

SENATE BILL NO. 317—SENATORS WIENER AND AMODEI

MARCH 17, 2003

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JOINT SPONSOR: ASSEMBLYWOMAN LESLIE

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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.

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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; waiving the registration fees of certain incarcerated persons; making various changes to provisions relating to credits against the sentence of an offender; and providing other matters properly relating thereto.



\* S B 3 1 7 R 1 \*

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

- 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.*
- 22     3. *The statewide program does not include the programs of*  
23 *general education, vocational education and training established*  
24 *by the Board of State Prison Commissioners pursuant to*  
25 *NRS 209.389.*
- 26     4. *The statewide program must establish:*
- 27     (a) *Standards for each course of study that set forth the:*
- 28         (1) *Curriculum;*
- 29         (2) *Qualifications for entry; and*
- 30         (3) *Evaluation of incarcerated persons for placement; and*
- 31     (b) *Procedures to ensure that an incarcerated person who*  
32 *earns credits in a program of education for incarcerated persons*  
33 *operated by a school district at a facility or institution shall, if*  
34 *transferred to a different facility or institution, transfer those*  
35 *credits to the program operated by a school district at that facility*  
36 *or institution.*
- 37     5. *As used in this section, “general educational development”*  
38 *means preparation for and administration of the standardized*  
39 *examinations that enable persons who have not graduated from*  
40 *high school to demonstrate that they have achieved an educational*  
41 *level which denotes competency in core curriculum. The term*



1 includes programs for obtaining a general educational  
2 development certificate.

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

10 2. Money in the Fund must be used for programs of  
11 education for incarcerated persons.

12 3. Money in the Fund must not be:

13 (a) Considered in negotiations between a recognized  
14 organization of employees of a school district and the school  
15 district; or

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

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

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

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

31 2. A school district that operates a program of education for  
32 incarcerated persons shall:

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

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

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

40 (2) A detailed budget for the program; and

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

44 **Sec. 6.** The Board of Regents of the University of Nevada  
45 may, with the cooperation of the Department of Corrections, offer



1 *courses that lead to a postsecondary degree for incarcerated*  
2 *persons in any facility or institution operated by the Department of*  
3 *Corrections.*

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

8 2. *The interagency panel must:*

9 (a) *Consist of:*

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

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

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

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

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

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

21 396.540 1. For the purposes of this section:

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

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

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

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

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

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

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

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



1 *they meet the financial eligibility criteria for federal need-based*  
2 *financial 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 *4. In its discretion, the Board of Regents may waive the*  
9 *registration fees of any incarcerated person who:*

10 *(a) Is taking courses that lead to a postsecondary degree*  
11 *offered pursuant to section 3 of this act; and*

12 *(b) Meets the financial eligibility criteria for federal need-*  
13 *based financial aid.*

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

15 209.396 1. Except as otherwise provided in this section, an  
16 offender who is illiterate may not be assigned to an industrial or a  
17 vocational program unless:

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

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

23 2. An offender whose:

24 (a) Native language is not English;

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

27 (c) Ability to read and write the English language is  
28 below the level of literacy designated by the Board in its  
29 regulations,

30 may not be assigned to an industrial or a vocational program unless  
31 he is regularly attending and making satisfactory progress in a  
32 course which teaches English as a second language or the Director  
33 for good cause determines that the limitation on assignment should  
34 be waived under the circumstances with respect to a particular  
35 offender.

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

39 (a) Adapt or create an educational program or guidelines for  
40 evaluating the educational progress of the offender to meet his  
41 particular needs; or

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

44 4. The provisions of this section do not apply to an offender  
45 who presents satisfactory evidence that he has a high school



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1 *diploma* or ~~[general equivalency diploma.]~~ *a general educational*  
2 *development certificate.*

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

6 **Sec. 10.** NRS 209.433 is hereby amended to read as follows:

7 209.433 1. Every offender who was sentenced to prison on or  
8 before June 30, 1969, who has no serious infraction of the  
9 regulations of the Department, the terms and conditions of his  
10 residential confinement, or the laws of the State recorded against  
11 him, and who performs in a faithful, orderly and peaceable manner  
12 the duties assigned to him, must be allowed for his term a deduction  
13 of 2 months in each of the first 2 years, 4 months in each of the next  
14 2 years, and 5 months in each of the remaining years of the term,  
15 and pro rata for any part of a year where the sentence is for more or  
16 less than a year.

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

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

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

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

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

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

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

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

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



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

4 3. In addition to the credits for good behavior provided for in  
5 subsection 1, the Board shall adopt regulations allowing credits for  
6 offenders whose diligence in labor or study merits such credits and  
7 for offenders who donate their blood for charitable purposes. The  
8 regulations must provide that an offender is entitled to the following  
9 credits for educational achievement:

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

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

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

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

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

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

21 209.446 1. Every offender who is sentenced to prison for a  
22 crime committed on or after July 1, 1985, but before July 17, 1997,  
23 who has no serious infraction of the regulations of the Department,  
24 the terms and conditions of his residential confinement, or the laws  
25 of the State recorded against him, and who performs in a faithful,  
26 orderly and peaceable manner the duties assigned to him, must be  
27 allowed:

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

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

30 (c) For the period he is in the custody of the Division of Parole  
31 and Probation of the Department of Public Safety pursuant to  
32 NRS 209.4886,  
33 a deduction of 10 days from his sentence for each month he serves.

34 2. In addition to the credit provided for in subsection 1, the  
35 Director may allow not more than 10 days of credit each month for  
36 an offender whose diligence in labor and study merits such credits.  
37 In addition to the credits allowed pursuant to this subsection, an  
38 offender is entitled to the following credits for educational  
39 achievement:

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

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

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

44 3. The Director may allow not more than 10 days of credit each  
45 month for an offender who participates in a diligent and responsible





1 manner in a center for the purpose of making restitution,  
2 conservation camp, program of work release or another program  
3 conducted outside of the prison. An offender who earns credit  
4 pursuant to this subsection is entitled to the entire 20 days of credit  
5 each month which is authorized in subsections 1 and 2.

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

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

10 6. Credits earned pursuant to this section:

11 (a) Must be deducted from the maximum term imposed by the  
12 sentence; and

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

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

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

23 (a) For the period he is actually incarcerated pursuant to his  
24 sentence;

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

26 (c) For the period he is in the custody of the Division of Parole  
27 and Probation of the Department of Public Safety pursuant to  
28 NRS 209.4886,

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

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

36 (a) For earning a general ~~equivalency diploma,~~ *educational*  
37 *development certificate*, 30 days.

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

39 (c) For earning his first associate degree, 90 days.

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

43 4. The Director may allow not more than 10 days of credit each  
44 month for an offender who participates in a diligent and responsible  
45 manner in a center for the purpose of making restitution,





1 conservation camp, program of work release or another program  
2 conducted outside of the prison. An offender who earns credit  
3 pursuant to this subsection is eligible to earn the entire 20 days of  
4 credit each month that is allowed pursuant to subsections 1 and 2.

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

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

9 7. Credits earned pursuant to this section:

10 (a) Must be deducted from the maximum term imposed by the  
11 sentence; and

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

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

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

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

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

25 2. If the offender completes ~~the program of vocational~~  
26 ~~education and training~~ such a program with meritorious or  
27 exceptional achievement, the Director may allow not more than 60  
28 days of credit in addition to the 30 days allowed for completion of  
29 the program.

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

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

41 2. The provisions of this section apply to any prisoner who is  
42 sentenced on or after October 1, 1991, to a term of imprisonment of  
43 90 days or more.



1       **Sec. 16.** NRS 213.315 is hereby amended to read as follows:  
2       213.315 1. Except as otherwise provided in this section, an  
3 offender who is illiterate is not eligible to participate in a program of  
4 work release unless:  
5       (a) He is regularly attending and making satisfactory progress in  
6 a program for general education; or  
7       (b) The Director, for good cause, determines that the limitation  
8 on eligibility should be waived under the circumstances with respect  
9 to a particular offender.  
10      2. An offender whose:  
11      (a) Native language is not English;  
12      (b) Ability to read and write in his native language is at or above  
13 the level of literacy designated by the Board of State Prison  
14 Commissioners in its regulations; and  
15      (c) Ability to read and write the English language is below the  
16 level of literacy designated by the Board of State Prison  
17 Commissioners in its regulations,  
18 may not be assigned to an industrial or a vocational program unless  
19 he is regularly attending and making satisfactory progress in a  
20 course which teaches English as a second language or the Director,  
21 for good cause, determines that the limitation on eligibility should  
22 be waived under the circumstances with respect to a particular  
23 offender.  
24      3. Upon written documentation that an illiterate offender has a  
25 developmental, learning or other similar disability which affects his  
26 ability to learn, the Director of the Department of Corrections may:  
27      (a) Adapt or create an educational program or guidelines for  
28 evaluating the educational progress of the offender to meet his  
29 particular needs; or  
30      (b) Exempt the offender from the required participation in an  
31 educational program prescribed by this section.  
32      4. The provisions of this section do not apply to an offender  
33 who:  
34      (a) Presents satisfactory evidence that he has a high school  
35 *diploma* or ~~general equivalency diploma;~~ *a general educational*  
36 *development certificate;* or  
37      (b) Is admitted into a program of work release for the purpose of  
38 obtaining additional education in this state.  
39      5. As used in this section, "illiterate" means having an ability  
40 to read and write that is below the level of literacy designated by the  
41 Board of State Prison Commissioners in its regulations.  
42      **Sec. 17.** This act becomes effective on July 1, 2003.

