

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Fourth Session
February 9, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:03 a.m., on Friday, February 9, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Bernie Anderson, Chairman
Assemblyman William Horne, Vice Chairman
Assemblywoman Francis Allen
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman Harry Mortenson
Assemblyman John Ocegüera
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Risa Lang, Committee Counsel
Judith Maddock, Committee Manager
Matt Mowbray, Committee Assistant



OTHERS PRESENT:

The Honorable A. William Maupin, Chief Justice, Nevada Supreme Court
The Honorable James W. Hardesty, Associate Justice, Nevada Supreme Court
Ron Titus, Director and State Court Administrator, Administrative Office of the Court
Dennis Neilander, Chair, State Gaming Control Board
Mark Clayton, Board Member, State Gaming Control Board
Alan Glover, Clerk-Recorder, Carson City
Jason Frierson, Attorney, Office of the Public Defender, Clark County
Phillip O'Neill, Chief, Records and Technology Division, Department of Public Safety
George Ross, Director and Legislative Advocate, Las Vegas Chamber of Commerce
Phillip Galeoto, Director, Department of Public Safety

Chairman Anderson:

[The meeting was called to order. Roll called.]

The first part of our agenda deals with some background information for the Committee. We are going to be hearing two bills and change the order of the agenda. Mr. Titus and his executive staff were invited, and we are honored to have Chief Justice Maupin.

The Honorable A. William Maupin, Chief Justice, Nevada Supreme Court:

Justice Hardesty has kindly agreed to do the PowerPoint presentation for me ([Exhibit C](#)). Nevada's Judicial System is split into two parts: a trial component and an appellate component. The *Constitution* provides for the establishment of the Judicial Branch. The branch resolves both public and private disputes by applying laws established through the legislative process and based upon prior state Supreme Court decisions. The courts do not sit around and wait for a statutory or constitutional question to come up; they always have to come up in what we call a "case or controversy." Our role in applying the *Constitution*, statutory law, and common law must come up in the context of an actual dispute, either public or private.

The trial court component is divided into two segments: the limited jurisdiction courts, which are the justice courts and the municipal court. Then the general organizational structure, the middle is the district courts. Municipal courts are charged with resolving the prosecutions of misdemeanor offenses that occur within incorporated townships—everything from petty theft to traffic violations to building code violations.

The justice courts have similar jurisdiction over trying misdemeanor cases. This is where the driving under the influence (DUI), ordinary traffic offense, or building code violation occurs out in an unincorporated area of one of the counties. In addition, the justice courts also handle civil cases in which the amount in controversy is less than \$10,000, small claims actions, small contract disputes, small personal injury, property damage cases, and a tremendous amount of activity in the area of evictions. The justice courts also screen major criminal cases, gross misdemeanors, and felonies for prosecution to determine probable cause for prosecution in the district court.

The district courts have general jurisdiction over all of the major civil cases. They have trial responsibility over gross misdemeanor and felony prosecutions. There is no limit to their monetary authority. The district court does have some appellate authority over decisions made by the limited-jurisdiction courts, but the district courts are the primary trial court component in our system. However, justice courts and municipal courts—in terms of the contact with the people of the State—are the busiest courts in the State, with hundreds of thousands of prosecutions each year.

The primary appellate component of the State is the Supreme Court. We review all decisions appealed out of the district courts. There is no intermediate appeals court in Nevada. The Supreme Court must resolve, on the merits, all appeals from district courts from all over the State, over which it has jurisdiction. That is a brief overview of the system. I will turn the presentation over to Justice Hardesty.

Chairman Anderson:

Are there any questions for the Chief Justice? [There were none.]

The Honorable James W. Hardesty, Associate Justice, Nevada Supreme Court:

I am part of the Supreme Court's Executive Committee, and we intend to give you an overview of the Judicial Branch of government.

The Supreme Court has provided references for your future use to sections of the *Nevada Constitution* and *Nevada Revised Statutes* (NRS) that deal with each of the various courts.

The Supreme Court consists currently of seven justices who serve staggered terms. Two justices are elected every two years. Three justices are elected in the sixth term. The court sits currently in three-judge panels and as an en banc court.

There is a category of cases that are assigned directly to the entire court, consisting of cases that implicate constitutional interpretation, the death penalty, and termination of parental rights. The court has undergone significant changes in its management, and we have now created a panel that screens all of the cases as they come into the court. We started that process in April 2006. We have shortened the time cases languish in the court, and avoid assignment to the panels. The panels principally resolve or conduct error correction, that is, some allegation that there has been an error in a ruling made in the trial court. The en banc court deals with issues of first impression.

The Supreme Court's responsibilities are spelled out in the *Nevada Constitution*. The Court is responsible for administration of the Nevada Judicial Branch. It has appellate jurisdiction over all civil and criminal cases from the district court. It has the power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus. It is also responsible for the licensure and discipline of all lawyers and for appellate review of all judicial discipline matters.

The Supreme Court derives approximately 55 percent of their funding from the State General Fund (which represents less than 1 percent of the State General Fund) and 45 percent from administrative assessments and other fees.

In 2005, the Court had, for the first time in its history, more than 2,000 cases filed. In 2006, we had 2,171. I am proud of the work of my colleagues in 2005; we resolved 1,994 cases. In 2006, the Court resolved 2,387 cases and published 121 opinions, which are more opinions than the Court has published annually since 1998.

The next slide is a comparison of the State of Nevada with other states that are close in our population range. The states selected for comparison are Montana, Maine, Arizona, Arkansas, Alaska, and Utah. This reflects the population rank of those states, the amount of cases filed in those appellate courts, the number of judges or justices that sit, and the number of cases filed per appellate judge in those jurisdictions. At the Supreme Court level in Utah, there are 127 cases filed per appellate judge per year; in Arkansas, there are 51; in Arizona, there are 233; and in Nevada, there are 289. This past year, Nevada eclipsed 300, going to 305. Without question, the Nevada Supreme Court is the busiest appellate court in the United States with the limited exception of the Ninth Circuit Court of Appeals.

The district courts are comprised of nine judicial districts spread over 17 counties. There are 64 district court judges as of January 1, 2007. We invested four new ones yesterday in Clark County. The jurisdiction is for all felony and gross misdemeanor crimes; civil matters above \$10,000; and family

law cases, including juvenile crimes and abuse and neglect. They also conduct jury and nonjury trials.

The district court judges' salaries are paid from the State General Fund, and all of the operations of the district court are paid from the district or county general funds.

We are also providing some case filing statistics and disposition statistics statewide. Approximately 116,000 to 118,000 cases are filed in the district courts across the State. In the Second Judicial District Court, approximately 20,600 to 21,000 were filed. In the Eighth Judicial District Court, about 83,000 of these cases were filed in Clark County. We have provided an annual report that is published by the Supreme Court, and it has some tables that are easy to reference regarding the statistical filings and disposition rates of the various courts in the State. It ranks them in terms of their various caseloads and cases filed per judge.

The justice courts of limited jurisdiction handle traffic and other misdemeanor cases, small claims court cases up to \$5,000, landlord-tenant disputes, temporary protective orders, domestic violence, and preliminary hearings in matters involving felony and gross misdemeanors—bind over matters. In Fiscal Year (FY) 2005, 204,000 nontraffic cases were filed statewide; the number of traffic cases was 410,000. These courts have a lot of contact with the people of the State of Nevada. In 2006, the nontraffic cases were slightly up at 206,000 and the traffic cases at 465,000. Their funding source is the county general fund. Ten judges serve as both justices of the peace and judges in the municipal court. Those jurisdictions are in Carson City, Carlin, Elko, Wells, Wendover, Lovelock, Boulder City, Mesquite, and Caliente. The municipal courts consist of 31 judgeships. There are also courts of limited jurisdiction, misdemeanor, and traffic cases in the jurisdictions listed above. They are funded by the city general fund. They have significant contact with the public in terms of the case filings in their courts. There were approximately 58,000 case filings in 2005, a similar number in 2006, about 241,000 traffic cases in 2005, and 281,000 in 2006.

Some justice courts have closed. If you have any questions about that or what districts they come from, we can provide you with that information.

Since 2003, the Lovelock Justice and Municipal Court have combined. Smith Valley and Mason Valley are now the Walker River Justice Court. Clark County District Court and the Las Vegas Justice Court have combined their court administration for administrative efficiency. Currently Reno Justice and Municipal Courts are discussing consolidation. That is the subject of a

committee effort that will go to the county commission and the Reno City Council in the next couple of months.

One of the big aspects of the district court is the specialty court. We will share some information about the specialty courts and give you a limited report on Assembly Bill No. 29 of the 72nd Legislative Session. It created a \$7 administrative assessment fee to assist in funding specialty courts throughout the State. We want to thank the Legislature for its efforts. It has had a tremendous impact in expanding specialty courts and services of specialty courts throughout the State. Currently, there are 35 specialty courts throughout Nevada. Last year, based on the statistics provided by those courts, more than 3,500 defendants were helped in the last fiscal year. Seventy eight drug-free babies were born to participants in the drug courts across our State. Funding from A.B. No. 29 of the 72nd Legislative Session, administrative assessments, is a combination of the \$7 administrative assessment component and 10 percent of the felony bond forfeitures. In each of these years, 2005-2006, the amount of the A.B. No. 29 of the 72nd Legislative Session money consisted of \$2.9 million, \$3.4 million, and we are projecting \$3.6 million in 2007. As the session progresses, you will hear a bill wherein the specialty courts of the State are requesting expanded funding and asking the Legislature to consider doing so through the general fund for additional needs in this area.

There are specialty courts in the various jurisdictions. The Western Region consists of Carson City, Storey, Churchill, Lyon, Mineral, and Douglas Counties. The Second Judicial District Court is in Washoe County. The Eastern Region consists of Elko, Eureka, Lincoln, and White Pine Counties. The Central Region is Humboldt, Lander, and Pershing Counties. Esmeralda and Nye Counties are in the Fifth. There is also the Eighth Judicial District.

There are mental health courts in Carson City, Washoe County, and Clark County. Other specialty courts consist of the prison reentry program, counseling compliance with the Reno Justice Court, alcohol and other drug courts at Reno and Sparks Municipal Court, and a DUI Court at the Las Vegas Justice Court. Recently, Judge Puccinelli has accepted supervision of a female inmate from the Nevada State Prison under the prison reentry program to expand Elko's participation in that area.

Another specialty court is the business court. You may recall that some time ago, the Legislature considered, and the court urged you to defer to the court, to create, by rule, a business court. Our objective was to compete with Delaware and create a court that could be responsive to the chancery court in Delaware. They have a 200-year head start. The business court in our State

has been very successful. Business court jurisdiction consists of corporate disputes, inter-corporate matters, and business-to-business litigation and disputes. In the Second Judicial District Court in 2006, 149 cases were filed, and 97 of those cases were resolved in the same year the case had been presented. In Washoe County, there have been about 419 cases filed since the business court was formed, and only 79 of those cases are still pending. In the Eighth Judicial District Court, there are currently 281 cases pending. That court has undergone some work with the Supreme Court last fall, and the bar has been very receptive to expansion of the business court activity. You will see a lot more activity in Clark County in that jurisdiction. Judge Gonzalez and Judge Denton are the business court judges in Clark County, and Judge Adams is the business court judge in Washoe County. The disposition rates in these courts are impressive, and our intent was to try and create a very responsive court so that businesses could have their disputes resolved quickly. It has attracted some interesting litigation from businesses around the country. The Nevada Supreme Court recently heard oral arguments in which a ruling of nationwide implication will be rendered involving the clearing of stock securities through the Securities and Exchange Commission (SEC) and agencies it creates.

The Supreme Court's opinions over the past two years have mentioned some statutory interpretation and some conflicts in statutes. We wanted to bring these opinions to your attention; we think it might be useful to you and your staff to look at them. They may raise statutory issues that you would like to revisit. We do not know the context in which some of these matters might come up in disputes. If there is ambiguity, we look to what you have said during session to determine intent. It might be worthwhile for you to look at some of these opinions of concern to you.

Mr. Titus will talk about administrative assessment and the organization of the court.

[Chairman Anderson leaves]

Vice Chairman Horne:

Are there any questions for Justice Hardesty?

Assemblyman Carpenter:

Is there a DUI court in Las Vegas Justice Court? Does that work on the same principle as the drug courts?

James W. Hardesty:

Yes, but it is directed toward DUI offenses, and they are providing counsel for DUI defendants.

Assemblyman Carpenter:

Have there been any statistics as to how successful they are?

James W. Hardesty:

Yes. We can provide the statistics of those who have been admitted to the court and the progress of their counseling.

Assemblyman Segerblom:

Do we have a process to review the decisions that have been made to see if there are conflicts or issues we want to address?

James W. Hardesty:

My understanding is that the Legislative Council Bureau (LCB) does not regularly monitor the opinions. The justices will point out a concern or an uncertainty if this statute was intended to be read in a particular way.

Assemblyman Segerblom:

I would support that.

Vice Chairman Horne:

Ms. Lang, were you aware of this or was there any discussion?

Risa Lang, Committee Counsel:

For this Committee, I usually review the cases to see if there are any laws held unconstitutional that fall under the purview of this particular Committee. But we were not looking specifically for ones where there was difficulty due to interpretation. We can certainly go back and take a look at those if you would like us to.

Vice Chairman Horne:

This would also be the Chairman's call.

James W. Hardesty:

It is our suggestion because we are confident, knowing the diligence that the legislators have about the subjects, that you might look at the statutes and do something different than the court did.

A. William Maupin:

The court came down with an opinion offered by Justice Hardesty concerning some anomalies in the rules governing who can do a psychological evaluation of a defendant to be sentenced in sexually-related offenses. We have also, over the last couple of years, handed down several of the decisions in the area of

workers' compensation insurance and workers' compensation coverage for injured employees. Those opinions relate to the Nevada Industrial Insurance Act. A number of points have been brought up and several decisions were calculated to take a look at what our view of the measure was, but also to give you a heads up, so that the Legislature could deal with our construction of the statute and make it more effective for both employers and employees.

Vice Chairman Horne:

I have a question about page 5. Looking at the caseload of the courts, I think it shows a need for an intermediate appellate court in our State. I have voiced my opinion to review the caseloads that we see with the courts. I do not see those getting smaller as the State continues to grow, and its issues become more complex. Is the Supreme Court going to come forward this session with that suggestion?

James W. Hardesty:

In response to a piece of legislation adopted in the last session, we are providing a report that analyzes the intermediate court of appeals, and it should be provided to you before March 7, 2007. I think the report will conclude that subject to the plan offered in the report, a court of appeals is an improvement to the judicial system. The court has spent a lot of time looking at how the court of appeals should be structured. The court members were concerned about what the business plan is for a court of appeals. What jurisdiction will the cases consider, how should it be approached, and how will it affect the progress of other cases? The court continues to be hurt by its own success. We reduced our ending inventory by 210 cases in 2006, and we dropped our inventory from 1,577 cases to 1,367 cases. In January we dropped that by another 20 cases. If we are reducing our inventory, do we really need a court of appeals? We were fully staffed in the civil and criminal divisions last year. The court was working on all cylinders, and we incorporated every case management tool we could. If the case filings continue at this pace, it is seriously going to jeopardize justice in this State. The court is going to ask the Legislature to debate this question and entertain it.

Vice Chairman Horne:

How long can you keep that up? I think we need some foresight for the Committee. In this session, we want to move forward and create an intermediate appellate court. We will not actually see this happen until probably 2012.

James W. Hardesty:

We would not be able to put an intermediate court of appeal judges in place until January 2013. We are going to have to deal with this situation for the

next seven years. It takes time to disposition. What the Legislature and the people of the State have to ask is this: Is it acceptable for a family court case involving children to take two and a half to three years to be resolved in the appellate system of this State? We have tried to take some steps to address those specific cases, and the court has adopted a fast-track child custody appellate process to resolve those cases within about 90 days when briefing is completed. This is subject-matter specific; you still have a number of cases in the system where the time to disposition is delayed significantly, even in the efforts we are trying to make in business court. We are trying to get these cases heard within six to eight months from the time the notice of appeal is filed. It is very difficult to do that with the current caseload. So, the amount of time to disposition is the real problem.

Ron Titus, Director and State Court Administrator, Administrative Office of the Courts:

I would like to talk about administrative assessments. They were created in 1983 and have been modified in eight out of the twelve previous sessions. There are some bills this session addressing administrative assessments. It is important we realize the impact the assessments have. When money is collected on a fine, there are priorities of how the administrative assessments are paid. Out of a \$25 assessment on a fine of \$5 to \$49, the first \$9 stays locally, the remainder goes to the State Controller. The remainder of that—in this case, \$25—funds the entire Administrative Office of the Courts (AOC), judicial education, technology, and about half of the Supreme Court operations, as well as some other miscellaneous items. Say you had a \$50 fine; the total fine would be \$107. It is a little more than 100 percent of the fine of the total cost to the individual. And those individuals are not necessarily criminals, but anybody who may have gotten a citation. The first \$25 goes to the local jurisdictions and to the State Controller for distribution to my office and to the Executive Branch, to fund some of their operations. There is a \$10 court facility fee that most jurisdictions charge. There is also the \$7 specialty court fee. As the collections are made, those fines are paid off in that order. The fine is the last fee to be collected. Every time you increase an administrative assessment, you are suppressing the fine. If the fine is a state charge, it goes to the distributive school account per the *Nevada Constitution*, Article 11, Section 3. If it is a county or city ordinance, or a statute that is being broken, then it is a state, county, or city charge. We will have a bill before this Committee addressing administrative assessments, and they run from 100 to 80 percent of the fine. The total cost of the fine to the public is probably about \$100 to \$200. From discussions with local jurisdictions that do suppress their bill schedules, they look at the entire amount, as well as what is being charged to the public.

[Chairman Anderson returns]

Chairman Anderson:

The programs that are offered through administrative assessments are vital programs: domestic violence programs administered through the Attorney General's office, drug courts, and other assessment treatment programs. The AOC is trying to bring up the computer system and pay for the courts. The permanent school distributive fund is of vital importance to the educational institutions. Would you explain to the Committee what percentage of these administrative assessments is collected at the justice and municipal level, as compared to those collected at the district court level?

Ron Titus:

Mostly it is collected at the municipal and justice court level. The district court has a \$25 assessment fee per charge at the felony level that is collected in various ways. If it is not collected in the court, it is up to the Division of Parole and Probation how it is collected when they exit prison. These individuals are going to prison for many years or for lives. There is a responsibility of the district judge to charge a \$25 assessment fee, which is difficult to collect when the person is in prison. I believe the Second Judicial District is getting monthly checks from corrections for \$5 to \$6.

Chairman Anderson:

There is a difference between the way the justice courts and municipal courts treat fines and forfeitures. Would you explain to the Committee how the forfeiture question is currently addressed and practiced, as compared to the way it was in the past, in terms of the money flow?

Ron Titus:

When an individual receives a citation and sends in the money, he is posting bail. If he does not appear, then bail is forfeited and it is treated as bail. Bail, because it is not a fine, goes to the county. If you appear in court and plead guilty, the judge will fine you and that will go to the appropriate place.

Chairman Anderson:

Let us say the Nevada Highway Patrol (NHP) pulls me over and I am told to appear before the Justice of the Peace. Rather than do that, I recognize what the fine is, I write the check, and send it in. Because they got me with no questions, 100 percent of the fine stays in the county of the Justice of the Peace?

Ron Titus:

If you are posting bail, then that is correct. Not all of the jurisdictions are considered bail. This may depend on what is actually on the citation. You may be pleading guilty and sending the fine, but in some cases a fine is an issue.

Chairman Anderson:

Even though the number of vehicles continues to grow, the amount of money available to the AOC and other state programs could potentially be declining.

Ron Titus:

That may be more of a factor if it is a county violation or a city violation instead of a state violation. I believe the county has copied the State. If it is on a county road, it would be a county violation. If the sheriff or the local police write a violation, it would be a local violation. If the NHP writes it, that would be a state violation.

Chairman Anderson:

I wanted the Committee to know about this issue.

Ron Titus:

It is worthy of administrative assessments to currently go to local court. The Judicial Branch gets 51 percent and the Executive Branch gets 49 percent. The Supreme Court is responsible for the administration of the Judicial Branch as an independent branch of government and the administration of the Supreme Court Justices. The AOC plays a major role in that administration. There is also the Judicial Council, which is created by Rule 9 of the Nevada Supreme Court Rules. It is a policy advisory board to the Supreme Court and handles areas such as legislation during the legislative session. The Council meets weekly to review legislation to see if it is appropriate for us to take a position. We also have committees on education, technology, court administration, court interpreters, and court improvement for protection and permanency of dependent children. This is a very important area we are working in, as well as specialty court funding. We also have several ad hoc committees on court security and standardizing order, primarily in the protection area. The AOC's responsibilities are defined in NRS 1.360.

We are more than happy to address other various reports and requests from this Committee. If anybody has any questions feel free to call my office. We are required to issue an annual report ([Exhibit D](#)). We include information and other reports on alternative dispute resolutions and domestic violence. We also do a medical malpractice report. At the first of the year, we issued the Specialty Court Funding Report as well as the Uniform System for Judicial Records. This is primarily what the annual report covers. We administer support in personnel,

benefits, and policy legislation for the Supreme Court. My office handles the pay of the district court judges, which goes through the general fund, as well as the education of the judges in trial courts. We provide court services, court interpreters, and specialty courts funding. We coordinate with the other Executive Branch agencies—primarily Public Safety, the Criminal History Repository and the Department of Motor Vehicles. We are now electronically sending information to these agencies, as well as to the Attorney General and the Department of Child and Family Services to coordinate our efforts in meeting federal standards in the area of domestic violence.

Chairman Anderson:

I wish to compliment you on your annual report. I particularly like page 12, which tells which district each court is in, which judge is in which court, and page 14, which similarly represents the justices and municipal courts. The table in the back deals with caseload and questions on other kinds of statistical data. In deference to separation of powers, we are going to write our own mandate.

Assemblyman Cobb:

On page 14, there is a list of administrative assessments. I notice in the far right column it says \$7 for specialty court. Is that a special assessment that you levy when an individual utilizes a specialty court?

Ron Titus:

This is an assessment that is applied for every citation charge where the individual is found guilty or pleads guilty.

Assemblyman Cobb:

Is there any type of system where you charge for using special services such as a specialty court or a court interpreter?

Ron Titus:

In specialty court, fees are collected from the defendants. There is no fee for court interpreters. It is provided to those requiring interpreter services and currently there is no mechanism, at this level, where one pays a citation and administrative assessment fees.

Assemblyman Cobb:

How much is the assessment for specialty court?

Ron Titus:

It varies from court to court. It is usually related to their counseling services.

Assemblyman Cobb:

Would you recommend having a separate business court system as they have in Delaware, versus what we have currently, or having more judges dedicated to the business court, keeping in mind the general needs of the system right now? I believe this includes the need for an intermediate appellate court.

James W. Hardesty:

In the Second Judicial District Court, Judge Adams is the principal business court judge. There are two other back-up judges. I served as a back-up business court judge. In Clark County, Judges Gonzales and Denton are the principal business court judges. The back-up judges are Judges Earl and Williams. I do not support any modification to the current business court plan. One needs to remember when talking about business court and comparing it with Delaware, that Delaware has operated a chancery court that is largely equitably based in its approach. Its decisions have a 200-year history. In the business court in Nevada, the jurisdiction has been principally focused on litigation of Chapter 78 and Chapter 90 of NRS, as well as organizational disputes. By allowing the business court to be created and modified with the cooperation of the bar at both ends of the State, we are expanding the jurisdiction of the business court cooperatively with the bar association. Over the past three months in Las Vegas, there have been intensive meetings with the civil court judges and the bar association on exactly how the business court jurisdiction should operate, and I would implore the Legislature to allow that process to continue. The users of the system working with the judiciary have been much more effective in developing a successful business court operation.

Assemblyman Segerblom:

I have received complaints from Las Vegas Municipal Court that people found guilty are charged with a fine and an assessment. The courts complain they never get any of the assessment money. Have you heard that complaint?

Ron Titus:

Yes, many times. The fine is the last part collected. If a person has a \$107 charge, only pays \$50 and skips town, or has to go to collections, the \$50 primarily goes to the assessment. The Las Vegas facility has a fee. The fines are collected last. This is a problem.

Assemblyman Segerblom:

Have you thought about trying to negotiate splitting the first \$50 or \$57?

Ron Titus:

Currently that order is defined in NRS 176.059.

Assemblyman Cobb:

I was speaking with some individuals from the Nevada Department of Transportation (NDOT) who complained that the costs of the infrastructure projects they are working on increase tremendously in the amount of time that it takes to go through the National Environmental Protection Act (NEPA) lawsuits. Has any thought been given to possibly a fast-tracking magistrate that can handle certain areas of law or maybe help with those types of lawsuits?

James W. Hardesty:

If we defer the judicial system to the use of masters, what is the point of having a judicial system? We have urged the Legislature to increase the number of judges. There would not be these "time to disposition" problems if we were provided with the number of judges necessary. Your example is one of many where time to disposition is problematic. The point of this is that when the judicial system cannot respond quickly, not only is justice delayed, justice is denied. It also has a cost impact, a family impact, a criminal history impact, and an impact on what you are talking about. The answer is not to continue adding masters to the system, who, by the way, are judicial officers and you spend money for them. The answer is to strengthen the judicial system by providing adequate judges to meet the needs and shorten the time to dispositions.

Chairman Anderson:

We have changed our agenda. One of the elements from Parole and Probation relative to their standing is not the jurisdiction of this Committee. There is cause for concern about the separation of the Executive authority and Judicial authority. There needs to be clarification of the Open Meeting Law. I still remain concerned about the use of clerks by the court and the dramatic difference from what I perceive to be Executive authority. There seems to be a change between the Second and Eighth Districts in terms of practices. For many years, the Eighth seemed to be more in compliance. The court and the Legislature need to address the question relative to the powers and duties of clerks, in terms of Legislative statute and the Constitution. In light of *Marbury v. Madison*, ultimately the court gets to decide what is and what is not in the constitution.

Assemblyman Ohrenschall:

Assuming Nevada institutes an intermediate appellant court, would all appeals be heard by the Nevada Supreme Court, or would the Nevada Supreme Court have discretion to just hear the appeals it chooses?

James W. Hardesty:

That is part of the business plan I have advocated. I think the court will come forward with that plan in its report to you. We have been very effective in the last year screening the cases and identifying them. This has been a very proactive effort by the justices to determine what is in our caseload, and we would like to continue that process, even with a court of appeals. Then we can identify those cases that should be heard by the Supreme Court and those by a court of appeals. We would like to keep that management in the Supreme Court. A certain level of cases would be filed with the court of appeals in all instances. We are going to give you a suggested category of those cases which do not require review at the Nevada Supreme Court level, in our view. Those are error-correction cases that are not issues of law and can be handled by a court of appeals. We are not suggesting a system where the Supreme Court is strictly a certiorari court. We are trying to focus on a hybrid that will be more efficient in the end.

Chairman Anderson:

Mr. Neilander, we appreciate the State Gaming Control Board letting the judges go first so that they can hear oral arguments this morning.

Dennis Neilander, Chair, State Gaming Control Board:

As you embark on your legislative journey this session, the Board stands willing to assist you. You have a packet of information ([Exhibit E](#)) that describes the current status of gaming in Nevada. There is historical information as well as statistical information. The gaming regulation in Nevada is a two-tiered system. There is the Gaming Control Board and the Gaming Commission. The Gaming Control Board was created in 1955 and consists of three full-time members. We conduct all of the prelicensing investigations and make licensing recommendations to the Commission. We prosecute any violations of the Gaming Control Act or the Regulations and conduct disciplinary actions.

The Board has approximately 450 employees assigned to seven different divisions within the Board. We have the Administration Division, which handles all the day-to-day matters: personnel and budget. We also have our Audit Division. We audit the entire Group I licensees, which are nonrestricted licensees that have \$5.13 million or more in gross gaming revenue. We audit for accurate reporting of gaming revenue and payment of taxes. We perform regulatory risk analysis of financial statements, verify casino bank-roll and game statistical performance, as well as adequacy financial reporting. We monitor internal control procedures.

The next division is the Corporate Securities Division, which conducts all of our pre-licensing investigations of publicly-traded gaming companies. We also

monitor those companies on a go-forward basis once they are licensed, and monitor their activities outside the State of Nevada through the Corporate Securities Division. The Enforcement Division investigates and prosecutes all criminal administrative violations of Nevada's Gaming Control Act. We arbitrate patrons' disputes and gather intelligence on organized criminal groups that may be involved in gaming related activities. We conduct employee background checks, as well as conduct investigations and inspections of surveillance systems, chips, tokens, charitable lotteries, and bingo. The Investigations Division is similar to the Corporate Securities Division for private companies, officers, directors of corporations, and shareholders. The Tax and License Division collects gaming taxes and fees, penalties, interest, and fines. We produce statistical reports and projections on gaming revenue, which is used by your money committees and the Economic Forum. We also use that Division to audit the smaller licensees that have less than \$5 million in gross-gaming revenue. The Technology Division is a separate division that reviews and tests all gaming devices and associated equipment, and performs field inspections of gaming devices. We oversee the Board's internal information technology (IT) function. That division provides support in areas of cheating devices, complaints, disputes, live games, and mobile gaming. That is an overview of what the Board does.

The Nevada Gaming Commission was created in 1959. It is made up of five part-time persons appointed by the Governor. They act on all recommendations from the Board on licensing matters, but they are the final arbiter in all licensing matters. For example, the Board would investigate a new licensee, conduct a public hearing, make a recommendation, but the Commission would have the final say on whether or not to issue that license. The Commission is the policy arm of the regulatory bodies and adopts the regulations in respect to the statutes. It is the rule-making authority. It also acts in a judiciary capacity in cases of disciplinary action against a licensee or in disputed tax matters.

As of June 30, 2006, we have 2,925 licenses that have been issued to conduct some form of gaming. They are divided into two primary types: the nonrestricted license—which is for 16 or more slot machines together with the ability to have table games, race or sports book, and things of that nature—and then the restricted licenses—which is for 15 machines or fewer. By law, those are restricted only to convenience stores, grocery stores, drugstores, bars, and taverns. There is also a manufacturer's license, distributor's license, slot route operator's license, and race book and sports pool. The result of not being able to obtain a license or having a license revoked in Nevada is to be on what is called a "gray list." We have an amendment coming to the Gaming Control Act this session to create a mechanism for someone on that list to have the ability to request to be removed from that list. Presently, that ability does not exist.

Another area is gaming employee registration. Prior to 2003, the counties handled all of the local work cards issued to gaming employees. In 2003, legislation centralized that function within the Gaming Control Board. We presently do all of the employee registration because they are dealing with patrons and money. It does not include bartenders or bar backs, or food and beverage positions. That unit is housed within our Enforcement Division.

Within taxes and fees, there is a gross gaming revenue tax, which covers the 3.5 percent of the first \$50,000 during the month, 4.5 percent of the next \$84,000, and 6.75 percent of any amount exceeding the amount of \$134,000.

Chairman Anderson:

Are you are referring to page 15?

Dennis Neilander:

The bottom of page 15 contains the taxes I have mentioned. That would include not just the gross gaming revenue tax, but also the flat fee on slot machines and table games. That is paid on both a quarterly and an annual basis. Annual collections on a basis of percentage are 6 percent, 5 percent, and 3 percent levels. That makes up 78.8 percent of overall taxes collected in respect to gaming.

Chairman Anderson:

How many facilities fall into the higher range fee?

Dennis Neilander:

There are 261. In 2001, this Legislature allowed the Gaming Control Board and the Commission to regulate and tax internet gaming activities. Within that bill, we were required to do two things before we could engage in that activity. We had to find that there was reasonable assurance that the wagers were not being placed from jurisdiction where it was illegal, and find reasonable assurance that minors would not be able to access those systems. Secondly, we had to find that it was in accordance with all applicable laws, including federal laws. After we left the 2001 Session, we had discussions with the Department of Justice. In 2002, as a result of those discussions, they concluded that the State of Nevada could not allow internet gaming—it was a violation of the Federal Wire Act. Due to that, we never went forward to regulate and or tax Internet gaming. Congress enacted a law called the Unlawful Internet Gaming Enforcement Act of 2006. It is targeted at prohibiting funding. It goes after credit card companies and other intermediaries who may be funding sources for Internet gaming. It did not amend the criminal provisions that were in existence at the time. It did create additional funding prohibitions. It also requires the Secretary of Treasury and the Board of Governors of the Federal Reserve

System to adopt further regulations that will implement the funding prohibition. As a matter of law, those are required to be adopted by mid-July of this year. There were some carve-outs within the legislation: one would allow states to conduct intrastate Internet wagering without violating federal law. The Department of Justice has not rendered a position.

We opened a dialogue with the Department of Justice on what these amendments mean for the State of Nevada with respect to our interactive gaming statute. It makes it clear that interstate horserace wagering, in states where it is a legal activity, is permitted. There are some provisions in the new law which attempt to clarify that it is okay to go forward. As a fallout of the federal law, most of the major publicly-traded companies that were engaged in Internet gaming have ceased that activity in the United States. While it may be having some effect, it is yet to be seen. At least the public entities have backed out of that space. That is not to say that smaller private entities have not simply taken on that business.

We are engaged with the University of Nevada, Las Vegas, through the International Gaming Institute, in a study of Internet gaming for Nevadans. In 2001, our dialogue with Justice revealed that we could not go forward with regulating and taxing Internet gaming. We have received some anecdotal evidence that Nevadans are participating in that activity. We are in the field right now doing a survey of Nevadans' Internet gaming habits. That might have some policy implications for the Legislature, as well as our Board. We expect results from that study sometime in April.

In 2005, there was some enacted legislation that would allow for an admission fee to be charged for certain gaming areas. Historically, gaming has to be open to the public. It cannot be restricted in any way. Last session, the legislation allowed a limited carve-out to that for nongaming types of attractions. You could have an admission fee and have gaming in that area, if the attraction was something other than gaming. For example, the Palms created the Playboy Club in their new addition; that is a location that has been approved by the Board and Commission to have an admission fee. The Palms is the only facility to take advantage of that particular exception created last session.

Chairman Anderson:

The Legislature made it clear that all gaming areas will be accessible to everyone meeting the age requirement. The question is making sure that the gaming control of those areas is open enough that you can do your job. Nevada economically depends upon the attraction of gaming as the number one economic engine that drives the State, and it is a major funding source for education. I want to make sure that both the Gaming Control Board and the

Commission recognize that we are very concerned that they carry out their function and have the tools to carry out their function. We had the Criminal History Repository here on the very first day. We know the profiling, or the examination of clients, is not unusual now. And the utilizing of that Central Repository is a major part of what Gaming Control Board now does. It makes it easier for workers, since we are using a common card rather than trying to comply with four or five different counties. If they move from institution to institution, they can carry one card, instead of three or four. Does there need to be greater communication between the Central Criminal History Repository and other agencies of the State?

Dennis Neilander:

Not particularly. We have to generate these work registrations within a 90-day time frame. The slower that information comes out of the Central Criminal History Repository, the more difficult it is for us. At this present time, we are meeting our deadlines.

Chairman Anderson:

Are we meeting the needs of the average person who wants to go to work tomorrow?

Dennis Neilander:

Yes, they go to work immediately. We allow them to work pending the outcome of the background check. We inserted that bill in the last session.

Chairman Anderson:

Did you need to introduce the other gentleman with you? Is that where we are going next?

Dennis Neilander:

Board member Clayton will address, briefly, some of what we are doing with technology right now, some of the things that require technical review, some corporate structure, and different kinds of financing we have now.

Assemblyman Segerblom:

Do you have a list, by jurisdiction, of the gaming taxes each area requires?

Dennis Neilander:

That is available, and I can get that for you.

Assemblyman Segerblom:

How many jurisdictions with full gaming do you consider comparable to Nevada?

Dennis Neilander:

Mississippi is the only jurisdiction where there is not a monopoly. Also, Louisiana allows gaming in certain truck stops. In Mississippi, it is a local decision. The State of Mississippi has authorized gaming but each individual parish must vote in favor of gaming for it to exist. Numerous states have riverboat gaming. There are a limited number of licenses, so the tax rates tend to vary. Illinois has a very high tax rate, but they only issue a very limited number of licenses. I definitely have that information.

Chairman Anderson:

If you would provide that to Ms. Chisel, the members of the Committee can respond.

Assemblywoman Allen:

I have a question for Mr. Neilander, in regards to the hand-held devices.

Chairman Anderson:

Mr. Clayton is going to address that, and speak on our concerns of the potential changes in structure, the movement of properties, and the changes in the sale of large properties.

Assemblyman Ohrenschall:

What is happening in Kentucky, Pennsylvania, and New York in the effort to save the horseracing industry by allowing gaming at the tracks? Are the Nevada companies going to those horse racing tracks or not?

Dennis Neilander:

Generally not, because they are not Nevada-based companies. They may have affiliations in Nevada with sports books or may be a member of the Para-Mutual Association. On Wednesday, the Board recommended approval of the first call center to allow for interstate telephone wagering on horses in Nevada. The live racing here is limited to the rural areas as part of their state fair, which we regulate.

Chairman Anderson:

We used to be one of nine states that had any form of gaming. Now I think there are about nine that do not.

Mark Clayton, Board Member, State Gaming Control Board:

The technology effort of the Gaming Control Board is one of my responsibilities. In the first quarter of 2005, the Gaming Control Board commenced an internal and external assessment of technology matters specifically related to the gaming industry and the regulation of such technology. During that process,

the Board recognized we were seeing more technology from other industries migrating into the gaming industry. Historically, one would see a gaming device that was a stand-alone device with very little interfacing. What we saw through the 2005 Session was the introduction of mobile gaming, which was basically computer-based gaming over a wireless network. Additionally, we have had server-based gaming—which again would be a computer-based gaming with a central server—and we saw additional increases in the sophistication of technology. It became obvious that the Board needed to respond to this growing pace of technology.

To further the interests of the State, we needed more resources. Our plan of action was a two-step process. The first step was an internal reorganization, and the second step was a process for seeking additional external resources. The internal reorganizing of the Board's efforts was in the technology area. We had technology sitting in three separate divisions within the Board. There was a need to consolidate all of the technology into a new division called the Technology Division. In the second quarter of 2006, the Board sought and received Interim Finance Committee (IFC) approval to increase the Division's professional staff and also to establish a new testing laboratory and facility. We look to increase the number of professionals we have on the Technology Division lab staff—specifically in the computer science area, corporate communications, data base management, and networking. With computer technology migrating into the state gaming industry, we needed the right professionals to be able to test those systems in a timely manner and process them for approval. Additionally, the Board also received a new lab and offices, which consists of 15,000 square feet. One half of that is dedicated to testing. In this industry, companies are very competitive and very proprietary. We needed areas we could cordon off for one manufacturer's materials, so competitors could not see what was or was not being developed. We increased the number of professional staff, and added 11 new positions through IFC approval. Over 75 percent of those positions have been filled to date. We believe that the Board stands ready to respond in a timely manner to the new technology that the industry develops and wants to deploy in the State of Nevada for the next five to ten years. That concludes the technology piece of my presentation.

Chairman Anderson:

The nature of Nevada gaming has dramatically changed because of technology in the last 20 years. How much would a slot machine have cost in the 1960s or 1970s?

Dennis Neilander:

My guess would be somewhere under \$1,000. Today, it would be somewhere between \$10,000 and \$12,000.

Chairman Anderson:

How do you make sure the customer is getting a random selection number? That is, since we set the percentage of gain, how do we make sure that that is being done correctly? And how do we make sure that the customer only loses 90 percent of his buck?

Mark Clayton:

When Mr. Neilander gave me the technology responsibility, he reminded me of the importance of maintaining the public's trust and confidence in gaming through gaming devices and through having a state-run lab. Testing is a critical element of what we do. When we have a new device or a new modification within the lab, we look specifically to the random number generator and we simulate tens of millions of deployments of that to test the true randomness of it. Additionally, we have a mathematician on staff who will utilize play on the device to confirm the whole percentage as being reported by the manufacturer and to make sure it is within the acceptable limits. It is really through massive numbers of simulations that we develop our confidence. We have specific testing and strict protocols to walk through to make sure that we have not missed anything. Those test protocols and scripts are constantly being reviewed by our staff for modifications and updates as we see new technology. For example, there are penny slots with 50 different pay line potentials. As the industry continues to develop, we continue to evolve our testing so we can maintain integrity and confidence that the public is getting a fair play on those devices.

Chairman Anderson:

Clearly your agency has the responsibility of keeping up in terms of technology. We also want to make sure the take for the State is clearly monitored, so we know we are getting our fair share of the dollar back to the State coffers and the taxing requirement is being met.

Mark Clayton:

We approach it from two avenues. The Technology Division will test the device as it begins to be deployed in the State of Nevada. Our Audit Division, through their interim audits of the properties, does look specifically at statistical hold on gaming devices, as well as table games, to make sure the percentages or revenues are being properly accounted for, and taxes are being paid in accordance with it.

Chairman Anderson:

Are the number of complaints coming from customers going down or going up?

Dennis Neilander:

The number of disputes is relatively flat.

Chairman Anderson:

So, that is a positive reflection on the confidence of the system?

Dennis Neilander:

With the new technology, you will see a lot of ticket in and ticket out. There are not a lot of coins on the floor anymore, at least in the larger casinos. The new technology is easier to audit because it is computer generated. That has cut down on the number of cheating incidents. Typically, with the mechanical slot machines, you have a hopper and we have eliminated that. We have eliminated the ability for someone to engage in certain types of theft where they are actually trying to defeat a security mechanism in the machine.

Chairman Anderson:

The money count is now electronically generated, so it is much easier to monitor and account for. Questions for either gentleman? [There were none.]

Mark Clayton:

I would like to address what has been phrased as "private equity." It is something that has made the media news and people say, "Well private equity is new" and "Should we be concerned?" The Board and the Commission have looked at private equity as a funding source. We have seen that it is merely an evolution in various financing sources that the State of Nevada—specifically the gaming industry—has experienced.

In the 1960s, we saw financing driven on an individual sole proprietor basis. The act was amended in 1967 to also allow financing by privately-held corporations. In 1969, we started to see publicly-traded corporations investing in the industry. Limited partnerships started to be able to invest in 1979. In the early 1980s, when mutual funds looked to invest in the industry, the Board and the Commission developed what we called an "Institutional Investor Waiver," which allowed those mutual fund investors to invest up to 15 percent and remain passive.

As we have looked at the private equity realm, it is just another funding source. Bank debt has been afloat as available sources. But when we look at a proposed investment by these private equity funds in a Nevada gaming licensee, we look at several areas. One is how the investment is structured. Is the

investment made in a publicly-traded company? Is there a split between the voting power and the nonvoting power? We look at the independence and sophistication of the funds decision makers and which individuals will control the voting power in that investment.

Licensure is required for all of the real decision makers in these private equity funds and the holders of the voting power in this investment. There has been a belief in some quarters that somehow the private equity investors are not being investigated and licensed by the Board and the Commission, and that is not the case. We look to find out who the investors and decision makers are, and those individuals are subjected to the full investigation and licensing by the Board through the same standards as every other licensee of the State of Nevada.

Chairman Anderson:

Is there a percentage if it is privately invested and someone has become a 20 percent shareholder or less? What would be the point at which it would be required that an investor opens himself to investigation from Gaming Control?

Mark Clayton:

What we have seen is that the investment will come in and there will be a split between voting power and nonvoting power. Those who hold nonvoting stock only have the right to economic benefits, it is a publicly-traded company and we assure ourselves that that group does not have control. While we would retain discretionary licensing to activate those, we have not activated those holders of nonvoting stock who have no power over an investment. However, the threshold, by statute, is 10 percent.

Chairman Anderson:

If the investment had been made from a holding company or from another source with voting rights, would it trigger a mechanism? For example, if a person were a 50 percent holder who sat on a board, and that board invested part of its portfolio into a casino with a large percentage being nonvoting stock, would that trigger a response from the Board?

Mark Clayton:

We look at who is making those decisions, and those people are subject to our jurisdiction and investigations.

Chairman Anderson:

I find it interesting, and I hope the Committee does too. I know some issues are coming up, and if you feel they are necessary to address, I would ask that you get them to us early so we can put in a bill draft request (BDR). I have two requests I am thinking of putting in front of the Committee.

Assemblyman Carpenter:

Was 2006 the first time we hit \$1 billion in revenues?

Dennis Neilander:

Yes, that is the first year that we capped the \$1 billion mark.

Chairman Anderson:

We once talked about putting mobile gaming on trains in Ely.

Dennis Neilander:

There was a proposal to allow slot machines on the train between Ely and Ruth. That never went anywhere. I think there were some concerns from the train operators about how they would maintain those things, so I have not heard anything about that lately. Regarding mobile gaming, you recall Cantor Gaming came last session and testified on behalf of the bill that created mobile gaming. We have licensed a number of companies to operate mobile gaming. We are currently testing some mobile gaming systems. None of them have passed through the testing process, but that is something we are doing in the lab.

Chairman Anderson:

Let us turn our attention to Assembly Bill 20.

Assembly Bill 20: Revises the provisions pertaining to travel costs that jurors are entitled to receive. (BDR 1-323)

Alan Glover, Clerk-Recorder, Carson City:

As a point of interest, in the 15 counties, the clerks are still clerks to the courts. This bill was originally generated because of a concern in Elko County. The Elko County Clerk, Winifred Smith, brought this forward to our group last year for consideration. As a result of Winifred Smith's discussion with her district judge, we would like to amend the bill ([Exhibit F](#)). That change in the bill is on page 2, line 13. We wish to amend it from 15 miles to 25 miles. We have no objection if this bill were amended to apply only to the rural counties. In Carson City, we have never paid mileage because we are only a couple of miles wide and a couple of miles long, therefore it is more appropriate for those in outlying areas in Mr. Carpenter's district. If people summoned for jury duty drive in—under the 65 miles presently in statute—and are not seated on the jury, they have to turn around and go home. They do not draw pay for the day, nor do they receive mileage reimbursement. Some of those people are from rural areas; a large number come from Elko and the surrounding area. For that reason we do not think it has much fiscal impact, except in Clark County, which is why they need to be out of this bill. It was an effort by the clerks to try to make serving on juries as painless as possible, and that is not always easy. We

hope that you might consider giving some relief to those people who have to come in and serve as jurors.

Chairman Anderson:

When we set the original mileage at 65 miles distance, we felt that was sufficient. By changing this dramatically, we are really opening that question. On page 2, line 12, we are going to change that from a 15-mile distance to 25 mile distance, and this is to accommodate one county only? Elko is the only county that is having this problem?

Alan Glover:

It is the county that brought the issue forward in our meeting a year ago in June. All the clerks said they supported that because in almost all the rural areas, people have to come in further. They live less than 65 miles away, but certainly over 15, so it is hard to come in from mines, ranches, and other jobs. They sometimes lose a day's pay to come in. Since we administer those in most of the jurisdictions, we debated the issue back and forth and thought it was worth your consideration. You may want to lower the mileage to relieve that burden on some of these people, especially when gas prices are so high.

Chairman Anderson:

Clearly, we want all the public to serve on juries, and they are giving up a day's pay. That is part of the reality of trying to get a panel of jurors that is a reflection of the community. I thought when we originally set the 65-mile limit, it was based upon the fiscal impact on a smaller radius, so it would not impact the counties greatly and become an unfunded mandate. Are we creating an unfunded mandate here?

Alan Glover:

It is unfunded. I do not believe we are going to have opposition from Nevada Association of Counties (NACO), nor have I heard of any opposition from any of the county commissioners. The amount of money is quite small. I can only speak for Carson City. With the funds that we set aside every year for jurors, we usually revert funds back to our city general fund in that area. When you increased the pay for jurors, it was a substantial increase; however, it only cost Carson City \$2,000, so it was not a big impact. We do not have as many jury trials as other jurisdictions. That is what really drives the cost of juries. The people who live farther than the 25 mile radius would be fairly small, and we did not see any opposition from the county commissioners in 15 of the 17 counties.

Chairman Anderson:

But the county commissioners in the other two counties did oppose it?

Alan Glover:

They think it will have a substantial impact in Clark County. I agree with them because they are drawing from a huge population within that county.

Assemblyman Allen:

I do not see the distinction between whether or not you bale hay, run a dairy, or work in an office in urban Las Vegas. We all sacrifice a day's work to serve on a jury. If you move this to 15 miles, my constituency is more than 15 miles away from the downtown courthouse corridor. I do not see why someone in rural Nevada should be compensated for their mileage, but not someone in urban Clark County. I would not support any exemption.

Assemblyman Goedhart:

I live in Amargosa Valley, and it is 50 miles from Amargosa Valley to the Pahrump Courthouse. I have an email from one of my constituents on this issue, and some of the people who are called to serve on jury duty are actually retired folks in Amargosa Valley: Of the 1,500 people who live there, over 1,000 are retired. Usually, they live there because they are on a fixed income and are not worried about the lost day's pay. They want to do what they can to serve their community, but it is a financial hardship on them in this day and age of high gas prices to not be reimbursed.

Jason Frierson, Attorney, Office of the Public Defender, Clark County:

Clark County does oppose this because based on the 15-mile figure this would increase the cost to Clark County in paying jurors by up to \$2 million. If it were raised to 25 miles, it would be a better scenario; however, many members of Clark County travel that distance every day anyway. We have submitted a proposed amendment that would exclude communities with a population of 400,000 or more for that very reason ([Exhibit G](#)). It may be an issue for the smaller communities—the hardship that may occur and the excessive distance they may have to drive. In Clark County, the cost would be \$2 million—which is based on the 15-mile figure—and would clearly have an adverse impact.

Chairman Anderson:

What is the distance from the courthouse in Clark County to Henderson or Green Valley?

Jason Frierson:

I actually lived in Henderson for a short while and worked downtown. At that time, it was approximately 20 miles from where I lived to the center of town. I would venture to say that the areas farther out in the older areas of Henderson, near the intersection of I-95 and I-215, would be up to 10 or 15 miles more.

Chairman Anderson:

If I were living in Green Valley, I would qualify. If we picked up the new number, would I not qualify? However, if I lived in Boulder City, would I qualify?

Jason Frierson:

Absolutely, you would qualify.

Chairman Anderson:

I would qualify under the current rules if it was greater than 65 miles away.

Jason Frierson:

I do not believe it would be quite 65 miles.

Chairman Anderson:

What would you estimate that distance to be?

Assemblyman Mortenson:

It is about 35 miles from my house. I agree with Ms. Allen. I would not, under any circumstance, vote for an exception. I am not sure where the number should be, but I would not vote for an exception because residents in Clark County suffer just as much as rural people do when they have to pay for gas.

Chairman Anderson:

We are trying to fish for a number. Mr. Glover recognizes that there is a difference because of the population and the number of court cases heard in the Eighth Judicial District. We have two amendments in front of us. One is suggested by the clerks to change the number from 15 to 25 in an effort to be more realistic about an acceptable distance. Are there any other amendments, or any idea of what the fiscal cost would be with this amendment? Do you want to keep the 65-mile distance in your county?

Jason Frierson:

In Clark County, we would prefer keeping it at 65 miles. We had discussed with Mr. Glover his proposed amendment to change it to 25. That would be more acceptable to Clark County than the 15; however, Clark County still believes that our proposed amendment—inserting a population cap of 400,000 or more or 15 miles or more from the place of traveling in the county whose population is less than 400,000—would address Clark County's concern. We would be amenable to the 25 in that it would no longer affect Clark County.

Chairman Anderson:

Do you realize this bill will end up going to a work session and your amendment will be part of the discussion? Is there any other testimony you want to get on the record as to why we should take your amendment in place? Questions from members of the Committee?

Assemblyman Segerblom:

Is there a reason why you could not make it at the discretion of the county clerk?

Alan Glover:

I think it has to be statutory. You would probably have to make some change in that section of the statute that says it is set at the discretion. The clerks would not be the appropriate place, but possibly the discretion of the county commissioners. There are other thoughts that everybody would get \$20, \$5, or \$50 for mileage to come to jury duty. That would be easy to administer. You have some options there, but it is statutory now. If you are going to change that scheme, you certainly could do that.

Assemblyman Mabey:

If I lived in the rurals, and it is 65 miles to the court, it would take me an hour and ten minutes. But in Las Vegas I can live 10 miles away from the courthouse, and still it is going to take me an hour to an hour and a half, and then I would have to find a place to park, et cetera. For those who live in Clark County, it is more of a hassle to drive to the courthouse than it is for somebody in Elko. I have never been to Elko, but I am just guessing that is the way it is.

Assemblyman Carpenter:

What I have learned on this Committee is that there is always a difference of opinion. I remember when this was discussed a few years ago, and it was my feeling at that time that the 65 miles was a little too far, and I think the 15 is certainly too close. I think the 25 is probably a little too close too. We could leave it to the discretion of the county commissioners, which would probably be the best way to go. They could decide in their own jurisdiction how much it would cost them and whether they could afford it. I did talk to some people from Elko, and they felt that the 15 was too short, but I think that if Legal would give us the go-ahead and let the locals make their own decision, that would be the way to go.

Chairman Anderson:

Are there other questions relative to the Clark County proposal? [There were none.] Is there anything else you want to add before I close the hearing on it?

Jason Frierson:

I probably should give the Committee the foundation behind the numbers that we came up with. Our finance department estimated that there are approximately 700 jurors called per week and that would typically result in about 35,700 per year at that 15-mile estimate. I apologize we did not have any other numbers when we came up with this. It reflected a loss based on having that number of jurors called per year, so we would estimate a significant number falling within a closer radius. Those are people who typically travel at least that distance, and typically even longer, daily anyway.

Chairman Anderson:

Let me suggest that you put together a few scenarios based upon recent court experiences: how many jurors might be outside a range of 25 miles, how many might be outside a range of 30 miles, how many might be outside a range of 40 miles, et cetera. Give that to Ms. Chisel so that when this bill comes to a work session, we would be able to have that in front of us.

Jason Frierson:

I would be glad to provide that.

Assemblyman Mortenson:

In my humble opinion, the state law ought to treat people equally, not have consideration for governments. I mean we have to consider governments, but it is more important to treat the people equally, and that is the way I will vote on that.

Chairman Anderson:

We will take that up in the work session. I am not going to close the hearing quite yet. Is there anybody else who wants to testify either in support or in opposition to the bill?

George Ross, Director and Legislative Advocate, Las Vegas Chamber of Commerce:

The most fundamental principle of American justice is the right to a trial by a jury of one's peers. What is very important is that we make that jury of our peers as fair, equitable, and representative as possible. The Las Vegas Chamber of Commerce believes this bill makes it easier and more attractive and reduces the resentment of serving on a jury. I was on a jury not too long ago in our county. I had a member from Laughlin, and he had to drive every day from Laughlin. I would like to make sure that everybody wants to be on a jury, everybody can be on a jury, and we have the most representative and broad-based jury as possible; therefore, the Las Vegas Chamber of Commerce supports this bill.

Chairman Anderson:

The following issues in the bill will be dealt with in a work session document: the mileage difference, the proposal as to whether we should let the county commission set it, and any problems with that. We could ask Legal if it is problematic to turn that over to the county commissioners' discretion rather than retaining the statutory power to set a mileage distance. We are anticipating information from the Clark County Public Defender's Office and hope to have it by Wednesday of next week.

Any other issues the members of the Committee would like investigated before I close the hearing on this bill? [There were none.] I will close the hearing on A.B. 20 and ask that we turn our attention to A.B. 30.

Assembly Bill 30: Revises certain provisions governing the distribution of proceeds from certain administrative assessments. (BDR 14-558)

Phillip O'Neill, Chief, Records and Technology Division, Department of Public Safety:

I hope this bill will be a lot less controversial. The bill is a name change, trying to better reflect the Department. These actions were possibly overlooked during the rush of the last Legislature. Our Department brought forth A.B. 30 just to make a name change within NRS 176.059. During the last legislative session, various bureaus were formed into a division called Records and Technology. The Technology Bureau of that division is responsible for maintaining the interoperability infrastructure for the computerized system for law enforcement statewide. Currently, the statute reads that money allocated from the court assessments goes to the Highway Patrol, and they are no longer responsible for that operation. We are asking for the name to be changed so that the money is directed to the Department of Public Safety for system maintenance to better reflect the activities of the Department and the allocation of the resources.

Chairman Anderson:

These dollars were set aside for the function of the Highway Patrol, not general distribution to the Department of Public Safety. There was a specific need regarding their technology. I am very protective of your Department, and want to make sure it gets the resources it needs to meet the technological responsibility, but the Highway Patrol has had problems with their radio system and other kinds of issues. How do we make sure the dollars allocated to them and their programs keep going to them.

Phillip O'Neill:

Currently, the statute reads that this money is allocated to the switching system for law information related to law enforcement statewide. It does not go to their radio system or specifically to the use of Highway Patrol. The Technology Bureau, which is part of the Records and Technology Division, was formerly under the direct responsibility of Highway Patrol. Highway Patrol has their own fiscal accounting section, and they disperse the money to Technology to ensure that switching systems were in place. When Technology was taken from Highway Patrol and placed in the new division—the Division of Records and Technology—it had its own fiscal accounting section. The reason it was changed to the Department of Public Safety was to make it more of a generic term. In the future, if technology is changed to a different area or to a different division's responsibility, it will not necessitate all these little housekeeping issues. Does that answer your question Mr. Chairman?

Chairman Anderson:

Page 4 of the bill indicates that we are changing the name from "Highway Patrol" to the "Department of Public Safety." Also, changes from "computerized switching" to the term "interoperative systems." The only restriction is the dollars had to be used on computers. Is the maintenance of those dollar distributions going to be exactly the same? Is it not broadening the scope of the Department of Public Safety by allowing it the ability to move dollars away to other programs that equally need funding?

Phillip O'Neill:

No, it is basically just the name change. The money will still be funded to the same area of responsibility. We are just trying to represent the changes that have been made within the Department during the last session.

Chairman Anderson:

With this innovative discussion, will it be possible for the Highway Patrol to download their ticketing system directly to the justice of the peace courts?

Phillip O'Neill:

That is a different program. These funds would not be utilized in that area.

Chairman Anderson:

This is not opening up an opportunity for the courts to become compatible with that computer system, but it maintains the communication with the Central Repository level and with the Highway Patrol. It is going to take a while to get used to this idea. The Department of Public Safety will have information for the justice courts when they get on the road, especially in the rural areas. How is this going to help the problem in Battle Mountain, or is it?

Phillip O'Neill:

It will not. It will be the funding to ensure that the statewide law enforcement switch communication and inter operative systems are maintained. They are the programs that can be interfaced and connected. Perhaps, once their program is operational, the Battle Mountain area will be included.

Assemblyman Carpenter:

Are you going to get the radio system to work?

Phillip Galeoto, Director, Department of Public Safety:

I have made the interoperability issue and the radio communications my number one priority coming into this position. There are several people sitting in the room who have spent a significant amount of time working on this issue. It involves a number of layers of concerns—principally money—but there are several technology issues that have to be worked through. All I can tell you at this point is that we do not have a solution, but we are going to work hard on a resolution. It is going to be a statewide effort with representatives from all the agencies, and we will begin that process very soon.

Assemblyman Carpenter:

It has been many years and many millions of dollars spent, and still the system has not worked. I sure hope you can get that working. If it were not for cell phones, they would not have much communication.

Phillip Galeoto:

I appreciate the level of concern. We will do our best to find a resolution.

Chairman Anderson:

I have heard of the difficulties with communication towers and the construction trying to put those in place. Due to my previous jobs, I understand geography and problems of communication on-site, and although modern technology allows us to talk to the moon, we sure cannot talk from one side of the State to the other. When a highway patrolman wants help, it would be nice for him to ask for it. We are sending you folks into harm's way and we need to give you the opportunity to ask for help when you need it, although I note that you are very reluctant to ask for help. Anybody else have questions for the Committee? [There were none.]

I will close the hearing on A.B. 30. If you have a problem, make sure that you communicate with me. It is my intention to move with this, maybe even before a work session; however, I do not think we will have to put it to a work session. This is the collective work of the Committee. There are two documents in front of us, one which has been distributed by Ms. Chisel ([Exhibit H](#)), a memorandum dated February 9th, in response to some questions that were raised at one of our earlier hearings.

Any other issues that you need to bring forward? [There were none.] Any public comments on issues that we heard today? [There were none.] We are adjourned [at 10:58 a.m.].

RESPECTFULLY SUBMITTED:

RESPECTFULLY SUBMITTED:

Judy Maddock
Recording Secretary

Sheree Rosevear
Transcribing Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 9, 2007

Time of Meeting: 8:03 a.m.

Bill	Exhibit	Witness / Agency	Description
	A	Committee	Agenda
	B		Attendance Roster
	C	A. William Maupin, Chief Justice; James W. Hardesty, Associate Justice; Ron Titus, State Court Administrator	Judicial Branch Overview
	D	Ron Titus, Director and State Court, Administrator, Administrative Office of the Courts	Annual report of the Nevada Judiciary
	E	Dennis Neilander, Chair, Gaming Control Board; Mark A. Clayton, Board Member	Information Packet
AB 20	F	Alan H. Glover, Clerk-Recorder, Carson City	Amendment prepared by Winifred Smith, Elko County Clerk
AB 20	G	Jason Frierson, Attorney, Office of the Public Defender, Clark County	Amendment prepared by Sabra Smith-Newby
	H	Jennifer M. Chisel	Response to question on February 9, 2007 by Mr. Cobb regarding "True Grit" senior program