

February

MEMBERS PRESENT: Chairman Stewart
Vice Chairman Sader
Mr. Thompson
Miss Foley
Mr. Beyer
Mr. Price
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Mrs. Ham
Mr. Banner

MEMBERS ABSENT: None

GUESTS PRESENT: Ken Creighton, LCB
Mike Melner, ACLU
Jack Kenney, CBAC
Charles Wolff, Department Prisons
S. Morrow, Nevada Appeal
Jack McFarren, Reno Newspapers
Marijane Simon, Nevada Court Reporters
Lori Urmston, Nevada Shorthand Reporters
Assoc.
Harold Krabbenhoft, Nevada Shorthand Re-
porters Assoc.
Suzanne J. Kues, Nevada Shorthand Reporters
Assoc.
Eric Nelson, Nevada Shorthand Reporters Assoc.
Patrick Pine, Clark County
Milos Terzich, Nevada Shorthand Reporters
Assoc.
Bob Shriver, Nevada Trial Lawyers Assoc.
John Borda, Nevada Motor Transport

Chairman Stewart called the meeting to order at 8:08 a.m. and asked for the sub-committee report on AB 4.

AB 4: Increases fees for official reporters in District Court.

Mr. Thompson, chairman of the sub-committee, and Mrs. Cafferata had both prepared amendments to AB 4 and distributed copies to the committee (EXHIBIT A and EXHIBIT B, respectively).

Chairman Stewart pointed out to the guests present that this was a work session and the committee was not prepared to take testimony on the subject bills. He stated if there were objections to comments made, he would hear them and would occasionally ask questions of the guests when necessary for clarification.

Mr. Thompson proceeded by outlining the amendments as delineated in EXHIBIT A. The amendment to Section 1, page 1 at line 13 was explained by Milos Terzich as removing any cap on the amount to be earned in one day by a reporter. He further explained that on line 14 the language after the word "If" through the word "day" at line 17 is being removed, which is not properly noted in the amendment.

Mrs. Cafferata explained that her amendment (EXHIBIT B) does not address the fees that court reporters are paid, but changes who sets the fees and allows for that to be done by the county commissioners in lieu of the Legislature, since the county currently pays those fees. Mr. Stewart stated that through discussions with some of the district judges, it was felt this should not be done immediately due to the lack of time for negotiation prior to next year. He suggested that the committee work on the proposed fees first and then consider Mrs. Cafferata's amendment, with the understanding that if passed it would not take effect this year, but the following year.

Mr. Banner stated that Mrs. Cafferata's amendment changes the subject matter and intent of the proposed bill. He felt her amendment required a new bill. He stated that passage of this type of amendment in effect is writing a new bill on top of another bill, which is improper procedure. He stated that anyone wanting to change the concept of this bill should have drafted a separate bill. Chairman Stewart suggested this argument be taken up at the time for considering Mrs. Cafferata's amendment. Mr. Banner stated he would challenge the chair.

Mr. Sader asked Mr. Terzich what court reporters currently charge attorneys for depositions and similar transcripts. Mr. Terzich stated it varies among court reporters. Eric Nelson of a free-lance firm in Reno stated that free-lance deposition rates are comparable with the present rates charged the county, taking into consideration the page size. He commented that the rates are open to the market, causing a variance in the charges by different firms.

Mr. Sader asked if \$.70 per folio of original and \$.20 per folio for each additional copy lies on the low end or high end of the scale of fees. Mr. Nelson stated that was very low. Mr. Sader asked what the high figure is. Mr. Nelson estimated the high end to be \$3.50 to \$3.75 for an original and two copies, with an original and one copy being around \$3.00 to \$3.50. For clarification to the committee, Mr. Nelson stated that a folio is approximately 100 words, with a page being comprised of approximately 2½ folios. Mr. Nelson explained that the \$3.75 figure is a per page figure.

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Mr. Sader next asked where on the scale the proposed \$.85 per original folio and \$.25 per copy lie. Mr. Nelson stated those figures would be comparable with the present rates charged in the free-lance market. He indicated that there are reporters who charge more than that.

With reference to the amendment proposed by Mr. Thompson at page 1, line 5, inserting the figure of \$125 for the proposed \$200 figure, Mr. Terzich stated that the Association originally had their own bill request in for \$100, but it was pointed out that if they received \$125 in this committee, they would be in a better negotiating position with the Senate.

Mr. Malone stated that the impact at \$125 would be enormous and would be great even at \$100. He proposed that the committee not go over \$100.

Chairman Stewart asked for a show of hands by the committee from those in favor of setting the rate at less than \$125. There were six in favor of setting the figure below \$125. Chairman Stewart then asked for those in favor of going below \$100. The Chairman noted one.

Mrs. Cafferata noted that the fiscal impact on Clark County at \$200 was \$700,000. With reference to fiscal impact, Mr. Banner stated that to Clark County everything is relative. He suggested discussing the entire picture. He pointed out that Clark County got an increase in group insurance, with the monthly rate being increased from \$109 to \$149, amounting to \$470,700. He stated that they got a 35% increase. He commented that when talking about fiscal impact, the entire county budget should be viewed. Mr. Banner stated the discussion should be on the worth of the reporters.

Mr. Thompson stated that \$125 seems like a lot of money and there is a fiscal impact, but noted that these reporters don't get paid vacations, sick leave, holidays, health insurance, etc. He indicated he had a breakdown of the cost of these benefits received by county employees. He stated that he paid \$180 for a group insurance policy with 400 other people per month. He noted that adding these benefits up and computing a dollar figure per day and then deducting that figure from the \$125 per day for court reporters, gives them an annual salary of approximately \$26,000. He felt that justifiable.

Mr. Price commented that AB 4 sets a cost for a service to be provided to the courts. Sometimes that service is provided by a company with a number of individuals who do not receive the full amount allotted; sometimes that service is provided by an

individual. He noted that the State has taken it upon itself in many cases, such as doctors fees, to set fees where the State through some of its agencies provide services and in some cases has determined that the provider is earning too much money, in spite of what the free market fee is. He felt that the real topic is how much below the free enterprise does the Legislature want to pay when it is their decision. He felt the fee paid should be as close as possible to the free enterprise standard. He felt that if the government was going to ask for services, it should pay the going rate.

Miss Foley stated that she did not feel this committee was qualified to mandate a payment of certain fees by the counties. She did not feel the committee had the information available on the total picture of any impact by a change in fees and therefore should not be making that determination.

Mr. Banner pointed out to Chairman Stewart that of the members on the committee, he offered comments and asked questions the least, and did not appreciate being bypassed when he had something to say.

Mr. Malone asked if this bill would be referred to Ways and Means after being heard by this committee. Mr. Stewart stated that it was his understanding that if it had an impact on the State it would go to Ways and Means, but the impact of this bill is upon the counties.

Mr. Thompson indicated that in the sub-committee meetings, the county people had agreed that the reporters' fees were going to have to be raised in some way and that the fiscal impact upon them was there regardless.

Mr. Sader pointed out that not all the money mandated by this statute was paid by the counties. On occasions the fees were paid by private attorneys who had requested transcripts. Mr. Terzich stated that the first portion of the bill is a county impact, with the second portion dealing with the private impact. Mr. Stewart questioned whether the folio rate would impact the county when a transcript was requested by the district attorney or public defender. Mr. Terzich stated it would.

Mrs. Ham asked if the reporters set their own fees when working for a private attorney. A court reporter at the back of the room responded that court work was governed by the fees in this bill.

Mr. Malone moved that AB 4 be AMENDED by changing the proposed \$125 to \$100, seconded by Mrs. Cafferata.

Mrs. Cafferata asked if the committee could hear from some of the counties present on the fiscal impact of \$100.

Patrick Pine, representing Clark County, stated he had provided a possible fiscal impact under the proposed amendment as it stands at \$125. He indicated that roughly 20% of the court cost is involved with per diem, with roughly 80% involving the folio fees. If the per diem were doubled, how much of that is a proportion of the total fees paid out by the court would have to be taken into account. In other words, if the per diem were doubled from \$50 to \$100, 20% of the total figure, you are then taking 20% of the 100% increase, making an automatic impact of roughly 20% additional cost. He noted that currently Clark County is at a little over \$900,000 for total fees. An increase to \$100 would increase that figure by roughly 20% or approximately \$200,000 additional impact on the county on the per diem alone.

Mr. Beyer asked if the county could live with that type of an increase. Mr. Pine stated that his position on a fee increase is that it can be lived with, but the difficulty lies with the spending caps. On a bill that mandates a certain additional expenditure and there is a spending cap on the other side, at some point when the entity is at its cap, that entity will have to go into its organization to meet that mandate by drawing from another area's funds. He suggested a clause speaking to the spending cap with additional costs being exempt from that cap. He noted that there would have to be a revenue source for that, but had no suggestions on the source.

Mr. Price commented that he would be chairing a sub-committee on spending caps and asked if it would be helpful to keep track of the various bills with that type of impact for review by that committee.

Mr. Pine stated the county would be willing to work on that concept with Mr. Price.

Chairman Stewart asked for a show of hands from those in favor of amending the fees to \$100. There were five in favor. He further asked for a show from those in favor of \$125. There were five. At that point, Mr. Terzich stated that the Association would compromise at \$100.

Mr. Beyer asked how Mrs. Cafferata's amendment was going to be handled. Chairman Stewart suggested that her proposal be submitted in the form of another bill. Mr. Sader suggested that the committee vote on her concept and if agreed, draft a bill.

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Mr. Stewart then asked for a show of hands from those in favor of the proposed \$.85 at Section 1(b), \$.25 at Section 1(b), \$.25 at line 10, with the show of hands being in favor of those changes.

Mr. Thompson moved AMEND AB 4 in accordance with EXHIBIT A, with the figure at line 5 being \$100, seconded by Mr. Malone.

Chairman Stewart wished to discuss the hourly rate in (c) before entertaining the motion. He asked for a show of hands by those in favor of the \$15 hourly rate, with 7 showing in favor.

Due to some confusion with the drafted amendment at line 13, Mr. Sader clarified the amendment by indicating that the language to be deleted began with the word "but" and ran through the word "day". At line 14, all language from "if" through "day" at line 17 is to be deleted. He indicated this was just deleting the cap.

Chairman Stewart stated that AB 4 proposed a cap of \$200 per day and Mr. Thompson's amendment eliminates that cap. Mr. Sader explained that previously the reporters were being paid \$8.00 with a maximum of \$50 per day. He stated that it is very rare that testimony in court runs beyond 6 hours per day, allowing for recesses, lunch, a starting time of 9:00 a.m. and an ending time of 5:00 p.m. If a full day runs approximately 6 hours, there is no problem with a \$50 cap and days over 6 hours occur infrequently. If the hourly fee were increased, Mr. Sader stated the cap should be increased as well. He compared the policies of judges in the hours kept in their courtrooms and stated that if a reporter worked for a judge who kept long hours, that reporter should be paid for those hours and there should be no cap on the total amount per day paid.

Mr. Price agreed that if you are paying for a service, that individual should be compensated for the hours put in.

Chairman Stewart asked for a show of hands from those in favor of the proposed amendments deleting the daily cap, with the show being 8 in favor.

Mr. Terzich explained for the committee that the language deleted at lines 14 through 17 was merely language explaining the daily cap and that removal of the cap as just done would make that language unnecessary.

Mr. Price asked about including language which would require both parties to a lawsuit to proportionately pay the cost of a transcript. Mr. Sader explained that the question of who pays for a transcript in a civil trial is determined by who requests it to be reported. There is no requirement that a civil trial be reported. Therefore, if a defendant requests a transcript, the defendant pays the fees; and if both parties want a transcript, the fee is split between the parties.

Chairman Stewart indicated he would like the committee to vote on the bill as amended, and then discuss Mrs. Cafferata's amendment, deciding whether to make it an amendment or draft a separate bill.

Mr. Beyer asked if it was possible to make the subject bill effective for a year, with a subsequent bill, if passed, becoming effective in 1982. Mr. Stewart indicated that could be done.

Mr. Chaney commented that he felt the Assembly Judiciary Committee could be just as fair as the Senate, and took offense at the suggestion that \$125 had originally been inserted in the bill in order to give the Shorthand Reporters Association bargaining power with the Senate. He stated the Assembly was just as capable of making a decision as the Senate.

Mr. Thompson moved AMEND AB 4 according to EXHIBIT A, with the figure at line 5 being \$100, seconded by Mr. Sader. The motion carried with Mrs. Cafferata voting nay.

Mr. Beyer moved that a separate bill be drafted to encompass Mrs. Cafferata's amendment, to become effective July 1, 1982. Mrs. Cafferata seconded the motion.

Chairman Stewart explained that the substance of Mrs. Cafferata's amendment was that in the future the county commissioners make all the determinations as to fees for court reporters.

Mr. Malone commented that in the event the county commissioners could not agree on a fee to pay the reporters, the reporters would be in a bad position until a decision could be reached. He added that these reporters are people with a great responsibility and are greatly depended upon by the attorneys and are irreplaceable. Mr. Malone stated he was against having this decision made by the county commissioners.

Mr. Thompson stated he opposed the amendment for basically the same reasons as Mr. Malone. He spoke further to the importance of court reporters.

Mr. Price stated that as a courtesy, he would vote to have any particular bill drafted, but is opposed to the concept of Mrs. Cafferata's bill. He noted that the State sets a number of fees that are of impact on the counties, such as witness fees, jury fees, etc.

Mr. Sader felt the county commissioners should not set the court reporter fees, but was aware that there would be strong arguments on both sides. He suggested that the issue be studied by an interim study committee between sessions. For that reason, Mr. Sader opposed drafting Mrs. Cafferata's bill.

Mr. Chaney stated he would support a resolution directing the issue be studied.

Mrs. Cafferata apologized for her amendment in the event it was not appropriate, stating that the Bill Drafter had not indicated it was improper. She continued by saying her decision was not made in haste, but as the result of research done by her. She stated that there are only 21 state legislatures that set salaries for court reporters; in the West there are only 2 states that do; in 2 states in the West the Supreme Court sets the fees; in 3 states fees are set by the district court or their commissioners and/or some kind of county commission. She noted that in 70% of the states those fees are set at a local level. She talked with the county commissioners and lobbyists for Washoe and Clark County, who agreed they would be amenable to this proposal. Mrs. Cafferata stated her bill is not an attack on court reporters since she feels they do a wonderful job. She felt they deserved to get a raise and would have a better chance at the local level than through the Legislature. She pointed out that her proposal has a range of salaries, which is done in 53 states. It was Mrs. Cafferata's understanding that there was a judicial study done in 1977, in which a lot of money was spent studying court reporters. Mrs. Cafferata concluded by saying that Nevada's Supreme Court does not use a court reporter and there are 5 states that have gone to machines, eliminating the collective bargaining fear.

Mrs. Ham stated she would support having a bill drafted, but is opposed to an interim study due to the cost involved. She commented that if the Legislature mandates the fee for the court reporters and the county then has to draw resources from other areas due to a cap on their expenditures, whose salary does that come out of.

Mr. Price pointed out that Nevada is one of the few states in which the Legislature has control over counties and cities, noting that in many other states this is done at a local level.

Miss Foley stated she supports Mrs. Cafferata and the proposal to draft a bill, but felt there would be quite a fight on the floor in referral.

Mr. Beyer supported getting the bill drafted and conducting the hearings during this Legislative session, since it could then be seen the kind of testimony and amount of testimony to expect in the event of a study.

Mr. Stewart pointed out that the Legislature sets commissioners salaries and judges salaries, but does not set the salaries for all the county officers. He stated he is a firm believer in the local government and they should be allowed to make their own decisions.

Chairman Stewart asked for a show of hands from those in favor of drafting Mrs. Cafferata's bill. The motion failed with Mr. Thompson, Mr. Price, Mr. Sader, Mr. Chaney, Mr. Malone, and Mr. Banner voting nay.

Mr. Price commented that it was his understanding that it costs about \$500 to have a bill drafted and would hate to see one drafted if there was not enough interest to get the bill out of committee.

Mr. Chaney noted that it is very difficult to hear both sides of the story during the session, whereas an interim study committee would be able to get a more complete picture.

Mr. Thompson moved DO PASS AB 4 as amended, seconded by Mr. Malone. The motion carried with Mrs. Cafferata voting nay.

AJR 14: Proposes constitutional amendment to provide that records and proceedings of commission on judicial discipline are open to public.

Chairman Stewart asked for the report of the sub-committee on AJR 14. Mr. Sader stated that he and Mrs. Cafferata had passed out amendments to this bill earlier and that Mr. Beyer had prepared an amendment as well. He indicated that he and Mrs. Cafferata were in agreement that Mr. Beyer's amendment accomplished the same thing and suggested it be adopted (EXHIBIT C). Mr. Beyer outlined the amendments for the committee, stating that at line 9, page 2, "supreme court" had been changed to "commission" since it was felt the commission should write its own rules. He noted that the wording in lines 10 through 12 had been changed in order to remove some of the confidentiality of the hearings. He explained

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that at line 10 the intent of the amendment is that all investigatory proceedings, before a hearing is called, would be confidential. In the event a frivolous complaint was filed, until it was found the case had merit, it would be confidential. Once it was determined to have merit, all proceedings would public from that point on. Item (c) further provides that the hearings are public. Item (d) is to be deleted, since it was felt that a person has the right to face his accuser. A further amendment was made to Section 7, requiring that if a hearing is ordered, it shall be open to the public. This amendment makes Section 10 of the bill obsolete, and that section is deleted.

Miss Foley asked for further explanation of the reason for deleting section (d). Mr. Sader explained that if the investigation aspect is confidential and the hearing is public, giving the commission latitude by removing this language would allow a confidential witness to come forward, knowing that his name would not be publicized. It would also allow the accused the opportunity to confront his accuser. If the language were to remain, the commission would be required to keep the name confidential, even when unnecessary.

Mr. Price addressed the problem raised at the earlier hearing of the Court Administrator dismissing complaints at his discretion before the commission had a chance to look at it. Mr. Beyer stated there was a bill that had been introduced that would allow the commission to hire its own secretary, rather than being required to use the Court Administrator. Miss Foley noted that was AB 228, which would be heard Monday, March 9.

Mr. Beyer moved AMEND AJR 14 by adopting the amendment attached as EXHIBIT C, seconded by Mr. Sader, and carried unanimously by the committee.

Mr. Beyer moved DO PASS AJR 14 as amended, seconded by Mr. Sader, and carried unanimously by the committee.

SB 55: Revises eligibility for preliminary evaluation of convicted felons.

Chairman Stewart briefly outlined SB 55 and addressed the question of whether there should be a fiscal note. He talked with the fiscal analysts, who explained that when a bill first comes in, Frank Daykin determines whether a fiscal note is needed. If Mr. Daykin determines it is, the bill is sent to the various agencies for their financial analysis. Mr. Stewart indicated that the same thing is done with an amendment. He noted that he received a memo from Warden Wolff, attached as EXHIBIT D, and read the same to the committee.

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Mr. Price commented that he had a note to amend this bill to include a gross misdemeanor. He asked if it was going to be reduced to anyone in prison for 4 months or 6 months or more. Mr. Sader recalled that it was simply to have more latitude to send someone who had a gross misdemeanor into the program also, which is currently restricted to felons. If a gross misdemeanor is committed, the individual can be sentenced to 1 to 6 months.

Mr. Stewart asked if the impact of gross misdemeanors had been taken into consideration. A representative of Mr. Wolff's office stated it probably hadn't, however, that was still at the judge's discretion and existing staff would probably be used. She further stated the Department of Prisons' support of the amendment.

Mr. Sader asked if Medium was full to capacity at the present. It was indicated that these people were brought in and out quite regularly on the 120 day program and were rotated quite rapidly. It was further noted that the judges are using the program quite effectively, with the only question being the constitutionality of limiting it. That was the main reason for broadening it, in order to allow more people to participate in the programs and allow that the indigents not be held in a jail facility, but be able to participate in the program.

Mr. Price noted another question which had arisen at the previous hearing, being that some judges were unclear whether the time served was on the existing conviction or prior convictions. He commented that Mr. Herring had pointed out that sometimes the individual was in jail around 30 days before the actual sentencing.

Mr. Wolff's representative stated that as of January 28, 1981, a total of 53 persons had gone through the program. She indicated that 36 of those people are on probation, 5 in prison, and 12 were in-house at that time.

Mrs. Cafferata moved AMEND SB 55 to include gross misdemeanors, seconded by Mr. Sader, and carried unanimously by the committee.

Mr. Chaney moved DO PASS SB 55 as amended, seconded by Mr. Sader, and carried unanimously by the committee.

SJR 18/60: Proposes to amend Nevada Constitution to permit Legislature to authorize inferior courts to suspend sentences and grant probation.

Chairman Stewart pointed out to the committee that the phrase "grant probation" in the summary is not actually included in the bill. He explained that the Legislature can pass laws giving JP and municipal courts the authority to defer sentence or suspend the execution of sentences.

Mrs. Cafferata asked the status of this resolution. Mr. Stewart stated it had been passed last session and the passage by this session would put it on the ballot.

Miss Foley moved DO PASS SJR 18, seconded by Mr. Sader, and unanimously passed by the committee.

SJR 25/60: Proposes to amend Nevada Constitution to allow for municipal courts of record.

Mr. Stewart stated this bill allows the Legislature to make municipal courts courts of record, giving it the same authority over municipal courts as over JP courts.

Mrs. Cafferata asked the status of this resolution. Mr. Stewart indicated it had been passed last session and passage this session would put it on the ballot.

Mr. Chaney moved INDEFINITELY POSTPONE SJR 25, seconded by Mr. Price.

Mr. Beyer asked what the ramification of SJR 25 is. Mr. Chaney commented that it was his understanding that this would make it wise to have an attorney present at trial in municipal court, since an appeal would be on the record and there would be no new trial.

Mr. Beyer commented that just because this bill was passed last session, doesn't require that it pass this session.

Chairman Stewart agreed that Mr. Chaney's point was correct that if an individual goes to court without an attorney and fails, he has a bad record. However, he noted that often an individual will go in with an attorney and lose and currently, the attorney can appeal, delaying another two months, and get a new trial with a new judge and possibly the witnesses won't appear. He commented that District Court doesn't want to try these cases and the prosecutor is forced to deal these cases down. He felt

it an injustice to both sides of the case. Mr. Stewart stated that one of the failures of the criminal justice system is the delays and appeals, and indicated he would like to see it streamlined. He pointed out that if a defendant wants an attorney he should get one and further, there is not a second trial allowed in justice court and there should not be one in municipal court. He noted that it is much quicker and saves a lot of time in district court where more substantial criminal cases are handled.

With reference to the fiscal notes, Mr. Stewart pointed out that the City of Henderson estimates \$100,000 and the City of Las Vegas says \$125,000. He commented that in cases where a bill is not highly favored, everyone comes in with a fiscal note and in cases where it is favored, there is no fiscal note. He noted that some of the municipal court judges do not favor SJR 25, whereas the JP's in rural areas who have had experience with courts of record love it. Mr. Stewart stated he did not believe the fiscal notes he had heard and pointed out that the machine used by the committee costs \$1,250 with the mikes costing another \$80, for a total of \$1,330. He added that the same machine can be used for a transcriber and to purchase a separate transcriber is another \$695, for a grand total of around \$2,000 -- a one time cost. He compared the cost of the court reporters and suggested that more and more courts are going to go to recording equipment and may find it more accurate.

Miss Foley stated that her attitude towards municipal court is that it is the people's court. She commented that in most places a municipal judge does not have to be an attorney and there is a more informal atmosphere in municipal court. She suggested that if this bill were passed, the next step would be requiring jury trials for misdemeanors in municipal court as they now have the option in justice court. She opposed this resolution.

Mr. Sader felt the subject should be the question of judicial conduct. Currently two separate trials on the same issue are allowed, which is very inefficient. This allows the defendant to have two chances or "two bites of the apple". He felt this is a substantial issue of judicial economy at a time when everyone is concerned with being more fiscally conservative. He added that there is a tremendous amount of criticism of judges and prosecutors who allow charges to be pled down. One of the major abuses is the two trial system in the DUI scheme because the judge at the lower court makes a conviction, they then appeal and because of the number of appeals, the prosecutor has to plea bargain to alleviate the load. He stated that there

is substantial agreement that this is a bad practice, but they were voting to perpetuate this system that institutionalizes this type of abuse.

Mr. Price commented that he had talked with the judge in the city court in Las Vegas, who indicated he had not had these problems with appeals since he was very rigid in his convictions and fines. Mr. Price felt that the problem would arise in the demand for jury trials which are currently practically non-existent and the need for attorneys to represent defendants. He felt the move would then be for attorney judges and felt the need existed for lay judges at the local level.

Chairman Stewart pointed out that this bill has nothing to do with jury trials. Mr. Price stated that once municipal court becomes a court of record and appeals can only be taken from the record, defendants are going to start demanding jury trials. He asked how a defendant would appeal an improper punishment, such as having the defendant spanked in court. Mr. Stewart stated that if the punishment is unconstitutional, it is appealed on the record. He indicated he had not heard of jury trials in justice court since they became courts of record. Miss Foley stated there have been several jury trials in justice court in Las Vegas, with 5 occurring immediately after they were made courts of record.

Chairman Stewart asked for a vote on Mr. Chaney's motion to INDEFINITELY POSTPONE SJR 25. The motion carried by a simple majority vote, with Mr. Beyer, Mr. Sader, Mr. Stewart, Mrs. Cafferata, and Mrs. Ham voting nay.

Mr. Price gave notice of reconsideration of his vote on SJR 18. His objection was that in looking back at the minutes he found there had been no testimony on that bill and felt it improper. Chairman Stewart pointed out that Senator Close testified at page 18 of the minutes. Mr. Price stood corrected and withdrew his objection.

AB 68: Increases statutory rate for interest on judgments from 8 to 12 percent.

Chairman Stewart stated he was withdrawing his motion to amend this bill since that amendment is dealt with in other sections of the statutes.

Mrs. Cafferata suggested the bill be amended to allow the judges to set the interest rates themselves as done in several other jurisdictions. Mr. Price pointed out that is already allowed and that this bill applies only if they do not set an interest rate. Mrs. Cafferata suggested taking out any interest rate

amount at all. Mrs. Cafferata moved AMEND AB 68 by removing any interest rate figure, seconded by Mrs. Ham. The motion failed with Mrs. Cafferata being the only vote in favor.

Mrs. Cafferata stated there are 11 states that have prejudgment interest set by statute, with Nevada being the only Western state doing that. She noted that the other states which do this are as follows: 2 - 6%, 3 - legal interest rate of state (6%), 3 - 8%, 2 - 12% with Oklahoma only allowing 10% against government agencies and personal injury cases against government agencies at 6%. She stated 6 states have prejudgment interest by judicial precedent, with all states allowing interest on judgments -- 9 states - 6%, 1 state - 7%, 16 states - 8%, 5 states - 9%, 12 states - 10%, 5 states - 12%, 1 state allows it to float with the treasury bill notice, with Alaska being unknown. It was her conclusion that Nevada is the second highest. She asked that the interest rate not be raised, and if so, that it only apply to the actual financial loss.

Mr. Beyer asked if interest was added into a damage claim before a judgment. Mr. Stewart stated that if a car was damaged and put on a credit card with interest being charged on that, the attorney may try to add that on, commenting that doesn't happen very often. Mr. Sader noted that if a car is rented, that is a legitimate aspect of damages if actually rented. If the car was not rented, the damage could not be claimed. He added that interest on hospital bills can be alleged.

Mr. Sader made reference to a letter received from Judge Thompson in Las Vegas pointing out that there are three other statutes which are tied in with setting interest rates and should be amended along with this bill. He listed those statutes as the one on condemnation cases (eminent domain), interest before the obligation comes to judgment (contract with no specified interest), and estates.

Mr. Sader moved AMEND AB 68 to include the other three statutes, seconded by Mr. Malone.

Mr. Sader clarified that his amendment is a clean-up amendment to be consistent.

The motion carried, Mr. Stewart, Mrs. Cafferata and Mrs. Ham voting nay.

Mrs. Cafferata stated that this bill is going to increase insurance rates and does not feel that it is in the best interests of the public.

Mr. Beyer once again clarified the point that this bill applies only where a judge does not set an interest rate.

Mr. Price moved DO PASS AB 68 as amended, seconded by Mr. Sader. The motion carried with Mr. Stewart, Mrs. Cafferata and Mrs. Ham voting nay, and Mr. Beyer abstaining from the vote.

Chairman Stewart asked for committee introduction of the following bills:

BDR 20-1011: Increases certain fees for services
(AB 265) of constables.

BDR 11-1189: Broadens provisions for modification
(AB 266) of periodic payments of alimony.

BDR 40-1093: Requires report of complications of
(AB 267) abortions.

To questions from the committee, Mr. Stewart explained that BDR 40-1093 requires that in the case of complications resulting from abortions, the statistics must be reported: hospital number of each patient, hospital care, complication and name of physician. He stated that this bill was requested by the Speaker.

The next bill to be introduced deals with a series of statutory changes having to do with juvenile court judges, coming from the juvenile court in Clark County. Mr. Stewart stated they apologized for it being late because the judge had not had a chance to review it earlier.

Mr. Price moved for committee introduction of the proposed bills, seconded by Mr. Malone, and unanimously carried by the committee.

Mr. Chaney suggested that in the future on committee requests, the bill should be discussed as was the case with Mrs. Cafferata's amendment. He did not feel it was fair to not discuss other bills and introduce them, when hers was not. The majority of the committee expressed agreement. Mr. Chaney clarified he was referring to draft requests. Miss Foley suggested the committee reconsider drafting Mrs. Cafferata's amendment. Chairman Stewart suggested that in the future the committee take a closer look at requests for bill drafts. Mr. Price gave notice of reconsideration of his vote on Mrs. Cafferata's amendment. Mr. Sader

gave notice of reconsideration of his vote in favor of drafting the Clark County Juvenile Court bill.

Chairman Stewart at that point passed out copies of the requested bill of the Juvenile Court.

Chairman Stewart adjourned the meeting at 10:45 a.m.

Respectfully submitted,



Jor Jan M. Martin
Committee Stenographer



**61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION**

DATE: March 4, 1981
 SUBJECT: AB 4: Increases fees for official reporters in district court.

MOTION:
 DO PASS XX AMEND XX INDEFINITELY POSTPONE _____
 RECONSIDER _____

MOVED BY: Thompson SECONDED BY: Malone

AMENDMENT:

See EXHIBIT A attached, changing the figure at line 5 from \$125 to \$100.

MOVED BY: Thompson SECONDED BY: Sader/Malone

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	—	<u>X</u>	—	—	—
Foley	<u>X</u>	—	<u>X</u>	—	—	—
Beyer	<u>X</u>	—	<u>X</u>	—	—	—
Price	<u>X</u>	—	<u>X</u>	—	—	—
Sader	<u>X</u>	—	<u>X</u>	—	—	—
Stewart	<u>X</u>	—	<u>X</u>	—	—	—
Chaney	<u>X</u>	—	<u>X</u>	—	—	—
Malone	<u>X</u>	—	<u>X</u>	—	—	—
Cafferata	—	<u>XX</u>	—	<u>XX</u>	—	—
Ham	<u>X</u>	—	<u>X</u>	—	—	—
Banner	<u>X</u>	—	<u>X</u>	—	—	—
TALLY:	<u>10</u>	<u>1</u>	<u>10</u>	<u>1</u>	—	—

ORIGINAL MOTION: Passed _____ Defeated _____ Withdrawn _____
 AMENDED & PASSED XX AMENDED & DEFEATED _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF March 4, 1981

**61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION**

DATE: March 4, 1981

SUBJECT: AJR 14: Proposes constitutional amendment to provide that records and proceedings of commission on judicial discipline are open to the public.

MOTION:

DO PASS XX AMEND XX INDEFINITELY POSTPONE
RECONSIDER

MOVED BY: Beyer SECONDED BY: Sader

AMENDMENT:

See EXHIBIT C attached

MOVED BY: Beyer SECONDED BY: Sader

AMENDMENT:

MOVED BY: SECONDED BY:

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	X	—	X	—	—	—
Foley	X	—	X	—	—	—
Beyer	X	—	X	—	—	—
Price	X	—	X	—	—	—
Sader	X	—	X	—	—	—
Stewart	X	—	X	—	—	—
Chaney	X	—	X	—	—	—
Malone	X	—	X	—	—	—
Cafferata	X	—	X	—	—	—
Ham	X	—	X	—	—	—
Banner	X	—	X	—	—	—
TALLY:	<u>11</u>	<u> </u>	<u>11</u>	<u> </u>	<u> </u>	<u> </u>

ORIGINAL MOTION: Passed Defeated Withdrawn
 AMENDED & PASSED XX AMENDED & DEFEATED
 AMENDED & PASSED AMENDED & DEFEATED

ATTACHED TO MINUTES OF March 4, 1981

**61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION**

DATE: March 4, 1981
 SUBJECT: SB 55: Revises eligibility for preliminary
 evaluation of convicted felons.

MOTION:
 DO PASS XX AMEND XX INDEFINITELY POSTPONE _____
 RECONSIDER _____
 MOVED BY: Chaney SECONDED BY: Sader

AMENDMENT:

Include gross misdemeanors in
 language of bill.

MOVED BY: Cafferata SECONDED BY: Sader

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	---	<u>X</u>	---	---	---
Foley	<u>X</u>	---	<u>X</u>	---	---	---
Beyer	<u>X</u>	---	<u>X</u>	---	---	---
Price	<u>X</u>	---	<u>X</u>	---	---	---
Sader	<u>X</u>	---	<u>X</u>	---	---	---
Stewart	<u>X</u>	---	<u>X</u>	---	---	---
Chaney	<u>X</u>	---	<u>X</u>	---	---	---
Malone	<u>X</u>	---	<u>X</u>	---	---	---
Cafferata	<u>X</u>	---	<u>X</u>	---	---	---
Ham	<u>X</u>	---	<u>X</u>	---	---	---
Banner	<u>X</u>	---	<u>X</u>	---	---	---
TALLY:	<u>11</u>	---	<u>11</u>	---	---	---

ORIGINAL MOTION: Passed _____ Defeated _____ Withdrawn _____
 AMENDED & PASSED XX AMENDED & DEFEATED _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF March 4, 1981

**61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION**

DATE: March 4, 1981
 SUBJECT: SJR 25/60: Proposes to amend Nevada Consti-
 tution to allow for municipal
 courts of record.

MOTION:
 DO PASS _____ AMEND _____ INDEFINITELY POSTPONE XX
 RECONSIDER _____
 MOVED BY: Chaney SECONDED BY: Price

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	—	—	—	—	—
Foley	<u>X</u>	—	—	—	—	—
Beyer	—	<u>X</u>	—	—	—	—
Price	<u>X</u>	—	—	—	—	—
Sader	—	<u>X</u>	—	—	—	—
Stewart	—	<u>X</u>	—	—	—	—
Chaney	<u>X</u>	—	—	—	—	—
Malone	<u>X</u>	—	—	—	—	—
Cafferata	—	<u>X</u>	—	—	—	—
Ham	—	<u>X</u>	—	—	—	—
Banner	<u>X</u>	—	—	—	—	—
TALLY:	<u>6</u>	<u>5</u>	—	—	—	—

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____
 INDEFINITELY POSTPONED XXX

ATTACHED TO MINUTES OF March 4, 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: March 4, 1981
 SUBJECT: AB 68: Increases statutory rate for interest on judgments from 8 to 12 percent.

MOTION:
 DO PASS XX AMEND XX INDEFINITELY POSTPONE _____
 RECONSIDER _____

MOVED BY: Price SECONDED BY: Sader

AMENDMENT:

Remove interest rate figure from bill.

MOVED BY: Cafferata SECONDED BY: Ham

AMENDMENT:

Conform statutes relating to condemnation, interest before obligation comes to judgment and estates to interest rate in this bill.

MOVED BY: Sader SECONDED BY: Malone

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	X	—	X	—	X	—
Foley	X	—	X	—	X	—
Beyer	ABSTAIN		X	—	X	—
Price	X	—	X	—	X	—
Sader	X	—	X	—	X	—
Stewart	—	X	X	—	—	X
Chaney	X	—	X	—	X	—
Malone	X	—	X	—	X	—
Cafferata	—	X	—	XX	—	X
Ham	—	X	X	—	—	X
Banner	X	—	X	—	X	—
TALLY:	7	3	10	11	8	3

ORIGINAL MOTION: Passed _____ Defeated _____ Withdrawn _____
 AMENDED & PASSED XX AMENDED & DEFEATED _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF March 4, 1981

ASSEMBLY ACTION	SENATE ACTION	Assembly	AMENDMENT BLANK
Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	AMENDMENTS to	Assembly
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	Bill No. 4	Joint Resolution No.
Date: <input type="checkbox"/>	Date: <input type="checkbox"/>	BDR 1-392	
Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>	Proposed by	Assemblyman Banner
Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>		
Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>		
Date: <input type="checkbox"/>	Date: <input type="checkbox"/>		
Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>		

Amendment N^o 112

Conflicts with Amendment No. 104

Amend section 1, page 1, line 5, by deleting "\$200" and inserting "\$125".

Amend section 1, page 1, by deleting line 7 and inserting:

"(b) For transcription, [70] 85 cents per folio for the original draft, and [20] 25".

Amend section 1, page 1, line 10, by deleting "20" and inserting [20] 25".

Amend section 1, page 1, line 12, by deleting "\$32" and inserting "\$15".

Amend section 1, page 1, by deleting line 13 and inserting:

"spent, [but not more than \$50 in any calendar day,] to be taxed as".

Amend section 1, page 1, line 14 by deleting "If" and inserting "[If".

Amend section 1, page 1, line 15, by deleting "[\$50,] \$200," and inserting: "\$50,".

Amend section 1, page 1, line 16 by deleting "[\$50] \$200" and inserting "\$50".

Amend section 1, page 1, line 17, by inserting a closed bracket after "day."

Amend the title of the bill on the first line by inserting "removing certain limitations:" after "reporters;".

To: E & E
LCB File
Journal
Engrossment
Bill

Drafted by DS:ab Date 2-25-81

1981 REGULAR SESSION (61st)

ASSEMBLY ACTION	SENATE ACTION	Assembly	AMENDMENT BLANK
Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	AMENDMENTS to	Assembly
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	Bill No. 4	Assembly
Date: <input type="checkbox"/>	Date: <input type="checkbox"/>	BDR 1-392	
Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>	Proposed by	Committee on Judiciary
Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>		
Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>		
Date: <input type="checkbox"/>	Date: <input type="checkbox"/>		
Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>		

Amendment No 115

Replaces Amendment No. 104
 Conflicts with Amendment No. 112

Amend section 1, pages 1 and 2, by deleting lines 2 through 25 on page 1 and lines 1 through 22 on page 2 and inserting:

"3.370 1. For his [or her] services the official reporter or reporter pro tempore [shall receive the following fees:] is entitled to receive:

(a) For being available to report civil and criminal testimony and proceedings when the court is sitting, \$50 per day, to be paid by the county as provided in subsection 2.

(b) For transcription, 70 cents per folio for the original draft, and 20 cents per folio for each additional copy to the party ordering the original draft. For transcription for any party other than the party ordering the original draft, 20 cents per folio.

(c) For reporting all civil matters, in addition to the salary provided in paragraph (a), 58 for each hour or fraction thereof actually spent, but not more than \$50 in any calendar day, to be taxed as costs pursuant to subsection 3. If the fees for any day computed according to the hourly rate would exceed \$50, the fee to be taxed for each civil matter reported is that proportion of \$50 which the time spent on that matter bore to the total time spent that day; a salary established by the board

or boards of county commissioners of the county or counties in the judicial district. In judicial districts which include more than one county, the boards of county commissioners of those counties shall establish the salaries jointly. The board or boards may establish a range of salaries and assign a salary within that range to each reporter.

(b) The fees set for reporting, transcribing and copying.

2. The board or boards of county commissioners shall set:

(a) A fee for each original folio and a fee for each additional copy;

(b) An hourly fee for each hour or fraction of an hour actually spent in reporting all civil matters. The hourly fee must not

To: E & E
LCB File
Journal
Engrossment
Bill

Drafted by DS:m Date 2-25-81

be more than the ^{fee} salary for the reporter for one hour. If the fees for any day computed according to the hourly rate would be greater than the salary for one day, the fee to be taxed as costs is that proportion of the daily fee which the time spent on the matter bore to the total time spent on that day.

3. The [fee specified in paragraph (a) of subsection 1 shall] ^{be a fee} salary set by the board or boards of county commissioners must be paid out of the general fund in the county treasury upon the order of the court. [In criminal cases the fees for transcripts ordered by the court to be made shall be

paid out of the county treasury upon the order of the court. When there is no official reporter in attendance and a reporter pro tempore is appointed, his reasonable expenses for traveling and detention shall be fixed and allowed by the court and paid in like manner. The respective district judges may, with the approval of the respective board or boards of county commissioners within the judicial district, fix a monthly salary to be paid to such official reporter in lieu of per diem; the salary, and also actual traveling expenses in cases where the reporter acts in more than one county, to be prorated by the judge on the basis of time consumed by work in the respective counties; the salary and traveling expenses to be paid out of the respective county treasuries upon the order of the court.] If there is more than one county

in the judicial district, the boards of county commissioners shall provide jointly for a means by which to prorate the contributions of the counties to the salary of each reporter on the basis of time consumed by work in each county.

[3.] 4. In civil cases [the fees prescribed in paragraph (c) of subsection 1 and for transcripts ordered by the court to be made shall] an amount equal to the fee payable to the official reporter for reporting must be paid by the parties in equal proportions [, and either] to the county treasurer for deposit in the general fund in the county treasury. Either party may, at his option, pay the [whole thereof. In either case all] entire amount. All amounts so paid [by the party to whom costs are awarded shall] must be taxed as costs in the case. [The fees for transcripts and copies ordered by the parties shall be paid by the party ordering the same. No reporter may be required to perform any service in a civil case until his fees have been paid to him or her or deposited with the clerk of the court.

4. Where a transcript is ordered by the court or by any party, the fees for the same shall be paid to the clerk of the court and by him paid to the reporter upon the furnishing of the transcript.]

5. When a party orders a transcript, the party must pay an amount equal to the fee payable to the official reporter to the county treasurer for deposit in the general fund in the county treasury.

6. The testimony and proceedings in an uncontested divorce action need not be transcribed unless requested by a party or ordered by the court."

Amend the title of the bill on line 1, by deleting:

"increasing fees for official reporters;" and inserting
"requiring boards of county commissioners to set salaries
and fees for official reporters;"

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



LEGISLATIVE COMMISSION (702) 885-5627

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JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

March 3, 1981

EXHIBIT C

M E M O R A N D U M

TO: Assemblyman Erik Beyer
FROM: J. Kenneth Creighton, Research Analyst
SUBJECT: Suggested Amendments to A.J.R. 14

SUGGESTED AMENDMENTS TO A.J.R. 14

The suggested amendments to A.J.R. 14 are shown below. The language within brackets is deleted and the language underlined is added.

AMEND SECTION 5:

5. The [supreme court] commission shall make appropriate rules for:
- (a) The confidentiality of all investigatory proceedings before the commission [, except a decision to censure, retire or remove a justice or judge].
 - (b) The grounds of censure.
 - (c) The conduct of investigations and hearings[.], except that no hearing or the records of a hearing shall be confidential.
 - (d) The confidentiality of the name, or names, of the complainant.

AMEND SECTION 7:

7. If a hearing is ordered, it shall be open to the public and a statement of the matter shall be served upon the justice or judge against whom the proceeding is brought.

DELETE SECTION 10:

[The records and proceedings of the commission on any matter relating to the fitness of a justice or judge are open to the public.]

JKC/jld

STATE OF NEVADA
DEPARTMENT OF PRISONS
OFFICE OF THE DIRECTOR
MEMORANDUM

EXHIBIT D

TO: Ed Shorr, Deputy Fiscal Analyst
Legislative Counsel Bureau

DATE: 2/23/81

FROM: Charles L. Wolff, Jr.

SUBJECT: Fiscal Note SB 55

Receipt is acknowledged of your memo dated February 16, 1981 reference Senate Bill 55 (first reprint) BDR 14-59. For your information, this is merely amending existing NRS which did not receive any fiscal impact in the last session of the legislature. Since we are operating this program with existing staff, there will be no additional fiscal impact. This is an abbreviated program at the present time.



RECEIVED

FEB 26 1981

LEGISLATIVE COUNSEL BUREAU
FISCAL ANALYSIS DIVISION

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