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

## Seventy-Third Session
## April 13, 2005

The Committee on Judiciary was called to order at 8:18 a.m., on Wednesday, April 13, 2005. Chairman Bernie Anderson presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT**:

Mr. Bernie Anderson, Chairman
Mr. William Horne, Vice Chairman
Ms. Francis Allen
Mrs. Sharon Angle
Ms. Barbara Buckley
Mr. John Carpenter
Mr. Marcus Conklin
Ms. Susan Gerhardt
Mr. Brooks Holcomb
Mr. Garn Mabey
Mr. Mark Manendo
Mr. Harry Mortenson
Mr. John Oceguera
Ms. Genie Ohrenschall

**COMMITTEE MEMBERS ABSENT**:

None

**GUEST LEGISLATORS PRESENT**:

Assemblywoman Valerie Weber, Assembly District No. 5 Clark County (part)

**STAFF MEMBERS PRESENT**:

Allison Combs, Committee Policy Analyst
René Yeckley, Committee Counsel
Risa Lang, Committee Counsel
Katie Miles, Committee Policy Analyst

**OTHERS PRESENT**:

- Stan Olsen, Director of Governmental Relations, Las Vegas Metropolitan Police Department, Las Vegas, Nevada
- James Jackson, Legislative Advocate, representing Nevada Attorneys for Criminal Justice, Las Vegas, Nevada
- George Togliatti, Director, Nevada Department of Public Safety
- Bob Wideman, Chief, Criminal History Repository, Nevada Department of Public Safety
- Amy Wright, Chief, Division of Parole and Probation, Nevada Department of Public Safety
- Linda Errichetto, Director of Laboratory Services, Forensic Laboratory, Las Vegas Metropolitan Police Department, Las Vegas, Nevada
- Ron Dreher, Legislative Advocate, representing Peace Officer's Research Association of Nevada, Reno, Nevada
- Fritz Schlottman, Administrator, Offender Management Division, Nevada Department of Corrections
- William Donat, Classification and Research Planning Specialist, Nevada Department of Corrections
- Tony Sanchez, Legislative Advocate, representing L.S. Power Development
- Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association
- Michelle Youngs, Public Information Office, Washoe County and Nevada Sheriffs' and Chiefs' Association
- Nancy Saitta, Judge, Department 18, Eighth Judicial District Court, Clark County, Nevada
- Ron Titus, Court Administrator and Director, Administrative Office of the Courts, Nevada Supreme Court

**Chairman Anderson:**
[Meeting Called To Order. Roll Called.]

I open the hearing on A.B. 382.

**Assembly Bill 382: Makes various changes concerning genetic marker testing of certain convicted persons. (BDR 14-923)**

**Assemblywoman Valerie Weber, Assembly District No. 5, Clark County (part):**
I am pleased to present testimony today on A.B. 382. You should be getting some handouts (Exhibit B) shortly. One of the functions of government is to provide public safety to its citizens. A.B. 382 proposes to close a gap in the western states in that the state of Nevada currently is without an all felon DNA [deoxyribonucleic acid] database. The database currently exists as the central repository for Nevada records. This simply expands it. The passage of all felons DNA database legislation has been ongoing around the U.S. since 1994 with the passage of Senate Bill 100 in Alabama.

Ten western states have enacted legislation from 1997 to November of 2004 when California voters passed Proposition 69. Thirty-seven states have enacted legislation to require DNA from all convicted felons. Nevada, Idaho, and Hawaii remain the only 3 western states that have not yet enacted this important legislation. Both Nevada and Hawaii are currently considering measures before their respective bodies this session with only Idaho remaining.

You can see in the attachment (page 2 of Exhibit B) two maps indicating current legislative intent in several states compared to what it was in 2004. According to HEART [Hope Exists After Rape Trauma] (Exhibit C), should Nevada pass the all felons DNA database legislation, it will triple—if not quadruple—the odds of identifying rapists and other criminals. This alone could be a tool to solve rapes, homicides, and other crimes that currently go unsolved. As an example, the state of Virginia is frequently cited when legislatures in other states are considering DNA database expansion programs.

Virginia has one of the longest standing all felons DNA databases in the country. The state legislature has consistently invested in its DNA program. As a result Virginia is experiencing approximately 3 cold hits per day on its database, or for the first 3 months of 2005 there were 279 hits. Additionally, there may be 3 grants Nevada can solicit for DNA purposes and no state match is required. Up to $110,000,000 may be available for 2005 grants. And the solicitation period has not opened up on that yet. As far as the content of the bill, there are six sections before you, and there is a friendly form of an amendment that will be presented by the Las Vegas Metropolitan Police Department. They will present the amendment and entertain any questions. I urge your consideration in passage of this important legislation.

**Chairman Anderson:**
Ms. Weber, I presume that in your background you recognize that several of these elements we have already done. While we haven't checked the DNA of every felon, we are one the few states that started doing this early on and so it

is not like we have ignored the problem. It's just that we haven't done it as extensively as some other states.

**Assemblyman Conklin:**
I believe it was last session that we had this bill. For the life of me I cannot remember if we passed it out with the Category A through C felonies or if it was already there and we looked at one that was just like this. I'm curious about the bill's sponsor on whether or not she is familiar with the types of felonies that are Category D and E felonies that would be caught up in this.

**Assemblywoman Weber:**
Mr. Conklin, we will give a presentation stating what the new category of inclusion will be.

**Chairman Anderson:**
I think that Ms. Weber is saying that she is hoping that Mr. Olsen will be telling us about Categories D and E relative to his expertise on that.

**Assemblyman Conklin:**
No, I will hold my questions.

**Stan Olsen, Director of Governmental Relations, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:**
We are here in support of A.B. 382. However, we have some amendments to offer. In discussions with James Jackson, who represents the Nevada Attorneys For Criminal Justice and Public Defender's Office, we came up with some amendments that you have in front of you (Exhibit D). That pulls some of the original intent of the bill, but does not capture all felonies. It eliminates all Category E felonies and captures only those Category D felonies where there is a crime against a person.

**Chairman Anderson:**
I think that Mr. Conklin had a question relative to the very beginning about Category E felonies. The statutory range of a Category E is a minimum one year to maximum 4 years. After sentencing is imposed, probation is required except in certain circumstances. The judge must impose any minimum or maximum sentence within a 1 to 4 year range as long as a minimum term does not exceed 40 percent of the maximum, and it has a fine of $5,000 unless a greater fine is authorized by a specific statute. Category D is 1 to 4 years, minimum term not to exceed 40 percent of maximum. It has approximately the same additional requirements. The possible sentencing range is much the same. The major difference between Categories D and E is that Category E requires probation.

**Assemblyman Conklin:**
I think that it is not so much the penalty phase here, as much as I just want to make sure that we're not putting people in the repository who have a major traffic violation or something of that nature that falls under the rare Category D and E felonies. That is really what my concern is. I think that this amendment explains that.

**Stan Olsen:**
When we first started looking at this, we knew that there were some issues that were going to cause some concern amongst interested parties. The first one being the gathering of DNA evidence on felony juveniles, and the other part was Category E felonies and some Ds. For example, researching the Category Ds it was obvious to us that harboring a vicious animal, which can be a D felony is not necessarily something we needed to capture under the DNA statutes, so we worked with James Jackson.

We started amending the bill. The first thing we did is remove juveniles from the bill without any intent of grabbing DNA evidence from them. Other than probably those juveniles that are automatically certified as an adult for murder and attempted murder that is already available law. We then started looking at the Category D felonies, and you should have a copy of that document in front of you. There are a significant number of Category D felonies and Mr. Jackson signed off on those that are sex crimes or those that are crimes where force or threatened use of force are used in Category D felonies. Nothing from Category E was intended to be captured in this amendment.

The document in front of you that talks about the amendments and then changes the wording under subsection 4, paragraph D on page 2 (Exhibit D), states that "A Category D felony involving the use or threatened use of force or violence against the victim." The rest on that page simply changes the letter arrangements that are in the bill. If you look at what is on page 3 of the amendment document it strikes 2 locations. It strikes the statement that a child who is a delinquent be adjudicated for committing such an offense. Our intent is to remove juveniles from the capture in this bill.

Moving on to page 5, Section 3 talks about capturing the DNA evidence from a child. The entire section involving a child has been deleted. Section 4, which is on the last page, talks about the fiscal fund that is attached to this bill. Through discussions between the Las Vegas Metropolitan Police Department crime lab director, and Washoe County Sheriff's Office crime lab director, the division of that appropriation would be a 60/40 split based on workload that currently exists in both labs. With that, Mr. Chairman, I will be happy to entertain any questions.

**Assemblyman Conklin:**
This is an extensive document. As long as we are talking about force or violence against a human victim, then I suppose that I am okay with that.

**Assemblyman Horne:**
My concerns were also in who this will affect. I also thought of embezzlement, racketeering, and credit card fraud; do those things fall in?

**Chairman Anderson:**
Actually C felons often do fit into that category. The C felons would be picked up in this, would they not?

**Stan Olsen:**
Mr. Chairman, the current law allows for Category C felons with DNA to be captured. There are some in that category (Exhibit E).

**Chairman Anderson:**
So out of all the Categories A, B, and C felonies, Cs are clearly fitting into the program.

**Assemblyman Horne:**
Are the Category C felonies, under current law, that involve the use of force or the threat of the use of force or violence, just falling under Category C?

**Chairman Anderson:**
With this piece of legislation I think we reach to all the Category Cs, Ds, and Es. Is that right?

**Stan Olsen:**
Our intent is not to change what is already statute under Categories A, B, and C.

**Chairman Anderson:**
So it is only Categories C and D with the use of force.

**Stan Olsen:**
Correct.

**Assemblyman Horne:**
Are all the amendments referenced to juveniles completely gone?

**Stan Olsen:**
Yes, we have removed all references to juveniles.

**Chairman Anderson:**
Even if a juvenile has moved up to an adult status crime?

**James Jackson, Legislative Advocate, representing Nevada Attorneys for Criminal Justice, Las Vegas, Nevada:**
At that point they are no longer considered a juvenile and would be treated as an adult anyway.

**Chairman Anderson:**
So when we deal with the status crimes of juveniles, we need to make sure that we recognize we moved them across that barrier and clearly into the DNA testing range. Not only are we going to move them into institutions where they get new experiences in life, but we are also going to take their DNA.

**James Jackson:**
Mr. Olsen wanted to make it clear that we had sat down with the complete list of Category D and C felonies as well. We tried to take away those crimes that do not involve the current definition. We did this just to make sure that we were not being too broad in the capture of this.

**Assemblyman Carpenter:**
Does all this only apply to juveniles that have been tried as an adult?

**James Jackson:**
The answer to that is yes. The idea is that any child that has been either waived into adult court because of the nature of their crime would be treated as an adult at that point.

**Assemblyman Carpenter:**
Aren't we going to miss taking DNA samples from a number of juveniles that have committed violent crimes?

**James Jackson:**
I suppose that there is that possibility Mr. Carpenter. However, if they commit any of the enumerated offenses, then they are automatically waived into adult court. If it is a serious enough offense that is not already waived into adult court by statute, I would expect to see the district attorneys offices move for certification as an adult.

**Assemblyman Carpenter:**
I have a problem with that. I think that you miss a large database that we may need if we are going to try and solve some of these crimes.

**Stan Olsen:**
If there is such a crime that we need to match DNA evidence then we can petition the court for an order to obtain the DNA evidence on that juvenile and a particular crime.

**Chairman Anderson:**
Mr. Jackson, does the court have the opportunity with these amendments to determine for itself whether DNA evidence or samples can be collected?

**James Jackson:**
Mr. Chairman, this is something where if a person is convicted of these particular offenses, then they are required to submit to the DNA testing.

**Chairman Anderson:**
Can the court in and of its own volition determine that a juvenile should have samples taken from him if the judge so determines?

**James Jackson:**
I'm sorry Mr. Chairman, I didn't understand your question completely. I believe that in essence it would be a search warrant, and it would be a request for a seizure of DNA evidence, either voluntarily or involuntarily. A court would have the opportunity to review whether or not that seizure of DNA is appropriate and the juvenile would also have the opportunity to oppose that.

**Chairman Anderson:**
So we are not shutting off all possibilities. In other words, it is just not going to be in the normal scope of picking up every status of juvenile crime that comes along and putting them into the database.

**James Jackson:**
I think that is a correct statement, Mr. Chairman.

**Assemblyman Carpenter:**
It is my own personal feeling we are going to miss a number of juveniles. I believe that we should have the DNA testing on these juveniles in order to solve crimes further down the road. I'd like to see this go a little further.

**Chairman Anderson:**
It would appear that we would want to make sure that the Criminal History Repository is comfortable with this.

**George Togliatti, Director, Nevada Department of Public Safety:**
We are here in support of A.B. 382 with the proposed amendments.

**Chairman Anderson:**
Is this something you have been anticipating happening within your Department?

**Bob Wideman, Chief, Criminal History Repository, Nevada Department of Public Safety:**
Yes, Mr. Chairman. Actually this bill will have little impact on our Department as it is written. Mainly it will be impacting the locals who will be collecting most of the information.

**Chairman Anderson:**
Although Parole and Probation does collect DNA presently, I am always concerned about the Central History Repository. As you well know, it is one of those things that I consider to be the key web in providing good services in the courts, Parole and Probation, prisons, and the officers on the street who sometimes follow their roles and sometimes do not. I am concerned that you are going to be able to meet the requirements here, Bob Wideman. Are you of the opinion that you are going to be able to meet this? The directors indicated that it was anticipated.

**Bob Wideman:**
As is common in database management, it is really a matter of linkage and relationship to where data is more than it is possession of the data. In this particular circumstance the repository does not actually have a database of genetic markers. What we have is an indicator and a linkage to data that is maintained by the crime labs. What we have in the automated central criminal history file is a single data field with a marker that identifies whether the crime lab has told us that markers exist at the crime lab, which is already part of the database. In this particular circumstance, if there are more persons added to it, then it simply means that we will get more information from crime labs to check that box.

**Chairman Anderson:**
Are there any other crime labs in Nevada, other than the ones in Washoe and Clark Counties, that are currently providing the necessary information and background? How about the rest of the state, meaning the smaller counties?

**Bob Wideman:**
There are two crime labs located in the state, one operated by the Las Vegas Metropolitan Police Department, and the other operated by the Washoe County Sheriff's Department. All of the other jurisdictions within the state submit their lab work to one of those two labs. Therefore all of the data is maintained at one of those two labs.

**Chairman Anderson:**
Can the sampling technique of those two labs hold what would be new larger sampling data? Have you found support from them in order to be able to do this or complaints from them about being able to meet the housing of this additional storage area?

**Bob Wideman:**
I certainly don't want to speak on behalf of the crime labs in either county. I don't have any reason to believe that they are not able to handle the amount of data that they will be collecting.

**Amy Wright, Chief, Division of Parole and Probation, Nevada Department of Public Safety:**
We currently do collect the DNA of all those offenders that are placed under supervision with the Division, and those initially on probation that are already required by statute for DNA collection. All this legislation does is expand those offenses, which will require officers to be trained to understand that these offenses are now included. What we do is we collect the DNA via swab and a fingerprint and we then package that up and it is sent to the respective labs in the respective counties.

**Assemblywoman Gerhardt:**
I would like some clarification. Let's say you were talking about checking off a box where a sample had been taken. Am I to understand if you have a victim, for example, a rape victim, and you have collected evidence of the crime, you can't search for a match? The only thing that is going to be in the repository is the indication that DNA was taken from all of these individuals.

**Bob Wideman:**
The central repository does not have any victim information at all. What we have is information of persons who are arrested or convicted. We don't have any of that victim information. That information about the victim's genetic markers might be maintained as part of an evidence chain at the crime lab. However any search of the criminal history will not reveal that information at all, because it is not limited to a subject with a criminal history.

**Assemblywoman Gerhardt:**
Okay. That was not exactly my question. I am concerned about matching up this information. Do we have the ability to match up the evidence of the crime with the person who committed it?

**Chairman Anderson:**
Let me try to help Ms. Gerhardt and you by asking the director of the crime lab from Las Vegas if they would come up and maybe help us understand how the DNA matching takes place with the samples that you have in your lab to the crime scene. If I understand Ms. Gerhardt's question, the Central History Repository does not possess the actual specimen to do a match, but you do have the primary indicators on file. Thus you would be able to do a computer search of the DNA's indicators that you have in your file as to the new sample that is drawn. The director from the lab down there can help us with this.

**Linda Errichetto, Director of Laboratory Services, Forensic Laboratory, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:**
In answer to the question, yes. The database does maintain genetic profiles of evidentiary materials; however, the notations as to which evidentiary materials are maintained in the database are not made to the Central Repository. The only thing communicated to the Central Repository is the notation of those convicted offenders, whose profiles by law are obtained and then submitted to the database. We do submit evidentiary materials from various crimes as well as samples from missing persons. Those are compared with the convicted offenders, not only from our state but also from other states as well.

**Assemblywoman Gerhardt:**
How do you match it up? You have a crime that has been committed. You have evidence that is collected. How do you match up that and the perpetrator? Or do you have to establish a suspect first, and then try and get the DNA information? Or can we just search through all those records and find a match. Does that make my question any clearer?

**Linda Errichetto:**
We do in fact match up the unknowns. You don't need to have a suspect. The purpose of the database is to search all the various offenders against the evidentiary materials. That is based on 13 DNA loci that are maintained in the database. That information is submitted to the database and then those searches are made automatically.

**Ron Dreher, Legislative Advocate, representing Peace Officer's Research Association of Nevada, Reno, Nevada:**
I am a retired Reno police officer and I have spent the last 11 years of my career working homicides, specifically in the areas of child abduction and murders. The importance of being able to expand a DNA database at any time is crucial to catching these culprits that are out there, including the predators that are taking off with our children and murdering them. By limiting the database

we restrict our ability to catch the crooks that are out there. I support your enhancing it, in the areas that are really crucial to apprehending these predators.

[Ron Dreher, continued.] For example, a little girl, Lisa Bonham, was kidnapped in 1977 near Idlewild Park in Reno. Twenty years later, due to legislation passed by this Committee, we were able to put that case to bed. During that 20 years that predator was lurking about the Reno area and doing similar types of things. So even expanding the DNA database in the small areas that you have in the Category D felonies helps us in law enforcement to catch the predators. My goal would be that you would apply it to all those categories of DNA.

However, having gone through the list, I can see that there are areas that you wouldn't want to go to, but there are some other areas that would probably help law enforcement in catching some of these guys. I have three kids out there that I am still trying to solve their murders. With your help, and by doing this, maybe we will get there. The repositories in Washoe and Clark Counties are awesome. They are doing all kinds of things in areas to take these crooks on. Your help and assistance is really appreciated. We appreciate your support of this bill.

**Fritz Schlottman, Administrator, Offender Management Division, Nevada Department of Corrections:**
With me is William Donat who is responsible for managing our DNA collection program. We rise in support of this bill. I am a little less enthusiastic after hearing some of the amendments for a couple of reasons. One of them is that we are having difficulty already getting caseworker staff to comply with law.

The difficulty rises because the definition of who should we get a sample from becomes more and more complicated; training becomes more and more of an issue. Caseworkers must understand that if someone does one thing they do collect a sample, yet if someone does another thing they don't collect a sample. This is made more complicated by priors. For example, we bring somebody in under a charge that is not covered under the NRS for testing, but they have a rape in their background.

From a criminal justice standpoint it would probably be a good idea to get a sample from that person. However, under the way that the current law is written, we can't look at people who come in with a past history of sexual offenses or of violent offenses. We can only look at them under their current offense. So that gives us a little more of a problem. Perhaps William Donat can expand on that a little more.

**William Donat, Classification and Research Planning Specialist, Nevada Department of Corrections:**
Essentially, I would see the way that it is described by Ms. Wright, if things went through as they're stated now. We would follow the same pattern that they are going to do as far as training staff. Additionally, the one thing that we do right now is look at the Judgment of Conviction and the NRS. When it is not stated in the Judgment of Conviction, our staff must then go back to find which law, if it was applicable to the judgment, send it back to the District Attorney's Office, and ask them to amend the order. This is one of the complications that can arise in our part of the process.

**Fritz Schlottman:**
This comes down to the old KISS principle, [Keep It Simple Stupid]. The way we had read the bill initially was that we were going to more or less cover everybody that comes into the Department of Corrections. If that is the case, then that is very simple instruction for staff. Staff knows exactly what to expect of them, what to do. These are people who are not trained in aspects of the law. It cuts down immensely on the communications that are necessary to clarify any mistakes that are made and make sure that we get the right people tested.

**Chairman Anderson:**
Mr. Schlottman, I am sure that it would be easier just to say that anybody who is convicted of a felony gets tested. That is probably going to make Parole and Probation happy too, because then by their testing they are able to determine that the guy who actually is released is actually the person who was supposed to get released. It is my understanding that occasionally somebody gets released who wasn't supposed to have been. I think that you have learned the distinction here, and I want to make sure that I too understand it for myself.

If you have a criminal history, such as rape, and you are not arrested for that particular crime at this time, you do not serve the time? However, that is completely different from everybody who falls under Category D and Category E felonies. Hence, Mr. Jackson, and those people who are concerned about the other side of this issue are trying to say that this group of people should not be in the database, juveniles in particular. I don't believe that it is his intention to protect those other people who have prior felons.

**Fritz Schlottman:**
Mr. Chairman, all that we are saying is that the net is broad enough that you would capture everyone that came into the Department of Corrections. The issues of having prior felonies for things that, under the current law, you would test for, but because they occurred prior to DNA testing, that problem goes

away. You capture essentially everybody that comes into the Department of Corrections.

**Assemblyman Mortenson:**
What is the process of collecting a DNA sample? Is it something really terrible or is it very simple. Can you tell me?

**William Donat:**
Usually it is just where we get a kit from the crime labs with a swab that you put into the interior of the mouth in order to get enough cells to be able to do a crime lab test, plus there are fingerprints involved. All of this is done to make sure that we get a positive identification on the person. Occasionally it is sent back because either the sample wasn't enough or the fingerprinting wasn't exact. Also, it's assuming that the person you're taking the DNA from is feeling cooperative that day. If they are not feeling that cooperative, we're going to take it anyway, and it is going to be a wrestling match.

**Assemblyman Mortenson:**
I guess that I don't understand the objection. It seems to me it would be very simple to not make this a badge of evil, recording your DNA, but something that is good for all humanity. For example, let's say that there is an airplane crash and there are bodies strewn all over and there is very little left to identify. If everybody had their DNA banked you could immediately determine who the victims were. If this were not considered a badge of evil having your DNA in a bank, I wouldn't mind having my DNA sitting around somewhere. If I am not going to do anything bad, then I shouldn't care about it.

**Fritz Schlottman:**
We consider DNA to be no different than normal fingerprinting. People get fingerprinted for all sorts of different reasons.

**Chairman Anderson:**
I think that the purpose of the bill here is dealing with people that fit into a particular category for criminal purposes and because of the new area of the law, we want to make sure that we are not taking something from somebody against their will as a violation of their constitutional rights.

We still think that this is something of constitutional importance. I think that the question you are asking Mr. Mortensen is the social problem of whether or not we are all willing to give up that individual identifier which DNA clearly is, and it's being utilized by the State for whatever purpose the State might choose. There are some people who are concerned about that issue on a different level then this particular piece of crime.

[Chairman Anderson, continued.] Mr. Jackson, I am a little bit concerned here. Our concern here rests with the past history. Are you of the opinion that somebody incarcerated in the prison system, who is in now, only gets to be on the crime that he currently commits rather than his past history?

**James Jackson:**
No. I don't. I think that if they have a past conviction for enumerated crimes and they are incarcerated, my understanding of the law is that they can have that DNA testing done. I think that the Chair has correctly summed up our concern in that regard.

**Chairman Anderson:**
I was a little bit surprised by that response. When we review the amendments we will bring some clarity to that issue. In addition, if this piece of legislation moves forward, I will ask our Legal Division to look at that in order to make sure that the Department of Corrections knows that it will be able to reach back into somebody's folder and include them if they were guilty of a felony.

I will close the hearing on A.B. 382.

I want to make sure that we do a thorough analysis of the impacts. I think that this looks like a good amendment. We may be able to take away some of the member's concerns. Mr. Carpenter has indicated that he would like to look at it more extensively. I am of the opinion that we move it along so that we can broaden the base. I want to make sure that we have the clarity. I would suggest that we put it on our Friday work session document.

**Assemblyman Conklin:**
I can support the bill with the amendment. It really stretches the boundaries of what I was willing to do. I guess my real heartburn is that after reviewing the handout that Mr. Olsen presented to us on Category D Felonies, page 15 (page 5 of Exhibit E), there may be only a handful that fall in here. In light of the prison testimony, I just wish that maybe there was some information out there that said, "People who commit A, B, and C felonies have historical data that says that they commit these lesser penalties on an average." We could then itemize those and stick it in the bill. However, that data probably isn't available, hence, that little heartburn I have probably won't be satisfied. I can support the amended version of this bill, but it is probably about all I can support.

**Chairman Anderson:**
Let's turn our attention to the work session document and start with A.B. 537. I think that it is the least controversial piece of legislation that we have.

**Assembly Bill 537: Revises provisions concerning submittal of certain questions and disputes to State Contractors' Board. (BDR 3-294)**

**Allison Combs:**
A.B. 537 deals with the Contractor's Board and clarifies that claimants and contractors are not required to jointly submit to questions or disputes from the State Contractor's Board (Exhibit F). Two proposed amendments were suggested. The first one was to make the bill effective on passage and approval. The second one was to create a homeowner's ombudsman.

**Chairman Anderson:**
I am of the opinion that ombudsman question is one that we would all like to see happen. However, I don't think that we have enough time to fully develop its concept and make sure that it is going to fit into the overall scheme at this particular point in time.

Mr. Conklin had suggested that this might be an opportune vehicle for putting a sunset on the possible existence of the Contractor's Board in the future. That is to say that we are going to do away with you at some magic date like January 1, 2007, or July of 2007. I have spoken to several people about the magic date and ombudsman concepts and I think that these intriguing ideas will slip by the wayside. I don't think that we will see it happen. It could happen anyway to them if they are not effective, and I think that would be the choice for after we see whether they work well with the "and" to an "or."

> ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 537, WITH THE AMENDMENT BEING TO MAKE IT EFFECTIVE UPON PASSAGE AND APPROVAL.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

**Chairman Anderson:**
Let's turn our attention to A.B. 232, a concealed weapons bill.

**Assembly Bill 232: Revises provisions concerning concealed weapons and firearms. (BDR 15-301)**

**Allison Combs:**
This is a measure that amends Nevada law to comply with the federal Law Enforcement Officers' Safety Act of 2004 and provides the law enforcement officers and retired officers who were authorized by federal law to carry a concealed weapon. By carrying this concealed weapon the sheriff is then able to provide a certification that is necessary for the retired officer to become a qualified retired law enforcement officer under the federal act.

The bill also defines "upon the person" under Nevada's concealed weapons and firearms statutes. There were 4 proposed conceptual amendments. The first one was to add its cosponsors, the sponsors of a similar measure, A.B. 258. The second one related to the definition of a container and trying to clarify the meaning on that. The third one is a fee issue that was raised during the hearing. There were no written amendments proposed during the hearing. Subsequent to that, a letter was received by the Chairman's office from Mr. Theodore Farace with the Volunteer Homeland Reserve Unit (pages 27 and 28 of Exhibit F), suggesting that the bill could specify that the fee be minimal, or kept as low as possible, to use the phrase that he used. Mr. Farace is also suggesting that it is only assessed during initial certification and not charged annually thereafter. The final amendment is the effective date and providing that it would be effective upon passage and approval.

**Chairman Anderson:**
Speaking to the primary sponsor of the bill that we looked at, we spent the majority of our time with Speaker Perkins' bill. In reference to the question of the container, even though we looked at Arizona statutes and several other statutes and tried to find a workable solution, we really could not come up with a clear definition that didn't violate some other problems here in Nevada. Speaker Perkins had indicated to me that the container was not a necessary piece of legislation.

It is my suggestion that we remove the references to the container from lines 35 and 36 and page 5, lines 6 and 7, so not to deal with the container problem itself. In terms of the fee, I know from Mr. Adams' and several others' testimony, that they were going to try and keep the fees as low as possible. What I was going to suggest was that we currently require somebody who obtains a CCW [carrying a concealed weapon] to get an update every 5 years in Nevada, so that the fee is charged only once every 5 years.

This way the departments are not out any dollars in terms of trying to keep this statute in place. So that is my suggestion in terms of trying to follow the fee question and making it effective upon passage and approval. We are going to

put this into A.B. 232 which is the Conklin, Anderson, Horne, Gerhardt, and Denis bill, so credit is given to Mr. Conklin.

**Assemblyman Conklin:**
We are going to keep this one in Speaker Perkins' bill, correct, or are we just going to add the cosponsors? Are you willing to take a motion?

**Chairman Anderson:**
We are going to pick up the names from A.B. 258 and add them to the list of folks who are sponsors of the bill after that of the Speaker's. With question number 1 we are going to delete the definition of container. With question number 2, we will see if we can find clarity to the fee question. Ms. Lang is there a problem in that?

**Risa Lang:**
There is no problem. We can change it as you suggested to every 5 years. I would just note that it currently says that they can only impose a fee in the amount necessary to pay the expenses and provide any certification.

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 232, AS FOLLOWS:
>
> - ADD ITS COSPONSORS
> - REMOVE THE REFERENCES TO CONTAINER
> - FEES ARE TO BE CHARGED ONLY ONCE EVERY 5 YEARS
> - MAKE IT EFFECTIVE UPON PASSAGE AND APPROVAL
>
> ASSEMBLYMAN CONKLIN SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

**Chairman Anderson:**
Let's turn our attention to A.B.143.

**Assembly Bill 143: Makes various changes concerning community redevelopment and eminent domain proceedings. (BDR 22-44)**

**Katie Miles, Committee Policy Analyst:**
On A.B. 143 if you go to page 16 of the work session document (Exhibit F), that is the report of the A.B. 143 Subcommittee. The Subcommittee met on March 22, to hear additional testimony and discuss proposed amendments. The

Subcommittee received additional testimony concerning the bill and amendments from Michael Chapman on behalf of the City of Reno, Kimberly McDonald on behalf of North Las Vegas, Berlyn Miller on behalf of White Pine County, Heidi Mireles on behalf of the Nevada Department of Transportation, Brian Padgett, an attorney, Stan Peck on behalf of the Regional Transportation Commission, Greg Salter on behalf of the City of Sparks, Tony Sanchez on behalf of L.S. Power, and Joe Ward on behalf of the Nevada Department of Transportation.

[Katie Miles, continued.] On a motion from Mr. Horne, seconded by Mr. Carpenter, the Subcommittee voted unanimously to recommend the full Committee amend and do pass A.B. 143. The next page, also on blue, is a summary of the proposed amendment.

Before an agency may exercise eminent domain to acquire property for a redevelopment project, the agency must provide the owner with a summary of the appraisal report at the time that the offer is made. The agency must also provide a written offer of compensation. The written offer of compensation must include: a written notice informing the owner of the nature of the intended redevelopment at the time of the written offer; provide the owner with a summary of the appraisal report and the location of agency's office where the owner may review the full appraisal report; and provide the owner with a full copy of the agency's appraisal report in exchange for a full copy of the owner's appraisal report. The written offer of compensation must also include the value of the property sought to be acquired plus damages if any.

The written offer of compensation that was sent to an owner of the property, if it is returned as undeliverable and the property is also owned by another person, the written offer of the compensation must be sent to or served upon the other owner.

The provisions dealing with damages, cost, and attorney's fees were deleted. Before a private person who wishes to acquire property within a redevelopment area may require an agency to use eminent domain to acquire the property, the person must first negotiate in good faith with the owner of the property to purchase a property. The provisions requiring an agency to provide copies of the written notice of compensation to certain persons was deleted. The proposed amendment also includes provisions providing for the redevelopment of an eligible railroad, and the definition of an eligible railroad. The definition of a blighted area was amended to provide that if the subject of the redevelopment is an eligible railroad or facilities related to an eligible railroad, then an area may be characterized as blighted. I have a blighted area if it has 4 of the 10 characteristics in Section 7, subsection 1 of the proposed amendment, or

has 1 of the 3 characteristics listed in Section 7, subsection 2, of the proposed amendment.

[Katie Miles, continued.] It also included the definition of redevelopment which was amended to include redevelopment of eligible railroads or facilities related to eligible railroads. It provides that if the subject of the redevelopment is an eligible railroad or a facility related to an eligible railroad, the area within a redevelopment area may consist of a contiguous or noncontiguous vacant land that is located near the eligible railroad. It may accommodate commercial or industrial facilities that may use the eligible railroad.

The definition of improved land is also amended to include land on which an eligible railroad is located and any areas related to the eligible railroad including, without limitation, land on which is located railroad tracks, railroad right-of-way, or a facility related to an eligible railroad. Further it provides that a legislative body may adopt, by ordinance, a redevelopment plan for redevelopment area that includes an eligible railroad and the vacant land so long as the vacant land meets the requirements or NRS 279.519.

It provides new criteria for qualifying as a blighted area pursuant to Section 7 of the proposed amendment. It does not apply to a redevelopment area that has already been adopted by a legislative body before the effective date of the bill, but it does apply to any annexations to those redevelopment areas that are adopted on or after the effective date of the bill.

Last it changes the effective date of the bill to be effective upon the date of passage and approval. On page 20 of the Work Session document (Exhibit F) is the actual proposed amendment for A.B. 143 prepared by the Legal Division.

**Chairman Anderson:**
This is one of the two bills that we asked you to look at. I would presume from the presentation Ms. Miles has made that there was not any possibility of melding the two into a single piece of legislation?

**Assemblyman Conklin:**
Mr. Chairman, I don't know that it was necessarily the role of the Committee to do that. With respect to A.B. 143, I reviewed the mock-up and I believe Mr. Horne and Mr. Carpenter have as well. I haven't heard from any of the Committee members that this was anything other than what we agreed to in Subcommittee, so I think that the A.B.143 mock-up is good to go with respect to the other bill, A.B.194. This is just one of those things where I guess that we will all just agree to disagree. I am not in favor of that bill in the first place. It is difficult for me to roll it into A.B.143, which I agree with.

**Chairman Anderson:**
However, we did give you the opportunity for additional information to be taken relative to that and your choice for the Subcommittee was to send that bill back to the Committee without recommendation.

**Assemblyman Conklin:**
I don't know that anybody was really comfortable with it without recommendation, or uncomfortable for that matter.

**Chairman Anderson:**
One of the railroad questions here kind of intrigued me, since it was not an issue that was approached here in Committee at the initial hearing. Could you explain a little bit, Ms. Miles or Mr. Conklin, relative to what this does for a railroad? Are we giving the railroad eminent domain rights that they don't currently enjoy?

**Assemblyman Conklin:**
It was my understanding that they have that right currently, but the way the bill was heading we might be conflicting with some things that were going on in rural counties with respect to railroads to power plants and things of that nature. So this was an attempt to give them the ability to do what is necessary to bring in their fuel which typically comes from the rail. Mr. Horne, do you have any problems that you perceive in the legislation or proposed amendments?

**Assemblyman Horne:**
No. I was reading the proposed amendments to this. As you know, just as any other piece of legislation like this, there is give and take on both sides.

**Chairman Anderson:**
Are you satisfied that this represents your will as the author of the initial piece of legislation?

**Assemblyman Horne:**
I am. There was one portion that I would have really liked to have kept. I have not been able to discuss with the other parties that were at the table, so I don't feel comfortable trying to amend that having not discussed them, so this was the deal that we had struck.

**Chairman Anderson:**
Mr. Carpenter does this meet everything that you had anticipated within the Subcommittee? I think that you have another issue that you want to broach too, is there not?

**Assemblyman Carpenter:**
I think that basically it does. I have some problems on page 3 of the amendment. I don't think that these factors really do anything to (a) where it talks about disease and things like that. On the other ones there, for instance, on page 5 where it says "age, deterioration, dilapidation, resulting from faulty planning." These phrases are in there but I think that we did take where it has to be four of these criteria. I think that it is probably all right, but I do need to disclose that after looking at this and thinking about the properties that I have in White Pine County, that will directly affect me, so I won't vote on it.

**Chairman Anderson:**
Let me bring up the other kind of question. Rural areas that are kind of sitting in a redevelopment area fall into a different category recently. I believe that is one of your concerns. Did you want to broach a secondary amendment relative to the bill itself?

**Assemblyman Carpenter:**
In the rural areas, we have a real problem with eminent domain in redevelopment areas. We would just as soon not have eminent domain be a factor in these redevelopment areas. I don't know whether we can do that or not, but at least there is a portion of the bill that refers to county population of 100,000 or more. There are more requirements that they have to go through so, if we can't get rid of eminent domain, I believe that we should make the areas under 100,000 have to go through those procedures also.

**Chairman Anderson:**
If you will look at the work session document (Exhibit F) at A.B.143 on page 2, you will see that one of the suggestions that Mr. Carpenter has made is that in redevelopment areas in counties with populations less than 100,000, that there be an exception so that redevelopment agencies do not have the opportunity to utilize eminent domain as a means of acquisition, particularly because of the peculiar nature of smaller communities.

**Assemblywoman Buckley:**
I have a concern about doing that for two reasons. One, I think that we often make adjustments in statutes for counties under 100,000. Out of concern, I support almost all of the rural communities that I can. However, at some point with certain issues, the law has got to be the law. I think that eminent domain to take property away from a private property owner to give it to another private property owner so that they can build something more fancy for purposes of redevelopment is wrong.

[Assemblywoman Buckley, continued.] I don't think that this Committee supports it. The Commerce Committee heard another bill on a different subject matter and was just as furious at the local government's attitude which seems to be where, if we think it's okay, it must be okay. I think there is a real concern about that in this Committee every time from the Chairman on down. I am afraid that if we pass this, then those abuses in Clark and Washoe, which are just as egregious as could be in the rural, lose the focus of every legislator.

I am uncomfortable with separating them out. I like the bill. I think that the Subcommittee was trying to negotiate more protections for private landowners. I am certainly in favor of that. However, I have real concerns with the exempting the rural counties, if we are not going to exempt Clark County as well.

**Chairman Anderson:**
Could redevelopment agencies do their job if they didn't have the ability to condemn properties in order to clear a way for what they think is going to be a better and new downtown area? The community that I represent has the oldest redevelopments area in the state. We completely wiped out a street, and the residents on that street for 5 blocks, and we are still waiting for the redevelopment agency to do something with the vast majority of the land area. I am not sure whether it is the sixth or seventh plan for the community. It was supposed to have a 25-year life and they have extended their life and now they get to last forever. If we no longer gave cities to redevelopment agencies, would we endanger the bill? That is what you are suggesting.

**Assemblywoman Buckley:**
No, Mr. Chairman, I am not suggesting that. I would support it if someone had the bill. However I am not going to put that nuclear device on Assemblyman Horne's bill out of respect for him. I just think that redevelopment agencies are different than needing property for roads or a government use. I think that the redevelopment agencies should negotiate with the private property owner.

If you tell somebody that we are going to clean up these 3 blocks and here is your part of it. Here is where your sewer would be. They could do this voluntarily without taking someone's property rights away from them. What my comment was, if you exempt out the rural so that rural redevelopments don't get to do that, then I think that it should be everybody. I don't think that it is right to bifurcate it. I think that we should address the issue head on or not, and not just do it in one part of the state either. It is wrong as a state policy for everybody, or it is right for everybody, one or the other. That is just my view.

**Chairman Anderson:**
Under NRS 279.471 (page 2 of Exhibit F), where we have the agencies in counties where population is 100,000 or more, we require resolution or necessary judicial review. We would be suggesting removing the 100,000 population for everybody then?

**Assemblywoman Buckley:**
Either all or none, but all makes the bill go away because you can't do it. There is no sense regulating it. I am just saying that I don't support Mr. Carpenter's amendment.

**Assemblyman Carpenter:**
The way that I read NRS 279.471 is that in order to do eminent domain in these redevelopment situations, it makes it harder to do it. They have to try to work it out before they go to eminent domain. I think that should at least apply to everyone.

**Chairman Anderson:**
So then I am to understand what Mr. Carpenter is suggesting is that we further amend the bill to make sure the cross reference to NRS 279.471 is precluded for every redevelopment agency. Ms. Buckley, would that be acceptable to you? Or do you think that does away with the whole bill as is necessary?

**Assemblywoman Buckley.**
Yes, taking the population cap off this completely, I am okay with that. Sure, it gives protection statewide.

**Chairman Anderson:**
Mr. Horne does that endanger your bill in any way?

**Assemblyman Horne:**
If I understand correctly, basically what we will be doing is taking off that population cap of 100,000 in NRS 279.471 and then those standards that are set forth in Section 3 would apply to the entire state.

**Chairman Anderson:**
The bill drafter would put it in where it needed to be under the suggested mock-up in the work session document (Exhibit F). Ms. Lang, have we created an insurmountable problem for you?

**Risa Lang:**
No, Mr. Anderson, that would be a simple amendment if you would like to add it.

**Chairman Anderson:**
Where would it fit into the bill? What would you suggest?

**Risa Lang:**
It is on page 5 of the mock-up (Exhibit F) and we would just remove a population cap in NRS 279.471 so that these findings must be made in all counties for a redevelopment project.

**Chairman Anderson:**
Okay. The amendments are being suggested then by the Subcommittee to deal with the issues outlined in the blue relative to the bill. Then we see in the mock-up that the written offer of compensation must include notice to the owner, and the name of the intended.

The written offer of compensation must include: the value of the property; be sent to an owner of the property as a return; verified detention in certain provisions concerning damages and costs and attorney's fees is deleted; requiring that before a private person may request an agency to use eminent domain to take another person's property for redevelopment, is going to be further amended; the proposed amendments in Section 4; and deletion of provisions requiring an agency to provide copies of written notice for compensation.

Mr. Sanchez, if you will please come up I need the clarification. I am trying to understand why the railroads all of sudden feel an obligation or a need to become involved in this area of the law.

**Tony Sanchez, Legislative Advocate, representing L.S. Power Development:**
L.S. Power is a company that has been working with the City of Ely in White Pine County for the better part of a year to design a 500-plus megawatt coal-fired power plant in Ely. This is a project which Ely has been looking to place outside of the Ely boundaries for the past 25 years going all the way back to the time of Los Angeles Water and Power coming in and getting certain water rights and working with Ely. That project never came to fruition.

Today a social component of making the project work is being able to get the coal to come in from Wyoming and utilize the existing railroad that currently is not in use. The hope was, by including it in the redevelopment, that should the City of Ely— and only if the City of Ely were to negotiate with Los Angeles Water and Power— get the railroad rights, they would be able to place that in a redevelopment area in order to assist with the cluster of support facilities that are going to help make the power plant come to fruition.

**Chairman Anderson:**
So having ridden the Ghost Train, the question arises to its development and the redevelopment of the railroad. They are contemplating that there may be some additional work that may now be available for the railroad in the event that a coal-fired generator goes in there. Are we broadening their condemnation opportunities?

**Tony Sanchez:**
This doesn't give the City of Ely the ability to obtain the railroad track from Los Angeles Water and Power. It doesn't enhance that ability at all. Those negotiations are a requirement that must go through before Ely could even utilize the provisions as we proposed.

**Chairman Anderson:**
I am a little bit confused as to why then we need this eminent domain question to be included for railroads.

**Tony Sanchez:**
If Ely were able to successfully conduct those negotiations, then it would just allow the City of Ely and White Pine County to designate areas along those railroad tracks as redevelopment areas. It wasn't meant necessarily to give either entity the ability to condemn or take by eminent domain.

**Chairman Anderson:**
Up here in the North, and I believe even in the community in which you live, railroad tracks played a major role in the development of those early communities in this state. The older sections of town have a tendency to be clustered around the major transportation, which is the railroad, even though today we might consider the airport to be something of economic concern. Once railroads were considered to be the vital link of the nation, they still are in my opinion, but sometimes people would run them differently. The question I guess then is: are we not with this bill expanding to the railroads something that is not there currently and may be unintended, because they have pretty broad powers now to put the tracks where they want them to be. Do they not?

**Tony Sanchez:**
They do, Mr. Chairman. Currently the existing track that is being considered for this project is not being used and is going to require tens of millions of dollars of upgrade to be able to utilize it, not only for the power plant but other attendant mining uses that have indicated an interest. This would simply allow the creation of redevelopment areas where the tax monies that are going to be infused by the power plant, for example, can be used in conjunction with Ely to actually pay for that track. That was the only intent of the amendment.

**Chairman Anderson:**
It is really a question of moving tax dollars within a particular designated area so that they can be utilized for railroads in addition to redevelopment districts? Is that really what it is that you are looking for?

**Tony Sanchez:**
Yes, that is a fair characterization.

> ASSEMBLYWOMAN ANGLE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 143 AS OUTLINED IN (EXHIBIT F) AND DELETE THE 100,000 POPULATION CAP AS OFFERED BY ASSEMBLYWOMAN BUCKLEY.
>
> ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

**Chairman Anderson:**
Now we understand. Ms. Angle and Ms. Buckley, let's see if we can figure out what the amendments would be. On the blue pages (pages 17-19 of Exhibit F), I am a little bit concerned about the expansion of the railroad question and giving them the opportunity to move tax dollars from where they are into having the same status as a redevelopment districts. I know that the redevelopment districts have a different intent.

The question I think is a more suitable not to include the railroads. As much as I dearly love the railroad development and would like to see new tracks running a lot of places, I think that we were kind of broadening the scope here, beyond what it was that we were intending with the original bill. In order to make sure that I understand what it is that we are doing here with the Angle/Buckley bill, we are going to take the suggested amendments for A.B. 143 from the blue pages of the work session document as they were proposed. We are going to further amend the deletion of the population cap of 100,000 as suggested in NRS 279.471 so that it applies to all counties. Mr. Carpenter, is that okay?

**Assemblyman Carpenter:**
Yes.

**Tony Sanchez:**
The way we read A.B. 143, it was actually requiring that you meet several of 9 categories in order to be considered a blighted area. This was actually reducing those criteria, so it was just our concern that with the reduction in factors that can be affected into what is a blighted area, we wouldn't be able to meet that definition under the way that A.B. 143 was proffered. That is why we actually came in. We weren't seeking anything additional from the

Legislature at this time until we saw this bill and felt it was definitely going to impact our ability to be considered a redevelopment area in the future, if it were to pass in its current form.

**Chairman Anderson:**
Mr. Sanchez, I would suggest that you might have an opportunity to speak to just the number of factors, relative to consideration, when you speak to the bill on the other side. I am concerned about the possibility of expanding the railroad powers here. I think that if you limited the discussion to expansion of the number of factors that might have a different impact.

**Assemblyman Carpenter:**
The railroad not only includes White Pine County but also a great deal of Elko County where the coal would be coming. It arrives in Elko County and then it would go on down to White Pine County.

**Chairman Anderson:**
Every major community that I can think of has a railroad line going toward it, with few exceptions in the state. I think that every community would be affected by the railroad industry. I can clearly understand the question. I think that we have been able to handle some of those problems under current law by expanding eminent domain. It just was a concern of mine.

THE MOTION CARRIED UNANIMOUSLY.

**Chairman Anderson:**
Let's turn our attention then to the other half of this discussion relative to A.B. 194.

**Assembly Bill 194: Revises provisions governing amount of interest paid by plaintiff in action relating to eminent domain. (BDR 3-850)**

**Allison Combs:**
A.B. 194 is on page 3 of the work session document (Exhibit F). This bill relates to the interest paid in an eminent domain case and proposes to provide that the interest must be compounded annually. There is a proposed amendment on page 3, provided by the sponsor of the bill, suggesting that the court would be able to determine on a case by case basis whether the interest paid would be simple or compound interest.

**Chairman Anderson:**
Ms. Angle, this bill is the suggested amendment from you?

**Assemblywoman Angle:**
Yes, it is. We felt that this would put it up to the discretion of the court whether the judge felt that compound interest would then satisfy the constitutional requirement for just compensation in these cases. Rather than making it mandatory in statute, we could leave this then to the court when they come to the trial to decide whether or not this should be figured in as part of a just compensation. It is just a way to make a person who has been affected by eminent domain whole in that case.

**Chairman Anderson:**
Under the original bill they would have had compound, plus. The choice is open to a judge as to whether the interest be paid by a plaintiff must be simple or compound rather than both.

**Assemblywoman Angle:**
Yes, it could be simple, compound, or whatever the judge decides is in the best interest of both parties. I think that this is exactly what the *Constitution* really requires is that people get just compensation when their right to own property has been affected by eminent domain.

**Assemblywoman Buckley:**
I don't understand. The way the statute reads now, the interest goes to the affected landowner to try and keep them whole. This would seem to weaken that to allow the judge to consider whether they should be paid less when it's interest on the amount that they owe. I am just not sure why we want to do that.

**Assemblywoman Angle:**
What we heard in testimony was that when these cases have been coming up, they have been paying simple interest only on them because they were afraid to go the distance to the compound interest because we had taken it out in 1999. They weren't certain of our intent, so the judges were reticent to use that discretion and give them the compounded annually, even if they felt that just compensation would be better when compounded annually.

All this does is it just says to the judge that it is okay for you to consider compounding interest annually, and you don't have to stick just to the simple interest. This compounded annual interest was in the law before 1999. Then it was taken out and that has been the discussion now in the cases in the courts. Does this really apply? Can we just do the compounded annually? This is just to

say yes. You can if you think that applies in this case. There were some background materials that were provided to us of cases that have been brought before courts since 1999.

[Assemblywoman Angle, continued.] In this state, where the judges did not award compounded annually based on the decision that we had in that Legislature to take this out, they were subsequently taken to higher courts and they got the compounded interest just because of the requirement to give just compensation on these cases.

**Assemblyman Conklin:**
I don't recall taking any testimony from any judge on this particular issue. Maybe I missed something or maybe I wasn't there that day. Let's hope that wasn't the case. My problem with this is that in 1991 we had a simple interest formula. It was prime plus 2 percent. They changed it thinking that the compound interest rate would be better. They went to a Treasury bill formula. A Treasury bill formula is not prime plus 2 percent. It is a much lower percentage like 2 or 3 percent, but it's compounded annually. In the short run over 4, 5, 6, or even 7 years, the simple interest rate is a much larger amount than any crude amount that is compounded at a smaller percentage. Nonetheless the Legislature passed a bill to use the Treasury bill formula.

Over the next 8 years that proved less profitable to homeowners, as I understand it, and in 1999 they amended the bill again to go back to the formula used prior to 1991, which was not compounded, but was a much higher simple interest rate.

Now what we are asking to do is we're asking to give the court the right in this language to say you can get 7 percent simple or 7 percent compounded. I can think of no guaranteed vehicle of investment where you are absolutely guaranteed a 7 percent compound interest rate. There are none. If you want a 7 percent return on your money or 8, 9, or 10 percent, you've got to take some risks.

What we are saying here in this bill is, despite my being all for the homeowner, the problem is that we are guaranteeing money that for all intents and purposes no one is going to guarantee that interest return. Nonetheless, the Legislature passed a bill in order to use the Treasury bill formula.

We either need to look at a Treasury bill formula here or we need to leave it simple at prime plus 2 percent, which right now I think is actually over 7 percent The second problem I have is if we open this up in this section of statute, as I look at civil litigation and civil lawsuits, then are we opening this up

for other groups to come and ask it for other things like medical malpractice and other civil litigations and just expanding the amount of money that can be rewarded. I don't know. I just know that there is something inherently wrong with this in my mind.

**Chairman Anderson:**
Mr. Conklin doesn't like the bill. Ms. Angle does like the bill. I am trying to get a sense of the Committee.

**Assemblyman Carpenter:**
I think what it does is it gives a judge the right to decide whether a person should have simple interest or compound interest depending upon the situation. In many of these situations the homeowner, landowner, or whoever waits for many years, in order for this situation to come to a head. I think it's here that it is talking about the property that is being taken. Many times if you have that property you are able to make more.

However, if they are going to take it, then you have to wait many years. In a lot of instances, I think that you're being severely damaged. I think that to give the judge this opportunity to make that decision certainly is the way to go. I think that as far as what you can get from interest now and Treasury bills or a savings account is so low that I don't see that 2 points over prime, if it is compounded, is not a great sacrifice to an entity that has taken someone's property.

**Assemblyman Mabey:**
I would agree with Mr. Carpenter. I remember in the testimony that I didn't hear one opposition to the bill.

**Chairman Anderson:**
Actually, I think that what happened, Dr. Mabey, is the Chair recognized that there was controversy in the legislation. That is the reason why I moved it quickly to a subcommittee rather than take up an enormous amount of time of the Committee. I was hopeful that the subcommittee would be able to find if there was any part of the bill that seemed to be important to the eminent domain question. If they can fix that bill, then they should consider that as part of it. In addition, apparently from listening to Mr. Conklin, it didn't happen in the Subcommittee in part because they didn't listen to what took place there.

They didn't find that there was a need for the bill. I don't want to mischaracterize Mr. Conklin's statement. Hopefully, I reflect that he didn't find a meritorious discussion in place. In fact, it reached much further then we were all led to believe in the first instance and that is the reason why I believe Ms. Angle

proposed her amendment relative to the ability of the court to make a decision on the basic issue, which I believe Mr. Carpenter would support. Okay?

**Assemblywoman Buckley:**
I think that the Committee's views on this are pretty consistent. I just want to understand this. Under the law, the way that it is right now with this proposed bill, is there a potential that someone who has property that gets taken by eminent domain will get less in interest? If that is a potential, then I am not going to support the bill. I just want to be clear that I am reading it right.

**Assemblywoman Angle:**
If the law is left the way it is there is the potential that people will not receive just compensation. There are actual cases, in fact, since 1999 where people have not gotten just compensation because of this law being the way it is. Yes, that is why I felt it was necessary to bring this up.

**Chairman Anderson:**
It seems to me that if we pass this as it's presented here as an important amendment, the judge is not guaranteed that he is going to rule to the best deal for the homeowner, then it becomes an arguable point at court. Therefore one side is going to ask for compound interest and the other one is going to ask for simple interest. Then the court has to decide as to which one of the arguments is stronger. His financial decision is not in the best interest of the property owner, but rather the arguable point as to how much compensation is going to paid at simple or compound interest. Is that not what is going to happen with this?

**Assemblywoman Angle:**
I think that we have to trust our judges to be constitutional. It requires just compensation. I think that we have to trust them. Without this they have not been deciding in that case. In fact there is no argument. They have not been taking the argument for simple or compound. They have just been going to the simple interest because they feel safe under this law, and that has required more court action than to make it arguable in a different court. My point is that they haven't even had the argument placed before them prior to this.

**Chairman Anderson:**
The question of whether judges produce justice is all an arguable kind of position. We would like to believe that it happens that way, however, the court is not responsible for acting justly. I guess that compensation is one of those things where we wonder what is just.

**Assemblywoman Buckley:**
I think that we should pull the bill from the work session today and give it a day because I think that this hurts homeowners, and I don't think that is the intent. I think that the intent is to not hurt homeowners. I think that it potentially could hurt. I think that we should all just look at it one more time

**Assemblyman Horne:**
One of the things that may be more appropriate, when discussing the various types of interest and the various types of takings, large and small, is in the future to give direction to the court on what types of takings, the size of the takings, and the interest that will be determined by the length of time. However, this bill doesn't do this. Instead it would give just a simple discretion to the courts. I agree that this might prove harmful to some property owners depending on which judge they had.

**Chairman Anderson:**
Ms. Buckley has suggested that we put this off until Thursday or Friday.

**Assemblyman Conklin:**
That will be good with me.

**Chairman Anderson:**
Ms. Angle, might we hold this for another work session?

**Assemblywoman Angle:**
Absolutely.

**Chairman Anderson:**
Ms. Combs, I will ask that the A.B. 194 continue to appear in our work session document. Let's turn our attention then to A.B. 259.

**Assembly Bill 259: Revises provisions relating to rights of peace officers. (BDR 23-546)**

**Assembly Bill 207: Makes various changes concerning peace officers. (BDR-23-684)**

**Allison Combs:**
A.B. 259 is contained on page 5 of the initial work session document (Exhibit F). It appears jointly with A.B. 207, both of which were referred to a subcommittee of one, chaired by Chairman Anderson. The Subcommittee held a

meeting on April 5, 2005, with all of the interested parties and has worked out a proposed amendment to the bill to combine the two measures into A.B. 259. Mr. Chairman, down on the bottom of the page there is a list of the proposed changes and there is also a mock-up, which might be easier to look at as we are going through this (pages 29-35 of Exhibit F).

**Chairman Anderson:**
Ms. Combs put together this potential mock-up for us to be able to see what the outcome was. It was an interesting Subcommittee meeting. I think that we came out with a pretty good piece of legislation with all the discussions that were held. Ms. Combs, if you would like to take us through the bill.

**Allison Combs:**
On the bottom of page 5 are the provisions (Exhibit F). Essentially, the provisions of A.B. 207 are going to be brought into A.B. 259. The first provision relates to investigations and files and it would adopt the provisions of A.B. 259 that allow an investigation of a peace officer for actions that can result in punitive action and satisfy procedures governing the files. The amendment to A.B. 259 would clarify that at the conclusion of the investigation, the peace officer has the authority to review not only the administrative files but also an investigative file which is separate. Also, there is a clarification to that entire section dealing with the files that a person can review, but the documents could not be taken out of the files if that conflicted with state or federal law. The provision of Section 2 would only be to the extent not otherwise provided by state or federal law.

The second change relates to the use of evidence that would be obtained in violation of this chapter of NRS and it would revise the provisions of A.B. 259, to specify that a court or arbitrator of competent jurisdiction would have to determine that the evidence has been obtained in violation of the chapter and that any evidence must be excluded from any administrative proceeding or civil action filed by the law enforcement agency against the peace officer. If the court determines that the evidence will be prejudicial to the case, it would not apply to a case brought by a civilian.

Thirdly, I would like to clarify that photographs in the possession of a law enforcement agency are not public information. The definition of the Administrative File is modified to remove the language "including, without limitation a personnel file" and that is under Section 5 of that bill.

As far as the content of the administrative files, there is a clarification that copies of the sustained allegations would be part of the file, and the copy of the notice or statement of adjudication of any punitive or remedial action, may also

be in there. Incorporate language from A.B. 207, which the Committee heard testimony on, requiring notice to be given to a law enforcement officer before interrogation and that the notice must be given "orally on the record" and that he is required to give a statement and answer questions. If he fails to provide a statement or answer such questions, the agency may charge him with insubordination. The language is brought over in its same format with the addition of the language of "orally on the record." The next change, number 7, also incorporates language from A.B. 207 into A.B. 259 authorizing a representative of a peace officer to make records of the investigation or hearing including digital records. Those that were amendments to existing law and the peace officer is now allowed to make the copies. Further, allow the peace officer's representative to copy the entire file relating to the investigation if the officer appeals a recommendation to impose punitive action. That is new language from A.B. 207.

[Allison Combs, continued.] Finally, clarify the role of the representative as to provide assistance to the peace officer. The representative, on behalf of the peace officer, will be allowed to explain an answer or refute negative implications resulting from questions during the interrogation interview. That would also be subject to the prerogative of the law enforcement agency to condition that participation to occur at the conclusion of the initial question.

**Chairman Anderson:**
Mr. Dreher, does this look okay?

**Ron Dreher, Legislative Advocate, representing Peace Officer's Research Association of Nevada, Reno, Nevada:**
That is correct, we have no problem with any of this. It looks really good. Thank you.

**Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association:**
This reflects what we discussed in the subcommittee and we are comfortable with it. Thank you.

**Michelle Youngs, Public Information Office, Washoe County and Nevada Sheriffs' and Chiefs' Association:**
We are also okay with this and appreciate your help on it.

**Ron Dreher, Legislative Advocate, representing Peace Officer's Research Association of Nevada, Reno, Nevada:**
I also have the authority from the Las Vegas Police Protection Association to put their stamp of approval on this.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 259, AS OUTLINED IN THE SUBCOMMITTEE RECOMMENDATIONS IN (EXHIBIT F).

MR. MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**Chairman Anderson:**
We have the option of killing A.B. 207. We do not have to move on it and we can put it back on the board where it will die on Friday anyway. We will put it on the board.

**Assembly Bill 267: Prohibits abuse, neglect, exploitation or isolation of vulnerable person. (BDR 15-1244)**

**Chairman Anderson:**
Assembly Bill 267 is the question relative to a vulnerable person and a piece of legislation that I had requested to be drafted. Ms. Parnell brought this issue to my attention. Therefore I found it to be an issue that needed to be addressed. It looked like we were running out of Committee bill drafts and I still had one alive so I put my name with it.

**Allison Combs:**
A.B. 267 is on page 7 of the work session document (Exhibit F). It does expand the provisions governing the abuse, neglect, exploitation, and isolation of older persons to include vulnerable persons as defined by the bill. There were some concerns expressed during the hearing from the Aging Services Division regarding the expansion to many of the civil responsibilities that they have for older persons and a rather large fiscal impact. On page 36 of the work session document there are some proposed amendments from Chairman Anderson to remove the provisions of the bill. The Aging Services Division was concerned about leaving in the bill the criminal provisions. Legal has noted on pages 36 and 37 of the work session document, there could be a new statute governing the reporting requirement for abuse and neglect of vulnerable persons so that their reports go to the law enforcement agency, and that is clear under the bill. There was also a question during the hearing relating to the definition of vulnerable person, and I believe that there may be some clarification needed from Legal.

**Chairman Anderson:**
Ms. Lang, one of the questions that we dealt with was that particular age group over 18 years of age and under 60 years of age. Can we tighten that question down in some way? Apparently you have made some suggestions to me and if you could tell them again to the Committee so that they don't have to hear it second hand.

**Risa Lang:**
We talked this morning about the questions that came up in Committee concerning that definition. We found in a couple of other states where they've had similar statutes that have definitions that seem to be a little narrower. For example, there is one definition that says it applies to a person who is 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage or mental illness, or who has one or more physical, mental limitations that restrict the person's ability to perform the normal activities of daily living. It seemed like that might be a little bit more narrow of a group and address some of the concerns that the Committee had raised during the hearing and removes the "regarded as" provision that confused some people.

**Chairman Anderson:**
I don't think that it was ever the intention of the author, or me, to expand the reporting requirements, or to place the Aging Services Division in an unusual position. We would be adding in Section 2 the amendments as how they would look in mock-up form. With this tighter definition, we would be able to deal with those folks who are over 18 and under 60 who may need a tighter definition that has been suggested by Legal, which is more toward the criminal intent question rather than the question concerning the labor law.

The Judiciary Committee, in the future, should take a strong look at this whole question regarding the people within our society who need the protection of the law and are not currently receiving it. However, these people who are out there are being taken advantage of and we need to give them some level of protection. I think that this bill is a good start in that direction and I would recommend it with these additions. I think that we will take off the fiscal note as a result of that.

**Assemblyman Carpenter:**
I have a question on the mock-up on page 3, line 42 through 44, where it says that the law enforcement agency has to commence within 3 working days. I thought that some of these situations have to move sooner than that. Maybe we could get an explanation.

**Chairman Anderson:**
Apparently it's one of those areas where we picked up the language from Aging Services. We currently do that because the state agency was not able to respond within 3 working days and there was some concern. I don't think that is a critical element in the bill. Ms. Combs, do you consider that to be an important essential element?

**Allison Combs:**
If you look on page 5 of the mock-up, you will notice Section 4, which is existing NRS 200.5093, that is the existing reporting requirement statute. Essentially the new language mirrors this one. However, it makes it clearer because the existing law applied to a lot of different reporting agencies. It is just extracted to make it clear for the vulnerable persons that these go to law enforcement agencies as opposed to all the other agencies involved with older persons. The new language mirrors the existing language in a separate statute. In order to address Mr. Carpenter's question, look at page 7 of the mock-up, lines 29 through 35, and you will see that same 3 working day requirement that was on page 7 line 31.

**Assemblyman Carpenter:**
I thought that when we were working on these situations before, we put something in there. If I remember, we had the situations where a child was in danger and referred to as vulnerable. A description of vulnerable takes in a lot of those situations where they need protection a lot sooner. I thought we worked on that some time back. I really don't remember, but we had different language than this, I think.

**Chairman Anderson:**
We can look at that.

**Ron Dreher:**
To answer Mr. Carpenter's question on the 3 days, the investigation obviously would begin the very second the officer would find out about it, so you wouldn't have that 3 days which was put into the law before for child abuse and those types of situations. As you heard Carson City Sheriff's Deputy Jongsma testify the other day, the very second they became aware of a problem they couldn't do anything, thus the reason for this language. The 3 days is not really relevant, it just means that the law enforcement agency will conduct an investigation immediately upon finding out, which is what they do anyway. I just wanted to clarify that for Mr. Carpenter. It does occur now.

**Chairman Anderson:**
The child abuse answer relative to this uses the term promptly. It is such a strange area of the law. I'm not sure we want to move too promptly. I think that the officers are going to do it promptly. In reality, the problem is that you may be getting the same call to the same situation time and time and time again. Now you have to make a discretionary call. I am always worried about that. Mr. Carpenter, would you feel more comfortable with some suggestion for us relative to a child?

**Allison Combs:**
Mr. Chairman, we can phrase it however you would like and I think we can say promptly like we do in child abuse. Within 3 days basically means not later than the 3 working days. In the other statute that you see on page 7, they are talking about it could be law enforcement or the Division and they're talking to different agencies. That may be why they had the within 3 working days since it was applying all of them. The other option would be just to take out that subsection 6. Those are the 3 options: you could leave it, change it, or take it out.

**Assemblyman Carpenter:**
When you look at the definition of a vulnerable person on page 5, lines 30 and 31, it says those who suffer from a severe mental or emotional illness, or a person who suffers from terminal or catastrophic illness or injury. It beckons a little sooner response than 3 days.

**Chairman Anderson:**
I believe Ms. Lang is suggesting a more recent definition than they are, which is a little narrower than maybe the one presented. With that regard, if we are going to move with A.B. 267, I am suggesting that we clarify the material on page 3, line 6, that the law enforcement agency shall respond similarly as they do in child endangerment questions. The term is promptly. We would utilize the promptly response to child response and leave it to Bill Drafting to come up with the development of the language. We would also modify the definition of what a vulnerable person is, using the language which came from Florida, suggested by Ms. Lang. The definition seems to be somewhat narrower and easier to utilize in terms of criminal application rather than employment application.

> ASSEMBLYMAN OCEGUERA MOVED TO AMEND AND DO PASS ASSEMBLY BILL 267, AS OUTLINED IN THE PROPOSED AMENDMENTS (EXHIBIT F).
>
> ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Mortenson was not present for the vote.)

**Assembly Bill 274: Makes various changes concerning sex offenders and offenders convicted of crimes against children. (BDR 14-706)**

**Allison Combs:**
On page 8 (Exhibit F) is A.B. 274 dealing with the sex offenders. The Committee reviewed this last Thursday and wanted to see a potential mock-up of the bill which is provided (pages 59-82 of Exhibit F). Essentially there are three major changes here. One is to take out all of the new registration requirements for personal and multiple residences. The second one is to put the Community Notification website back within the Central Repository and amend some existing statutes in that area, which was proposed by the Attorney General's Office.

The third change, from the courts, is to clarify when the courts have to provide information to the Central Repository. They suggest making it following the imposition of sentencing rather than before imposing sentencing. There is a more detailed summary of all of these changes on page 57 of the work session document, and the mock-up of the bill is also provided. Those two documents are provided by the Legal Division.

**Chairman Anderson:**
We looked at this before. Mr. Carpenter, you were concerned? We are looking for the mock-up. It is clearly a contributing factor. We note that the rationale is on page 83 of the work session document. Those were the concerns that were raised by Ms. Pat Hines. They are not in this bill. Those concerns I believe still remain. I would put them here so that you can still be concerned about some of the issues that revolve around sex crimes in general. I think that this was an opportunity and Ms. Hines took advantage of that to make sure that those issues were raised towards the Committee.

You can see that this amendment has struck much of the language from page 9 of the mock-up forward. What we are changing is predominately on pages 5, 7, and 8. We are trying to be a little more specific to make sure that the other Las Vegas laws are applicable.

We are making sure that the Criminal History Repository includes these people online so that we can identify that. My concern is if we do this, are we setting up the potential for individuals to be harassed more extensively. However, I

think that it is absolutely essential that we give due protection to the communities from those predators who are out there. We need to rely upon the good faith of the public as a whole. I think that this bill will make them aware of where potential predators are in our society.

**Assemblywoman Buckley:**
What was the purpose of the date of birth being on the website on page 7, line 34? I can see the name, the description, the photo, the address where they are.

**Chairman Anderson:**
I think the reality is that somebody is put in prison at a particular time period and fits a particular description. They were a youthful offender at the time or in their early years. Now they have had many years on the street but they still remain, in the Department's opinion, a potential risk factor. Now, even though they are in their sixties or seventies, they don't want for somebody to think that they are looking for somebody who is 20.

**Assemblywoman Buckley:**
Could you put year of birth in there? I am just thinking of identity theft.

**Chairman Anderson:**
There is a term that we are currently utilizing in the Cybercrime Task Force which is a biometrical description and includes thumb and fingerprints, complete physical description, current photograph, and the date of birth of the offender. I guess that the year of birth would be sufficient. I am a little bit surprised that we didn't put that in there. Other than the biometrical factor which includes DNA and other kinds of factors we become somewhat tied to it. Well then, we are just going to go with your birth year. The motion is that we take the conceptual ideas as presented in the mock-up and suggest that Legal use the year of birth instead.

**Assemblywoman Ohrenschall:**
Mr. Chairman, I am just curious, I have never heard of a biometrical description. Can you expand on that a little bit, just for our knowledge?

**Chairman Anderson:**
Biometrics are technologies that automatically define the identity of a person by comparing patterns of physical or behavioral characteristics in real time against enrolled computer records of those patterns by scanning patterns of the face, fingerprints and iris, palm, signature, skin, and voice.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 274, AS OUTLINED IN THE MOCK-UP (EXHIBIT F).

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**Chairman Anderson:**
Let's look at A.B. 466 and A.B. 468.

**Assembly Bill 466: Revises the provisions governing jury trials in justices' courts. (BDR 3-518)**

**Assembly Bill 468: Makes various changes to provisions regarding arbitration and other alternative methods of resolving disputes in certain civil actions. (BDR 2-523)**

**Allison Combs:**
Mr. Chairman, the outline of the two bills is on page 12 of the work session document (Exhibit F). One deals with justice courts and the other one deals with the district courts' bill. The two measures did overlap a little bit, as was noticed in the hearing on April 6. The proponents of the two measures have suggested a combined version of the two bills to address those overlaps. It is on page 88 of the work session document.

A.B. 468 deals with alternative dispute resolution, and it is presented first. There is just a change in the name of the account under Section 1 to reflect alternative dispute resolution rather than arbitration. In Section 2, you will see from the original bill, the increase for the arbitration program from $40,000 to $50,000.

On page 92 of the work session document the blue highlighted language is pulled in from A.B. 466 and clarifies that we are talking about binding arbitration. Again, the rest of the language there is the original language from A.B. 468.

Page 93 adds the proposal to clarify that was excluded from the mandatory arbitration and the mediation program that was adopted by Supreme Court Rule. Page 4 deletes the conflicting provisions and page 6 does the same thing. Page 7 is where you get into A.B. 466 which refers to the Justice Court. There

is a section repealed in the original bill and more appropriately adopted in short-trial rules. Essentially that would address the two conflicts between the two bills.

**Nancy Saitta, Judge, Department 18, Eighth Judicial District Court, Clark County, Nevada:**
On behalf of the Second Judicial District Court and legislative committees of the combined Second and Eighth Judicial District Courts, it is our hope that precisely the combination as Ms. Combs has described would be the way that this bill moves forward. It encompasses all of our concerns and resolves some of the conflicts and as far we're concerned. It would be great if we could pass it out and take care of our short trial and arbitration programs.

**Chairman Anderson:**
So this does not take away the opportunity for somebody who wanted a regular trial in justice court to receive a justice trial if that was what they deemed to be necessary in certain kinds of cases.

**Ron Titus, Court Administrator and Director, Administrative Office of the Courts, Nevada Supreme Court:**
That allows for the trials in justice courts.

**Chairman Anderson:**
Does the court have any problem with us combining these two bills into a single document, if we are to move with this piece?

**Ron Titus:**
Absolutely not.

**Assemblywoman Buckley:**
On page 5, lines 18 through 21, it says that the Supreme Court may adopt rules which provide that if a party requests a trial following nonbinding arbitration, that the action must be submitted to the short trial.

**Judge Saitta:**
Your concern is the mandatory nature of moving from nonbinding arbitration into a mandatory short-term program as opposed to any other options?

**Assemblywoman Buckley:**
Correct.

**Judge Saitta:**
It was designed primarily to move cases that need to be moved more quickly and it is my understanding that the hope was that we could keep them within that short-trial program. A case that would otherwise go through or to the District Court at the trial level is likely not to be a part of the threshold program, if you will.

**Assemblywoman Buckley:**
However, right now the short trial is voluntary on both sides, and you are not forced in it, right?

**Judge Saitta:**
Correct. There is a jurisdictional limit of $50,000 dollars. A case over that amount would not be subject to these restrictions.

**Assemblywoman Buckley:**
I like short trials. I like the concept. I like having options that parties want to utilize. I get concerned when we mandate them because we have a right to trial by jury and I hate forcing people into an alternative even if it is innovative and effective, I worry about that.

**Judge Saitta:**
The existing program that has been in existence for the past several years already provides for this mandatory shift. We are not changing anything. The language here, where we are adding the Supreme Court Rules, merely picks up from a prior statutory section that has been in existence for several years, which I know does not address your concern about the mandatory nature of it, but it has been a part of statute. All we are simply doing in this section is providing an opportunity for the Supreme Court to promulgate rules.

**Assemblywoman Buckley:**
Yes, I thought it said that short trial is a trial that is conducted with the consent of the parties and now it would no longer be with consent.

**Judge Saitta:**
Perhaps, instead of using the mandatory language, refer back to existing language that makes it an option, and I think that would resolve it. Furthermore, let us not forget that we still do have juries in the short trial program.

**Chairman Anderson:**
Judge Saitta, I don't know if you are up here for another day or if this is your only trip up.

**Judge Saitta:**
I am here for several more hours. I will be glad to work with Ms. Combs to see if we can resolve this.

**Chairman Anderson:**
It appears that we have some other issues that may be there. We still have Thursday and Friday to deal with it. I would presume that Mr. Titus would be more than pleased to go and speak with Ms. Buckley and clarify some of the issues of the bill. We are adjourned [at 11:43 a.m.]

RESPECTFULLY SUBMITTED

Judy Maddock
Recording Attaché

RESPECTFULLY SUBMITTED:

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE:

## EXHIBITS

**Committee Name: Committee on Judiciary**

**Date: April 13, 2005** **Time of Meeting: 8:18 a.m.**

| Bill | Exhibit | Witness / Agency | Description |
|---|---|---|---|
| | **A** | | Agenda |
| A.B. 382 | **B** | Assemblywoman Valerie Weber, Assembly District No. 5, Clark County | Testimony in support of A.B. 382 |
| A.B. 382 | **C** | Debbie Smith, Founder/CEO, H-E-A-R-T, Inc. | Letter in support including information on the DNA database |
| A.B. 382 | **D** | Stan Olsen, , Las Vegas Metropolitan Police | Proposed Amendment for A.B. 382 |
| A.B. 382 | **E** | Stan Olsen, Las Vegas Metropolitan Police | Penalties for Felonies Under *Nevada Revised Statutes* (by category) |
| A.B. 143<br>A.B. 194<br>A.B. 207<br>A.B. 232<br>A.B. 259<br>A.B. 267<br>A.B. 274<br>A.B. 290<br>A.B. 465<br>A.B. 466<br>A.B. 467<br>A.B. 468<br>A.B. 537 | **F** | Allison Combs, Committee Policy Analyst | Work Session Document |