sell property to itself and so forth, in paragraph 1.

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Mr. Cockle further suggested in paragraph 2, delete the word, property, and substitute the words, listed securities. This would solve all problems.

SENATE BILL NO. 447--Authorizes probate of will as muniment of title.

Chairman Close asked Mr. Cockle if he had any comments on S. B. No. 447. Mr. Cockle stated he had read the bill but had no objection or support of the bill. He was not aware of the purpose of the bill. He said the word muniment means a document of title. He stated if there is a good reason for the bill, there would be no objection.

SENATE BILL NO. 446 (On Agenda)

Senator Hernstadt moved to amend and Do Pass S. B. No. 446.

Senator Raggio seconded the motion.

The motion carried. (Senators Don Ashworth and Ford were absent for the vote.)

Chairman Close advised the committee Judge Mendoza, on behalf of the committee, has requested two bills to be drafted. He called the bill drafters himself and asked for the bills to be drafted. One of the bills deals with termination of parental rights which the welfare division recently asked to have withdrawn.

Chairman Close advised the committee he had bill drafting requests to be considered for committee introduction.

BDR 14-1333 (Welfare Division)

Makes investigators of the welfare department peace officers.

The committee rejected introduction of BDR 14-1333.

BDR 41-1766 (Senator Faiss) (S.B. 585)

Allows gaming establishments to provide for interchangeable use of gaming tokens.

Senator Keith Ashworth stated there is a tremendous problem because the treasury is trying force clubs to use the Susan B.

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Anthony dollars and they are against the co-mingling of tokens and silver dollars in the clubs and the associations in both the north and south have agreed the tokens will be segregated. Senator Keith Ashworth stated it is not advisable for the competition to be using tokens from his club to operate their machines.

The committee rejected introduction of BDR 41-1766.

BDR 41-1220 (Senator Keith Ashworth) (S.B. 502)

Limits local gaming license fees and investigations.

BDR 9-1342 (Appraisers) (S.B. 501)

Establishes appraiser's lien on property appraised at request of owner.

The committee introduced BDR 41-1220 and BDR 9-1342.

SENATE BILL NO. 438--Amends provisions relating to corporations. (EXHIBIT E)

Senator Hernstadt moved to Do Pass S. B. No. 438

Senator Raggio seconded the motion.

The motion carried. (Senators Don Ashworth, Ford and Keith Ashworth were absent for the vote.)

SENATE BILL NO. 439--Removes restriction on renewal of reservation of name for corporation. (EXHIBIT F)

Senator Raggio moved to amend and Do Pass S. B. No. 439 and make it effective upon passage and approval.

Senator Keith Ashworth seconded the motion.

The motion carried. (Senators Don Ashworth and Ford were absent for the vote.)

SENATE BILL NO. 384--Prohibits prosecuting attorneys from bargaining to pleas in prosecutions for certain offenses.

Senator Raggio stated the bill is impractical so far as the prosecutor. Senator Hernstadt stated his reason for the support of the bill. He said if people are allowed to own guns, then those people misusing the guns should be punished. Further

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discussion of S. B. No. 384 resulted in the following action.

SENATE BILL NO. 384

Senator Keith Ashworth moved to Do Pass S. B. No. 384.

Senator Hernstadt seconded the motion.

The motion failed. (Senators Keith Ashworth, Hernstadt and Chairman Close voted for the motion. Senators Raggio and Wagner voted against the motion. Senators Ford and Don Ashworth were absent for the vote.)

SENATE BILL NO. 384

Senator Raggio moved to indefinitely postpone S. B. No. 384.

Senator Wagner seconded the motion.

The motion carried. (Senators Don Ashworth and Ford were absent for the vote.)

SENATE JOINT RESOLUTION NO. 14--Proposes to amend Nevada constitution to permit appointment of judges pro tempore in certain circumstances.

Senator Wagner spoke in behalf of S. J. R. No. 14. She said the bill would help the court situation, but the judges do not want to allow their power to be expanded to anyone else. If the courts are too crowded and the judges are going to drop out because of inadequate pay, this would help the situation. It has worked in other states very well. Chairman Close stated in this framework, if more judges are needed, they can be appointed. The counties have to pay them, find them an office and provide secretaries. Discussion by the committee resulted in the following action.

SENATE JOINT RESOLUTION NO. 14

Senator Keith Ashworth moved to indefinitely postpone S. J. R. No. 14.

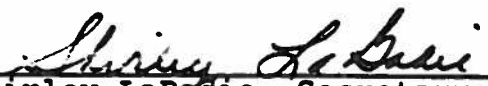
Senator Hernstadt seconded the motion.

The motion carried. (Senators Don Ashworth and Ford were absent for the vote. Senators Close, Raggio, Keith Ashworth and Hernstadt voted for the motion. Senator Wagner voted no.)

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There being no further business, the meeting adjourned at  
9:50 a.m.

Respectfully submitted:

  
Shirley LaBadie, Secretary

APPROVED BY:

  
Senator Melvin D. Close, Jr., Chairman

DATE: April 16, 1981

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on JUDICIARY, Room 213.  
Day Friday, Date April 3, Time 9:00 a.m.

S. B. No. 446--Authorizes certain trustees to make specified sales.

S. B. No. 447--Authorizes probate of will as muniment of title.



SENATE COMMITTEE ON JUDICIARY

DATE: April 3, 1981

EXHIBIT B

PLEASE PRINT

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NAME

ORGANIZATION & ADDRESS

TELEPHONE

JOHN COCKLE

NEV NATL BANK -  
NEV BANKERS ASSN - TRUST DIV

785-6533

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

**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;  
10 (d) ~~Has committed an assault upon any person; or~~ *Has been con-*  
11 *victed of a sexual offense;*  
12 (e) *Has been convicted of a battery during the previous year; or*  
13 ~~[(e)]~~ (f) Has attempted to escape or has escaped from an institu-  
14 tion of the department of prisons.  
15 2. The director shall, by regulation, establish procedures for classify-  
16 ing and selecting qualified prisoners.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 446

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SENATE BILL NO. 446—COMMITTEE ON JUDICIARY

MARCH 25, 1981

Referred to Committee on Judiciary

SUMMARY—Authorizes certain trustees to make specified sales. (BDR 13-1344)

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



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

AN ACT relating to trusts; authorizing regulated trustees to sell certain securities in one trust to another trust; 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 163.060 is hereby amended to read as follows:  
2 163.060 [No] 1. *Except as provided in subsection 2, a trustee*  
3 *shall not as trustee of one trust sell property to itself as trustee of another*  
4 *trust except with the approval of the district court having jurisdiction of*  
5 *the trust estate and of the accounting thereof.*  
6 2. *A bank or other corporate trustee which is subject to regulation by*  
7 *state or federal authorities may sell a security which is listed on a regu-*  
8 *lated stock exchange or sold over the counter by the National Associa-*  
9 *tion of Securities Dealers and is held by it as fiduciary in one account*  
10 *to itself as fiduciary in another account if the transaction is fair to the*  
11 *beneficiaries of both accounts and is not otherwise expressly prohibited*  
12 *by a particular statute.*



S. B. 438

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SENATE BILL NO. 438—COMMITTEE ON JUDICIARY

MARCH 23, 1981

Referred to Committee on Judiciary

SUMMARY—Amends provisions relating to corporations. (BDR 7-136)

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

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

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AN ACT relating to corporations; reducing the required number of incorporators; clarifying a provision regarding amendment of articles of incorporation; providing a fee for surrender of corporate rights before beginning business; 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 78.030 is hereby amended to read as follows:  
2 78.030 1. [Any number of natural persons, not less than three,]  
3 *One or more natural persons* may associate to establish a corporation for  
4 the transaction of any lawful business, or to promote or conduct any  
5 legitimate object or purpose, under and subject to the requirements of  
6 this chapter, by:  
7 (a) Executing, acknowledging and filing in the office of the secretary  
8 of state articles of incorporation, or a certificate of incorporation; and  
9 (b) Filing a copy thereof, certified under the hand and official seal of  
10 the secretary of state, in the office of the clerk of the county in which the  
11 principal place of business of the company is intended to be located. The  
12 county clerk may microfilm [such] *this* copy for filing in his records  
13 rather than filing the copy.  
14 2. The articles of incorporation, or certificate of incorporation, must  
15 be as provided in NRS 78.035, and the secretary of state shall require it  
16 to be in the form so prescribed. If any articles or certificates are defect-  
17 ive in [such] *this* respect, the secretary of state shall return them for  
18 correction.  
19 SEC. 2. NRS 78.035 is hereby amended to read as follows:  
20 78.035 The certificate or articles of incorporation shall set forth:  
21 1. The name of the corporation, which [shall] *must* not be the  
22 same as, or deceptively similar to, the name of any other corporation  
23 formed or incorporated in this state or of any foreign corporation  
24 authorized to transact business within this state or a name reserved for

1 the use of any other proposed corporation as provided in NRS 78.040,  
2 unless the written acknowledged consent of such other corporation or  
3 person for whom such name is reserved to the adoption of such name is  
4 filed with the articles. A name appearing to be that of [an individual]  
5 a natural person and containing a given name or initials [shall] must  
6 not be used as a corporate name except with an additional word or words  
7 such as "Incorporated," "Limited," "Inc.," "Ltd.," "Company," "Co.,"  
8 "Corporation," "Corp.," or other word which identifies it as not being  
9 [an individual.] a natural person.

10 2. The name of the county, and of the city or town, and of the place  
11 within the county, city or town in which its principal office or place of  
12 business is to be located in this state, giving the street and number where-  
13 ever practicable; and if not so described as to be easily located within the  
14 county, city or town, the secretary of state shall refuse to issue his certificate  
15 until [such] the location is marked and established.

16 3. The nature of the business, or objects or purposes proposed to be  
17 transacted, promoted or carried on by the corporation. It [shall be] is a  
18 sufficient compliance with this subsection to state, either alone or with  
19 other purposes, that the corporation may engage in any lawful activity,  
20 subject to expressed limitations, if any. Such statement [shall make]  
21 makes all lawful activities within the objects or purposes of the corpora-  
22 tion.

23 4. The amount of the total authorized capital stock of the corpora-  
24 tion, and the number and par value of the shares of which it is to consist;  
25 or, if the corporation is to issue shares without par value, the total number  
26 of shares that may be issued by the corporation, the number of such  
27 shares, if any, which are to have a par value, and the par value of each  
28 thereof, and the number of such shares which are to be without par value.  
29 If the corporation is to issue more than one class of stock, there [shall]  
30 must be set forth therein a description of the different classes thereof and  
31 a statement of the relative rights of the holders of stock of such classes;  
32 and if the corporation is to issue in series any class of stock which is preferred  
33 as to dividends, assets or otherwise, over stock of any other class  
34 or classes, there [shall] must be set forth in the certificate or articles of  
35 incorporation the limits, if any, of variation between each series of each  
36 class, as to amount of preference upon distribution of assets, rate of dividends,  
37 premium or redemption, conversion price or otherwise; but in any  
38 corporation the certificate or articles of incorporation may vest authority  
39 in the board of directors to fix and determine upon the same as provided  
40 by NRS 78.195.

41 5. Whether the members of the governing board [shall] must be  
42 styled directors or trustees of the corporation, and the number, names  
43 and post office addresses of the first board of directors or trustees, which  
44 [shall] may not be less than three unless the articles set forth that the  
45 initial number of stockholders will be less than three; together with any  
46 desired provisions relative to the right to change the number of directors  
47 as provided by NRS 78.330.

48 6. Whether or not capital stock, after the amount of the subscription  
49 price, or par value, has been paid in [shall be] is subject to assessment to  
50 pay the debts of the corporation. [ and unless] Unless provision is made



1 in [such] *the* original certificate or articles of incorporation for assess-  
2 ment upon paid-up stock, no paid-up stock [,] and no stock issued as  
3 fully paid up, [shall] *may* ever be [assessable, or] assessed, and the  
4 articles of incorporation [shall] *must* not be amended in this particular.

5 7. The name and post office address of each of the incorporators  
6 signing the certificate or articles of incorporation.

7 8. Whether or not the corporation is to have perpetual existence, and,  
8 if not, the time when its existence is to cease.

9 9. The certificate or articles of incorporation may also contain any  
10 provisions, not contrary to the laws of this state, which the incorporators  
11 [may] choose to insert for the regulation of the business and for the con-  
12 duct of the affairs of the corporation, and any provisions creating, defin-  
13 ing, limiting and regulating the powers of the corporation, and the rights,  
14 powers or duties of the directors or stockholders, or any classes of  
15 stockholders, or holders of the bonds or other obligations of the corpora-  
16 tion, or providing for governing the distribution or division of the profits  
17 of the corporation.

18 SEC. 3. NRS 78.780 is hereby amended to read as follows:

19 78.780 1. The fee for filing a certificate of extension in renewal of  
20 corporate existence of any corporation [shall be] *is* an amount equal to  
21 one-fourth the fee computed at the rates specified in NRS 78.760 for  
22 filing the original certificate of incorporation.

23 2. The fee for filing a certificate of dissolution [shall be] *whether it*  
24 *occurs before or after payment of capital and beginning of business is*  
25 \$20.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 439

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SENATE BILL NO. 439—COMMITTEE ON JUDICIARY

MARCH 23, 1981

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Referred to Committee on Judiciary

SUMMARY—Removes restriction on renewal of reservation of name for corporation. (BDR 7-139)

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



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

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AN ACT relating to corporations; removing restrictions on renewing the reservation of a name; 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 78.040 is hereby amended to read as follows:  
2 78.040 1. [Except as provided in subsection 3, the] *The* secretary  
3 of state, when requested so to do, shall reserve, for a period of 90 days,  
4 the right to use any name available, under subsection 1 of NRS 78.035,  
5 for the use of any proposed corporation. During the period, a name so  
6 reserved [shall not be] *is not* available for use by any corporation with-  
7 out the consent of the person or persons, firm or corporation at whose  
8 request the reservation was made.  
9 2. The use by any corporation of a name in violation of subsection  
10 1 of NRS 78.035 or subsection 1 of this section may be enjoined, not-  
11 withstanding the fact that the certificate or articles of incorporation of  
12 the corporation may have been filed by the secretary of state.  
13 [3. A name which has been reserved as provided in subsection 1  
14 may not be the subject of a renewal or of a reservation by any person,  
15 firm or corporation for a period of 90 days after the expiration of the  
16 reservation.]  
17 SEC. 2. This act shall become effective upon passage and approval.