
SENATE BILL NO. 317—SENATORS WIENER AND AMODEI

MARCH 17, 2003

JOINT SPONSOR: ASSEMBLYWOMAN LESLIE

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to incarcerated persons. (BDR 34-594)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to incarcerated persons; requiring the Department of Education to adopt regulations that establish a statewide program of education for incarcerated persons and to coordinate with and assist school districts in operating programs of education for incarcerated persons; creating in the State Treasury the Fund for Programs of Education for Incarcerated Persons; authorizing school districts to operate programs of education for incarcerated persons under certain circumstances; providing procedures if a manager or warden excludes from a facility or institution a person employed by a school district to operate a program of education for incarcerated persons in the facility or institution; authorizing the University and Community College System of Nevada to offer courses that lead to a postsecondary degree for incarcerated persons; providing free tuition to certain incarcerated persons under certain conditions; making various changes to provisions relating to credits against the sentence of an offender; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:



* S B 3 1 7 *

1 **Section 1.** Chapter 388 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 7, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 7, inclusive, of this act, unless*
5 *the context otherwise requires, “incarcerated persons” means*
6 *persons who are incarcerated in a facility or institution operated*
7 *by the Department of Corrections.*

8 **Sec. 3. 1.** *The Department of Education, after consulting*
9 *with the Department of Corrections, shall:*

10 (a) *Adopt regulations that establish a statewide program of*
11 *education for incarcerated persons; and*

12 (b) *Coordinate with and assist school districts in operating*
13 *programs of education for incarcerated persons.*

14 2. *The statewide program may include courses of study for:*

15 (a) *A high school diploma;*

16 (b) *Basic literacy;*

17 (c) *English as a second language;*

18 (d) *General educational development;*

19 (e) *Life skills;*

20 (f) *Occupational education; and*

21 (g) *Postsecondary education, including, without limitation,*
22 *courses of study that are offered by any branch or facility of the*
23 *University and Community College System of Nevada.*

24 3. *The statewide program does not include the programs of*
25 *general education, vocational education and training established*
26 *by the Board of State Prison Commissioners pursuant to*
27 *NRS 209.389.*

28 4. *The statewide program must establish:*

29 (a) *Standards for each course of study that set forth the:*

30 (1) *Curriculum;*

31 (2) *Qualifications for entry; and*

32 (3) *Evaluation of incarcerated persons for placement; and*

33 (b) *Procedures to ensure that an incarcerated person who*
34 *earns credits in a program of education for incarcerated persons*
35 *operated by a school district at a facility or institution may, if*
36 *transferred to a different facility or institution, transfer those*
37 *credits to the program operated by a school district at that facility*
38 *or institution.*

39 5. *As used in this section, “general educational development”*
40 *means preparation for and administration of the standardized*
41 *examinations that enable persons who have not graduated from*
42 *high school to demonstrate that they have achieved an educational*
43 *level which is an acceptable substitute for completing a high*
44 *school education. The term includes programs for obtaining a*
45 *general educational development certificate.*



1 **Sec. 4. 1.** *There is hereby created in the State Treasury the*
2 *Fund for Programs of Education for Incarcerated Persons. The*
3 *Fund is administered by the State Board. The Superintendent of*
4 *Public Instruction may accept gifts and grants of money from any*
5 *source for deposit in the Fund. The interest and income earned on*
6 *the money in the Fund, after deducting any applicable charges,*
7 *must be credited to the Fund.*

8 2. *Money in the Fund must be used for programs of*
9 *education for incarcerated persons.*

10 3. *Money in the Fund must not be:*

11 (a) *Considered in negotiations between a recognized*
12 *organization of employees of a school district and the school*
13 *district; or*

14 (b) *Used to reduce the amount of money which would*
15 *otherwise be made available for programs of education for*
16 *incarcerated persons in the absence of this section.*

17 4. *The Department shall establish a formula for equitably*
18 *allocating money from the Fund to each school district that*
19 *operates a program of education for incarcerated persons.*

20 5. *The State Board shall establish annually, within the limits*
21 *of money available in the Fund, a basic allocation to each school*
22 *district that operates a program of education for incarcerated*
23 *persons.*

24 **Sec. 5. 1.** *The board of trustees of a school district may,*
25 *with the cooperation of the Department of Corrections, operate a*
26 *program of education for incarcerated persons in any facility or*
27 *institution operated by the Department of Corrections in the*
28 *county of the school district.*

29 2. *A school district that operates a program of education for*
30 *incarcerated persons shall:*

31 (a) *Comply with the standards for such programs established*
32 *by the Department of Education in the statewide program*
33 *established pursuant to section 3 of this act;*

34 (b) *As a condition for obtaining an allocation from the Fund*
35 *for Programs of Education for Incarcerated Persons, submit to the*
36 *Department of Education:*

37 (1) *An application to operate such a program; and*

38 (2) *A detailed budget for the program; and*

39 (c) *If the school district receives an allocation from the Fund,*
40 *obtain the approval of the Department of Education before it*
41 *makes any changes in categorical expenditures.*

42 **Sec. 6.** *The Board of Regents of the University of Nevada*
43 *may, with the cooperation of the Department of Corrections, offer*
44 *courses that lead to a postsecondary degree for incarcerated*



1 *persons in any facility or institution operated by the Department of*
2 *Corrections.*

3 **Sec. 7. 1.** *If a manager or warden excludes from the facility*
4 *or institution a person employed by a school district to operate a*
5 *program of education for incarcerated persons in the facility or*
6 *institution, an interagency panel must be convened.*

7 **2.** *The interagency panel must:*

8 (a) *Consist of:*

9 (1) *The Director of the Department of Corrections or his*
10 *designee;*

11 (2) *The Superintendent of Public Instruction or his*
12 *designee; and*

13 (3) *The immediate supervisor of the person employed by the*
14 *school district.*

15 (b) *Conduct a hearing in compliance with all applicable*
16 *provisions of chapter 233B of NRS.*

17 **3.** *The decision of the interagency panel is a final decision in*
18 *a contested case.*

19 **Sec. 8.** NRS 396.540 is hereby amended to read as follows:

20 396.540 1. For the purposes of this section:

21 (a) "Bona fide resident" shall be construed in accordance with
22 the provisions of NRS 10.155. The qualification "bona fide" is
23 intended to assure that the residence is genuine and established for
24 purposes other than the avoidance of tuition.

25 (b) "Tuition charge" means a charge assessed against students
26 who are not residents of Nevada and which is in addition to
27 registration fees or other fees assessed against students who are
28 residents of Nevada.

29 2. The Board of Regents may fix a tuition charge for students
30 at all campuses of the University of Nevada System, but tuition shall
31 be free to:

32 (a) All students whose families are bona fide residents of the
33 State of Nevada;

34 (b) All students whose families reside outside of the State of
35 Nevada, providing such students have themselves been bona fide
36 residents of the State of Nevada for at least 6 months prior to their
37 matriculation at the university;

38 (c) All public school teachers who are employed full-time by
39 school districts in the State of Nevada; ~~and~~

40 (d) All full-time teachers in private elementary, secondary and
41 postsecondary educational institutions in the State of Nevada whose
42 curricula meet the requirements of chapter 394 of NRS ~~§~~; *and*

43 (e) *Incarcerated persons who take courses that lead to a*
44 *postsecondary degree offered pursuant to section 3 of this act if*



1 *they meet the eligibility criteria for federal need-based financial*
2 *aid.*

3 3. In its discretion, the Board of Regents may grant tuitions
4 free each university semester to worthwhile and deserving students
5 from other states and foreign countries, in number not to exceed a
6 number equal to 3 percent of the total matriculated enrollment of
7 students for the last preceding fall semester.

8 **Sec. 9.** NRS 209.396 is hereby amended to read as follows:

9 209.396 1. Except as otherwise provided in this section, an
10 offender who is illiterate may not be assigned to an industrial or a
11 vocational program unless:

12 (a) He is regularly attending and making satisfactory progress in
13 a program for general education; or

14 (b) The Director for good cause determines that the limitation on
15 assignment should be waived under the circumstances with respect
16 to a particular offender.

17 2. An offender whose:

18 (a) Native language is not English;

19 (b) Ability to read and write in his native language is at or above
20 the level of literacy designated by the Board in its regulations; and

21 (c) Ability to read and write the English language is
22 below the level of literacy designated by the Board in its
23 regulations,

24 may not be assigned to an industrial or a vocational program unless
25 he is regularly attending and making satisfactory progress in a
26 course which teaches English as a second language or the Director
27 for good cause determines that the limitation on assignment should
28 be waived under the circumstances with respect to a particular
29 offender.

30 3. Upon written documentation that an illiterate offender has a
31 developmental, learning or other similar disability which affects his
32 ability to learn, the Director may:

33 (a) Adapt or create an educational program or guidelines for
34 evaluating the educational progress of the offender to meet his
35 particular needs; or

36 (b) Exempt the offender from the required participation in an
37 educational program prescribed by this section.

38 4. The provisions of this section do not apply to an offender
39 who presents satisfactory evidence that he has a high school
40 *diploma* or ~~[general equivalency diploma.]~~ *a general educational*
41 *development certificate.*

42 5. As used in this section, "illiterate" means having an ability
43 to read and write that is below the level of literacy designated by the
44 Board in its regulations.



1 **Sec. 10.** NRS 209.433 is hereby amended to read as follows:
2 209.433 1. Every offender who was sentenced to prison on or
3 before June 30, 1969, who has no serious infraction of the
4 regulations of the Department, the terms and conditions of his
5 residential confinement, or the laws of the State recorded against
6 him, and who performs in a faithful, orderly and peaceable manner
7 the duties assigned to him, must be allowed for his term a deduction
8 of 2 months in each of the first 2 years, 4 months in each of the next
9 2 years, and 5 months in each of the remaining years of the term,
10 and pro rata for any part of a year where the sentence is for more or
11 less than a year.

12 2. In addition to the credits for good behavior provided for in
13 subsection 1, the Board shall adopt regulations allowing credits for
14 offenders whose diligence in labor or study merits the credits and
15 for offenders who donate their blood for charitable purposes. The
16 regulations must provide that an offender is entitled to the following
17 credits for educational achievement:

18 (a) For earning a general ~~equivalency diploma, 30 days.~~
19 ~~—(b) For earning a~~ *educational development certificate or* high
20 school diploma, *but not both*, 60 days.

21 ~~(c)~~ (b) For earning an associate degree, 90 days.

22 3. Each offender is entitled to the deductions allowed by this
23 section if he has satisfied the conditions of subsection 1 or 2 as
24 determined by the Director.

25 **Sec. 11.** NRS 209.443 is hereby amended to read as follows:

26 209.443 1. Every offender who is sentenced to prison after
27 June 30, 1969, for a crime committed before July 1, 1985, who has
28 no serious infraction of the regulations of the Department, the terms
29 and conditions of his residential confinement, or the laws of the
30 State recorded against him, and who performs in a faithful, orderly
31 and peaceable manner the duties assigned to him, must be allowed:

32 (a) For the period he is actually incarcerated under sentence; and

33 (b) For the period he is in residential confinement,
34 a deduction of 2 months for each of the first 2 years, 4 months for
35 each of the next 2 years ~~and~~ and 5 months for each of the remaining
36 years of the term, and pro rata for any part of a year where the actual
37 term served is for more or less than a year. Credit must be recorded
38 on a monthly basis as earned for actual time served.

39 2. The credits earned by an offender must be deducted from the
40 maximum term imposed by the sentence and, except as otherwise
41 provided in subsection 5, *must* apply to eligibility for parole.

42 3. In addition to the credits for good behavior provided for in
43 subsection 1, the Board shall adopt regulations allowing credits for
44 offenders whose diligence in labor or study merits such credits and
45 for offenders who donate their blood for charitable purposes. The



1 regulations must provide that an offender is entitled to the following
2 credits for educational achievement:

3 (a) For earning a ~~[general equivalency diploma,]~~ *general*
4 *educational development certificate*, 30 days.

5 (b) For earning a high school diploma, 60 days.

6 (c) For earning an associate degree, 90 days.

7 4. Each offender is entitled to the deductions allowed by this
8 section if he has satisfied the conditions of subsection 1 or 3 as
9 determined by the Director.

10 5. Credits earned pursuant to this section do not apply to
11 eligibility for parole if a statute specifies a minimum sentence which
12 must be served before a person becomes eligible for parole.

13 **Sec. 12.** NRS 209.446 is hereby amended to read as follows:

14 209.446 1. Every offender who is sentenced to prison for a
15 crime committed on or after July 1, 1985, but before July 17, 1997,
16 who has no serious infraction of the regulations of the Department,
17 the terms and conditions of his residential confinement, or the laws
18 of the State recorded against him, and who performs in a faithful,
19 orderly and peaceable manner the duties assigned to him, must be
20 allowed:

21 (a) For the period he is actually incarcerated under sentence;

22 (b) For the period he is in residential confinement; and

23 (c) For the period he is in the custody of the Division of Parole
24 and Probation of the Department of Public Safety pursuant to
25 NRS 209.4886,

26 a deduction of 10 days from his sentence for each month he serves.

27 2. In addition to the credit provided for in subsection 1, the
28 Director may allow not more than 10 days of credit each month for
29 an offender whose diligence in labor and study merits such credits.
30 In addition to the credits allowed pursuant to this subsection, an
31 offender is entitled to the following credits for educational
32 achievement:

33 (a) For earning a general ~~[equivalency diploma, 30 days.~~

34 ~~—(b) For earning a]~~ *educational development certificate or* high
35 school diploma, *but not both*, 60 days.

36 ~~[(e)]~~ (b) For earning an associate degree, 90 days.

37 3. The Director may allow not more than 10 days of credit each
38 month for an offender who participates in a diligent and responsible
39 manner in a center for the purpose of making restitution,
40 conservation camp, program of work release or another program
41 conducted outside of the prison. An offender who earns credit
42 pursuant to this subsection is entitled to the entire 20 days of credit
43 each month which is authorized in subsections 1 and 2.

44 4. The Director may allow not more than 90 days of credit each
45 year for an offender who engages in exceptional meritorious service.



1 5. The Board shall adopt regulations governing the award,
2 forfeiture and restoration of credits pursuant to this section.

3 6. Credits earned pursuant to this section:

4 (a) Must be deducted from the maximum term imposed by the
5 sentence; and

6 (b) Apply to eligibility for parole unless the offender was
7 sentenced pursuant to a statute which specifies a minimum sentence
8 which must be served before a person becomes eligible for parole.

9 **Sec. 13.** NRS 209.4465 is hereby amended to read as follows:

10 209.4465 1. An offender who is sentenced to prison for a
11 crime committed on or after July 17, 1997, who has no serious
12 infraction of the regulations of the Department, the terms and
13 conditions of his residential confinement or the laws of the State
14 recorded against him, and who performs in a faithful, orderly and
15 peaceable manner the duties assigned to him, must be allowed:

16 (a) For the period he is actually incarcerated pursuant to his
17 sentence;

18 (b) For the period he is in residential confinement; and

19 (c) For the period he is in the custody of the Division of Parole
20 and Probation of the Department of Public Safety pursuant to
21 NRS 209.4886,

22 a deduction of 10 days from his sentence for each month he serves.

23 2. In addition to the credits allowed pursuant to subsection 1,
24 the Director may allow not more than 10 days of credit each month
25 for an offender whose diligence in labor and study merits such
26 credits. In addition to the credits allowed pursuant to this subsection,
27 an offender is entitled to the following credits for educational
28 achievement:

29 (a) For earning a general ~~equivalency diploma, 30 days.~~

30 ~~(b) For earning~~ *educational development certificate or* a high
31 school diploma, *but not both*, 60 days.

32 ~~(c)~~ *(b)* For earning his first associate degree, 90 days.

33 3. The Director may, in his discretion, authorize an offender to
34 receive a maximum of 90 days of credit for each additional degree
35 of higher education earned by the offender.

36 4. The Director may allow not more than 10 days of credit each
37 month for an offender who participates in a diligent and responsible
38 manner in a center for the purpose of making restitution,
39 conservation camp, program of work release or another program
40 conducted outside of the prison. An offender who earns credit
41 pursuant to this subsection is eligible to earn the entire 20 days of
42 credit each month that is allowed pursuant to subsections 1 and 2.

43 5. The Director may allow not more than 90 days of credit each
44 year for an offender who engages in exceptional meritorious service.



1 6. The Board shall adopt regulations governing the award,
2 forfeiture and restoration of credits pursuant to this section.

3 7. Credits earned pursuant to this section:

4 (a) Must be deducted from the maximum term imposed by the
5 sentence; and

6 (b) Apply to eligibility for parole unless the offender was
7 sentenced pursuant to a statute which specifies a minimum sentence
8 that must be served before a person becomes eligible for parole.

9 **Sec. 14.** NRS 209.449 is hereby amended to read as follows:

10 209.449 **1.** An offender who has no serious infraction of the
11 regulations of the Department, the terms and conditions of his
12 residential confinement, or the laws of the State recorded against
13 him must be allowed, in addition to the credits provided pursuant to
14 NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of 30
15 days from the maximum term of his sentence for the completion of
16 ~~it~~:

17 (a) A program of vocational education and training ~~it~~; or

18 (b) Any other program approved by the Director.

19 **2.** If the offender completes ~~the program of vocational~~
20 ~~education and training~~ such a program with meritorious or
21 exceptional achievement, the Director may allow not more than 60
22 days of credit in addition to the 30 days allowed for completion of
23 the program.

24 **Sec. 15.** NRS 211.330 is hereby amended to read as follows:

25 211.330 **1.** In addition to the credits on a term of
26 imprisonment provided for in NRS 211.310, 211.320 and 211.340,
27 the sheriff of the county or the chief of police of the municipality in
28 which a prisoner is incarcerated shall deduct 5 days from his term of
29 imprisonment for earning a ~~general equivalency diploma or the~~
30 ~~equivalence~~ general educational development certificate, or the
31 equivalent thereof, by successfully completing an educational
32 program for adults conducted jointly by the local detention facility
33 in which he is incarcerated and the school district in which the
34 facility is located.

35 **2.** The provisions of this section apply to any prisoner who is
36 sentenced on or after October 1, 1991, to a term of imprisonment of
37 90 days or more.

38 **Sec. 16.** NRS 213.315 is hereby amended to read as follows:

39 213.315 **1.** Except as otherwise provided in this section, an
40 offender who is illiterate is not eligible to participate in a program of
41 work release unless:

42 (a) He is regularly attending and making satisfactory progress in
43 a program for general education; or



- 1 (b) The Director, for good cause, determines that the limitation
2 on eligibility should be waived under the circumstances with respect
3 to a particular offender.
- 4 2. An offender whose:
- 5 (a) Native language is not English;
6 (b) Ability to read and write in his native language is at or above
7 the level of literacy designated by the Board of State Prison
8 Commissioners in its regulations; and
9 (c) Ability to read and write the English language is below the
10 level of literacy designated by the Board of State Prison
11 Commissioners in its regulations,
12 may not be assigned to an industrial or a vocational program unless
13 he is regularly attending and making satisfactory progress in a
14 course which teaches English as a second language or the Director,
15 for good cause, determines that the limitation on eligibility should
16 be waived under the circumstances with respect to a particular
17 offender.
- 18 3. Upon written documentation that an illiterate offender has a
19 developmental, learning or other similar disability which affects his
20 ability to learn, the Director of the Department of Corrections may:
- 21 (a) Adapt or create an educational program or guidelines for
22 evaluating the educational progress of the offender to meet his
23 particular needs; or
24 (b) Exempt the offender from the required participation in an
25 educational program prescribed by this section.
- 26 4. The provisions of this section do not apply to an offender
27 who:
- 28 (a) Presents satisfactory evidence that he has a high school
29 *diploma* or ~~general equivalency diploma;~~ *a general educational*
30 *development certificate*; or
31 (b) Is admitted into a program of work release for the purpose of
32 obtaining additional education in this state.
- 33 5. As used in this section, "illiterate" means having an ability
34 to read and write that is below the level of literacy designated by the
35 Board of State Prison Commissioners in its regulations.
- 36 **Sec. 17.** This act becomes effective on July 1, 2003.

