

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
April 16, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:41 a.m. on Monday, April 16, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Maurice E. Washington, Vice Chair
Senator Mike McGinness
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Dennis Nolan (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman William Horne, Assembly District No. 34
Assemblyman John W. Marvel, Assembly District No. 32

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Barbara Moss, Committee Secretary

OTHERS PRESENT:

James D. Earl, Executive Director, Advisory Board for the Nevada Task Force for Technological Crime, Office of the Attorney General

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CHAIR AMODEI:

The hearing is opened on Assembly Bill (A.B. 153).

ASSEMBLY BILL 153: Authorizes the appointment of alternate members of the Committee on Industrial Programs. (BDR 16-793)

ASSEMBLYMAN JOHN W. MARVEL (Assembly District No. 32):

Assembly Bill 153 is a simple bill. I have been on the Committee on Industrial Programs, Department of Corrections, since 1989 and chaired it since Assemblyman William Horne departed. It is sometimes difficult to have a quorum. This bill gives the Chair of the Committee on Industrial Programs an opportunity to appoint alternates, as is done on the Legislative Committee on Public Lands and the Senate Interim Finance Committee. Many times, we have had to hold over approval of minutes or industrial programs when a quorum was not present. This bill will provide assurance of a quorum.

SENATOR WIENER MOVED TO DO PASS A.B. 153.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

The hearing is opened on A.B. 192.

ASSEMBLY BILL 192: Clarifies provisions concerning the authority to stay the execution of a judgment of death. (BDR 14-148)

ASSEMBLYMAN WILLIAM HORNE (Assembly District No. 34):

Assembly Bill 192 came out of the Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation during the interim, which I chaired. The bill brings the statute in line with the *Constitution of the State of Nevada* providing the Governor can grant a reprieve for execution, as stated in section 13 of Article 5 where a printing error as well as a procedure allows this. Assembly Bill 192 corrects the statute.

SENATOR HORSFORD MOVED TO DO PASS A.B. 192.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

The hearing is opened on A.B. 306.

ASSEMBLY BILL 306: Makes various changes to provisions concerning technological crimes. (BDR 14-78)

JAMES D. EARL (Executive Director, Advisory Board for the Nevada Task Force for Technological Crime, Office of the Attorney General):

I will read my prepared testimony ([Exhibit C](#)).

SENATOR CARE:

After the jury adjudicates guilt or innocence, it gets into what appears to be a civil standard, which is preponderance of the evidence, for determining what property we are talking about. That is a much lower standard. The jury says guilty or not guilty; if it says guilty, it comes back as a jury in a civil action where it will determine whether this property was used or intended to be used, but we only have to demonstrate by a preponderance of the evidence. It is not reasonable doubt, which goes to the crime itself.

One of the elements established at trial requires property used or intended to be used, which would already be done rather than going into the other phase.

MR. EARL:

To my understanding, that is the way the Nevada racketeering statute works in terms of forfeitures.

SENATOR CARE:

I do not understand the role of the jury. You say it is existing language in the forfeiture statute. I surmise the bill drafters determined we did it over here; therefore, we should do it over there.

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MR. EARL:
That is my understanding.

SENATOR CARE:
Perhaps my problem is the way it is in the language of the statute enacted in 1983. Maybe it is done in other jurisdictions. I have expressed my reservations; perhaps somebody else will testify.

CHAIR AMODEI:
The hearing is closed on A.B. 306.

There being no further business to come before the Committee, the hearing is adjourned at 10:05 a.m.

RESPECTFULLY SUBMITTED:

Barbara Moss,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____