

**MINUTES OF THE
JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT AND ACCOUNTABILITY
OF THE SENATE COMMITTEE ON FINANCE
AND THE ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-fifth Session
March 11, 2009**

The Joint Subcommittee on General Government and Accountability of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair Steven A. Horsford at 8:08 a.m. on Wednesday, March 11, 2009, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Steven A. Horsford, Chair
Senator Dean A. Rhoads
Senator Joyce Woodhouse
Senator Warren B. Hardy II

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblyman Mo Denis, Chair
Assemblywoman Kathy McClain, Vice Chair
Assemblyman Joseph M. Hogan
Assemblywoman Ellen Koivisto
Assemblyman Marcus Conklin
Assemblyman Pete Goicoechea

STAFF MEMBERS PRESENT:

Brian M. Burke, Principal Deputy Fiscal Analyst
Eric King, Program Analyst
Mark W. Stevens, Assembly Fiscal Analyst
Michael Archer, Committee Secretary

OTHERS PRESENT:

The Honorable James W. Hardesty, Chief Justice, Nevada Supreme Court
Deanna Bjork, Manager of Budgets, Office of the Court Administrator, Nevada Supreme Court
Ron Titus, Court Administrator and Director of Administrative Office of the Courts, Office of the Court Administrator, Nevada Supreme Court
Robert Kastelitz, Deputy Director, Information Technology, Office of the Court Administrator, Nevada Supreme Court
Kathleen Harrington, Law Librarian, Law Library, Nevada Supreme Court Law
Robin L. Sweet, Deputy Director, Judicial Programs and Services, Office of the Court Administrator, Nevada Supreme Court
Steve Tuttle, Information Technology Manager, Office of the Court Administrator, Nevada Supreme Court
Michael Bell, Manager, Judicial Education Division, Administrative Office of the Court, Nevada Supreme Court

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CHAIR HORSFORD:

We will open the hearing with budget account (B/A) 101-1494, Supreme Court.

LEGISLATIVE JUDICIAL

JUDICIAL BRANCH

Supreme Court – Budget Page COURTS-1 (Volume I)
Budget Account 101-1494

THE HONORABLE JAMES W. HARDESTY (Chief Justice, Nevada Supreme Court):

Most of our budgets are funded jointly through the General Fund and from administrative assessment (AA) revenue, such as traffic fines. They are collected through local courts and district courts. These administrative assessments are distributed 51 percent to the Judicial Branch and 49 percent to the Executive Branch.

Recognizing the economic crisis which exists, the judiciary wants to help reduce the General Fund appropriation. To meet the recommended 14-percent decrease in General Fund revenue, we have developed a budget that will include both an increase in the AA and a reduction in operating expenses. There are factors in our budget we cannot control, such as the salaries and benefits of district court judges or justices of the Supreme Court, which were set by the 2007 Legislature and fixed in the *Constitution of the State of Nevada*. The exception to this is an appointment to the Law Library Commission. Because we cannot control this substantial portion of our budget, we must make the 14-percent reduction from the remaining budget we can control. In fiscal year (FY) 2010-2011, our operating expenses will be decreased by 1.47 percent.

I have provided a handout entitled "General Fund Appropriation: History," ([Exhibit C](#)) on which there is a graph showing the amount of reversions to the General Fund since FY 2002-2003. Over that period, the General Fund has received over \$6.7 million in reversions from this budget account. The chart entitled "General Funds Share FY 2003-2008" shows a steady decline in the participation of the General Fund in this budget as opposed to the amount provided by the AA. We propose to fund this budget by 60-percent AA funds and 40-percent General Fund appropriation.

CHAIR HORSFORD:

Why has the shift occurred from a 55-percent General Fund appropriation in FY 2002-2003 to 28 percent in FY 2007-2008?

CHIEF JUSTICE HARDESTY:

There has been an increasing reliance on the AA as a means of alleviating the General Fund participation in the Judicial Branch budgets. Such reliance carries with it legal and constitutional risks. While we would like a different method of funding, I am not asking for that this Session. Our budget proposal will continue to decrease the General Fund appropriation by increasing the AA funds. An example of this is seen in the success of the Parking Ticket Amnesty Program in Las Vegas. Those courts represent about 81 percent of the AA in the entire State. They had 199,000 outstanding warrants for which fines, fees and the AA could be collected. Last fall they started the amnesty program. It reduced

the number of outstanding warrants to 183,000. In that process, they managed to collect about \$5.5 million in cash and entered into payment plans for another \$5.5 million to be collected over the next several months. While not all of this is AA revenue, it shows there is a significant revenue source in jurisdictions that can be tapped with increased collection efforts. This bodes well for the collection of the AA for the court system and for the State. In preparing this budget, we focused on what would be a reasonable approach to the calculation of the AA as a source of revenue for the court.

DEANNA BJORK (Manager of Budgets, Office of the Court Administrator, Nevada Supreme Court):

Please refer to our handout entitled "Administrative Assessments: Actual Thru 2009 Versus Projected Thru 2011" ([Exhibit D](#)). On page 1 is a comparison of the actual AA revenue to the budgeted AA revenue. In developing the projections, I considered the growth in the AA revenue from past years. I factored out anomalies such as large one-time sources of revenue. On page 3 of [Exhibit D](#), is a graph showing the growth of this revenue over the last five years and the AA revenue projections through FY 2010-2011. Page 2 of [Exhibit D](#) contains a graph showing a linear forecast based on actual receipts. We are on target to meet these projections.

CHIEF JUSTICE HARDESTY:

We carefully monitor the collection of the AA. We also monitor issues affecting the AA, such as the number of tickets that are being written and collection efforts being made in the different courts. Consequently, we feel confident in these projections. We even suggested to the analysts developing the *Executive Budget* that they utilize our projections because their estimate seemed understated.

CHAIR HORSFORD:

After re-projecting anticipated AA revenues for FY 2008-2009 to a 6-percent increase over FY 2007-2008, why are the revenues anticipated to increase by 8.9 percent for FY 2009-2010 and 8.5 percent for FY 2010-2011?

Ms. BJORK:

We met with administrators from courts which generate over 80 percent of the statewide revenue and discussed their collection efforts as well as the monitored initiatives in Clark County to increase taxes to obtain more officers. While the Nevada Highway Patrol is not adding new officers in FY 2009-2010 they have added 40 new troopers in FY 2008-2009. These officers should be completing their training soon. We have been told by three other law enforcement agencies that they are going to add officers. The Clark County sales and use tax is anticipated to add thousands of officers over the next ten years. Based on all this, it was reasonable for us to project such an increase in the AA revenues.

CHAIR DENIS:

A recent newspaper story in Las Vegas indicated that crime was decreasing. Is this true?

CHIEF JUSTICE HARDESTY:

The newspaper story you are referring to deals with the system used by the U.S. Department of Justice for collecting data for violent crimes. Violent crime has gone down. However, those crime statistics do not monitor traffic tickets. There has actually been an increase in tickets which generate this kind of revenue.

CHAIR HORSFORD:

The growth in the AA between FY 2007-2008 and FY 2008-2009 was evaluated for its reasonableness using the net-worth methodology. The result determined that \$2,526,918 was the average net growth from the prior fiscal years. Is this the case for FY 2004-2005 through FY 2007-2008?

Ms. BJORK:

That is correct, for FY 2004-2005 through FY 2007-2008. The FY 2008-2009 projection was based on data indicating that the Las Vegas Justice Court was showing a decline in the number of citations issued; thus, a subsequent decline in revenue. I am projecting that revenue for the Las Vegas Justice Court will decrease about 4 percent in this coming biennium. This does not include any of the onetime revenue we have seen as the result of the amnesty efforts.

The revenues collected, including onetime receipts through the month of February 2009, are almost 2 percent over what I used to develop the budget for the coming biennium. If I factor out the onetime revenue, we would be under that projection by 0.7 percent. Revenue tends to increase in the second six months of the year. Because of this, I anticipate we will experience growth of approximately 7 to 8 percent by the end of the fiscal year. The budget for the next biennium was built on a growth of 6 percent.

CHIEF JUSTICE HARDESTY:

The Nevada Supreme Court is the busiest in the country. In each of the last four years, a record has been set in the number of filings received. The caseload for each appellate judge in Nevada is significantly larger than any other state in the nation. This means it takes much longer to process cases. In the past, we have asked the Legislature to fund additional central staff attorneys and other support staff to assist the seven justices. Recognizing the economic problems facing the State in the coming biennium, this budget account does not request additional staff.

If it is necessary to cut expenses by 14 percent, as has been recommended by the Governor, we will be forced to take certain steps to cut expenses. We will end the Senior Judge Program. That will eliminate 12,800 hours of service by senior judges in district courts throughout the State. We will close the Regional Justice Center (RJC) because of its expensive lease. This would terminate the presence of the Supreme Court in Clark County. The Court would also be faced with ending the Settlement Judge Program. Over 48 percent of the civil appeals filed in the Nevada Supreme Court are resolved in the Settlement Program.

If emergency relief is sought from the court, by way of writ, or request for the court to prioritize a hearing on an important matter, we will be unable to provide it. Last summer the Supreme Court received 17 writ petitions pertaining to

election questions. All other work of the Court had to be set aside to meet those demands in a timely manner. If such cuts in our budget are required, the Court will not be able to respond to those kinds of emergencies in the future. Therefore, rather than make these cuts, we have presented a budget that reduced our participation in the General Fund by nearly 14 percent, yet maintained our expense side at a level that allows the Court to respond to such caseloads. As part of this budget plan, we have reduced funding for the Senior Judge Program by over \$300,000. That translates into fewer judges available to help.

CHAIR HORSFORD:

Can the Judicial Branch make reductions to the General Fund appropriations requested in the FY 2009-2011 biennium budget similar to the reductions proposed for *Executive Budget* agencies, versus proposing to make reductions through the coming biennium and reverting the funds at the end of FY 2009-2010 and FY 2010- 2011?

CHIEF JUSTICE HARDESTY:

As a result of the 24th Special Session of the Nevada Legislature, I identified areas in which we would have reversions to the General Fund and returned those funds nine months before the end of FY 2008-2009. We may do that again before the end of FY 2009-2010. However, it would be difficult to schedule such reversions because of uncertain revenue, particularly since such income is traditionally lower in the first six months of the fiscal year than in the last six months. If we identify such reversions and can return them sooner, we will.

CHAIR HORSFORD:

Are there any budget reductions, beyond what you propose, that can be made at the beginning of the budget process?

CHIEF JUSTICE HARDESTY:

No. We do not think that would be wise.

CHAIR HORSFORD:

Please explain the reclassifications of some of the positions that have occurred since the 2007 Session. Are there any additional personnel changes included in the order that are not reflected in your budget for the upcoming biennium?

CHIEF JUSTICE HARDESTY:

There are no additional personnel changes anticipated for this budget. We have reviewed all our systems, management practices, processes, personnel and support necessary for the operation of the AOC. We adopted a complete reorganization that would streamline the operation, change the organizational chart, develop better reporting relationships and improve efficiency. This was undertaken using the Court's share of the AA revenue and not General Fund dollars. As such, the Supreme Court has authority for the utilization of those funds and those positions were created based upon that.

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CHAIR HORSFORD:

Are any of those costs for personnel changes paid for by a General Fund appropriation? Is there an analysis which shows an ongoing expenditure for the Judicial Branch?

CHIEF JUSTICE HARDESTY:

General Funds are not impacted as a result of the personnel changes ordered by the court. This budget uses the AA revenue to relieve positions from the General Fund appropriation, over and above those positions covered by the organizational chart. An example of this is in B/A 101-1484, Judicial Programs and Services Division, where we shifted \$328,000 in personnel costs previously funded by a General Fund appropriation into funding by the AA revenue sources.

Judicial Programs and Services Division – Budget Page COURTS-41 (Volume I)
Budget Account 101-1484

The *Nevada Revised Statutes* (NRS) provide that the 48-percent share of the AA is distributed into separate accounts of which 18.5 goes to the AOC, 9 percent goes toward judicial education and 9 percent goes to the Uniform System of Judicial Records (USJR) program. By designating these percentages, we accumulate reserves in areas where we do not need them. We are considering the introduction of a bill draft request (BDR) to amend that statute to have all those funds become payable to the AOC so we can better allocate resources. It does not make sense to accumulate reserves in areas where reserves are not needed. If we had that authority, we could better utilize the dollars to help further relieve areas in the General Fund that we have already identified.

SENATOR HARDY:

Because I am involved in a case before the Nevada Supreme Court, and to avoid any appearance of impropriety, I will abstain from voting on any matter relating to these budgets.

CHAIR HORSFORD:

Why is the Judicial Branch asking to transfer reserve funds from the Judicial Education account to other judicial branch accounts?

Judicial Education – Budget Page COURTS-58 (Volume I)
Budget Account 101-1487

CHIEF JUSTICE HARDESTY:

We could do that now without a change to the statutes. I am not comfortable with that. However, I feel the Court is in a better position to determine how those dollars are used, rather than to accumulate reserves in areas which are unnecessary.

CHAIR HORSFORD:

Would transfer of these funds into the AOC account still provide funding for Judicial Education?

CHIEF JUSTICE HARDESTY:

Yes, it would. The court is concerned about the education of judges throughout the State. Judges are sent to the National Judicial College for two weeks each

year. Family court judges get an additional week of training on juvenile and family issues. They get no other education than their individual Continuing Legal Education course work requirements. The Supreme Court has been developing a curriculum for what we call the Nevada Judges College. This would provide Nevada-specific legal information and would require every judge in the State to attend for one week every two years. Even if we apply our education funds for that effort, we are still left with reserves in that account that could be used for our technology and other efforts.

RON TITUS (Court Administrator and Director of Administrative Office of the Courts, Office of the Court Administrator, Nevada Supreme Court):

There are two aspects to the transfer of these the AA revenues. The BDR will consolidate B/A 101-1483, Administrative Office of the Courts; B/A 101-1486, Uniform System of Judicial Records and B/A 101-1487, Judicial Education, into one category budget account.

Uniform System of Judicial Records – Budget Page COURTS-49 (Volume I)
Budget Account 101-1486

We are also proposing the transfer of AA funds into several of the General Fund accounts.

CHAIR HORSFORD:

We must make our decisions based on current statutes in the event the legislation you seek is not approved. If the Judicial Education account is receiving more AA revenue than necessary, why has the Judicial Branch not requested a reduction in the percentage of the AA revenue going to that account?

CHIEF JUSTICE HARDESTY:

Because the reserves are high today does not mean we will always have reserves in these budgets. We would rather shift those funds into critical-needs areas that are underfunded. If we were to make the budget request you are suggesting, the consequence will be deeper cuts on the expense side of the budget and the cost-reduction measures I mentioned earlier.

MR. TITUS:

One of the transfers we are requesting is \$500,000 from the Judicial Education account into the Uniform System of Judicial Records for the integration of criminal justice data. The Uniform System of Judicial Records budget account is underfunded and we cannot meet these needs without the transfer of reserves from other accounts.

CHIEF JUSTICE HARDESTY:

There is a lack of conformity with data collection among the courts. Our effort is intended to improve the technological system to correct that. We cannot accomplish that objective with the requested funding.

CHAIR HORSFORD:

I want to better understand the history and legislative intent in arriving at the existing formulas for distributing AA funds so we can make an informed decision on how to proceed.

CHIEF JUSTICE HARDESTY:

I do not know the history. However, it is clear today that the Judicial Branch is in a better position to make more effective use of those resources during the course of the biennium by being able reallocate them.

CHAIR HORSFORD:

Why did the Judicial Branch not elect to include the 6-percent employee salary reduction in its budget? Why did you elect not to reduce the active employee and retiree subsidies for group health insurance?

CHIEF JUSTICE HARDESTY:

I did not want to reduce our budget on the backs of our employees but instead looked at other program cuts to obtain those objectives. We will lose central staff lawyers and paralegals if we cut salaries and benefits. They can earn more in county service and in the private sector. It is a bad business decision to approach a reduction in that way.

We would consider what is being proposed by the Legislature. However, if we can accomplish these dollar reductions without effecting benefit cuts, I would probably do that first. As an example, the lease on the RJC in Clark County is for the next 20 years or more. We pay more for that facility than we pay for the Supreme Court building in Carson City. I would rather look for cost reductions in those areas than adjust my employees' salary and health insurance premiums.

CHAIR HORSFORD:

In the event the Legislature enacts some level of salary adjustment or reduction of insurance subsidy, will the Judicial Branch consider and enact those proposals in the same manner as the Legislature may choose?

CHIEF JUSTICE HARDESTY:

Before making that decision, I would like to know what the reduction amounts would be. I am inclined to address those reduction amounts in the budgets by prioritizing our programs and looking for savings there.

CHAIR DENIS:

Why does the Court use a four-year replacement cycle for their computer equipment when most other agencies use a five-year cycle? Would you realize a savings by switching to a five-year cycle?

MR. TITUS:

We replace our servers on a five- to six-year basis. Our personal computers are on a four-year replacement cycle. We purchased Gateway computers several years ago. Gateway is now out of business and has discontinued their warranty. We have done an analysis comparing the cost of buying new replacement computers this year as opposed to maintaining the old Gateway computers for one more year. The difference is only \$4,000. We plan on getting five-year warranties on any new computers we purchase.

CHAIR DENIS:

Can you save money by replacing the CPUs at four years yet continuing to use the existing monitors?

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MR. TITUS:

I do not have that information. Because some employees use them more often than others, we use an average when determining the need for replacing computers.

CHIEF JUSTICE HARDESTY:

We did a comparison analysis on this in November 2008 and concluded there would be no substantial cost savings in just purchasing the CPUs.

CHAIR DENIS:

How do you justify spending \$8,435 for training each information technology (IT) position in each year of the coming biennium?

MR. TITUS:

Decision unit E-276 in the Supreme Court budget account provides funding for a new case management system (CMS). This training is necessary in order to use that system.

E-276 Maximize Internet and Technology – Page COURTS-4

ROBERT KASTELITZ (Deputy Director, Information Technology, Office of the Court Administrator, Nevada Supreme Court):

We are asking for these training funds to cross train our employees on current and new technologies. I will provide you with a spreadsheet showing exactly what classes these individuals will be taking and where they will take place.

CHAIR HORSFORD:

You mentioned the need for cross training. Does this mean there will be more people benefiting from this training besides the IT information technology positions indicated in the budget?

MR. KASTELITZ:

In addition to training the IT positions on CMS, we will be giving training in other areas as well.

CHAIR DENIS:

Please describe the status of previous phases of the Judicial Branch's disaster recovery project. Does your current budget request include funding for the final phase?

MR. KASTELITZ:

We have completed the first phase of the disaster recovery project which was to provide redundancy between Las Vegas and Carson City. We are now working on coordinating servers between the two sites. Based on what we know today, this will complete that project. We will assess disaster recovery and continue operations on an ongoing basis.

CHAIR DENIS:

When will the CMS be completed?

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MR. KASTELITZ:

We are in the initiation phase. That project is scheduled to be completed in September 2010. It is covered under decision unit E-276. We reverted about \$151,000 which is coming back to us. With the funding requested in decision unit E-276, we will have sufficient funds to complete that project on time.

CHIEF JUSTICE HARDESTY:

This is an example of funds we reverted back to the General Fund making it clear, at the time of the reversion; these funds would need to be available for the CMS project.

MR. TITUS:

We are suggesting that the AA funds from budget account 101-1487 be transferred into the Supreme Court account to cover the cost of this IT training. We were before the Interim Finance Committee (IFC) in June 2008 to get funding for the CMS. The AOC will be funding about \$400,000 of the CMS project as well. By using transferred AA funding, these two projects will have less of an impact on the General Fund.

CHIEF JUSTICE HARDESTY:

We will provide you with a chart that shows precisely where we expect to be during the course of the CMS project.

CHAIR HORSFORD:

Please provide us with information on the number of employees who will benefit from this training. Our records show it is limited to IT personnel.

CHIEF JUSTICE HARDESTY:

All the clerks must know how the system works or it will not function properly.

CHAIR HORSFORD:

We will open the hearing on B/A 101-1496, Senior Justice and Senior Judge Program.

Senior Justice & Senior Judge Program – Budget Page COURTS-14 (Volume I)
Budget Account 101-1496

Former members of the judiciary will be recalled to provide 12,116 hours of service in each year of the coming biennium. This is a decrease from 12,387 actual hours of service they provided in FY 2007-2008. What impact will the reduction of hours of service provided by senior justices and senior judges have on the judicial system?

CHIEF JUSTICE HARDESTY:

It reduces the availability of senior judges for settlement programs in the family courts in Washoe and Clark Counties. It reduces the availability of senior judges to assist in the rural communities where there is a need. We have not been able to establish an ongoing settlement program using senior judges in Pershing, Humboldt and White Pine Counties. Assembly Bill (A.B.) 149 would involve the courts in conducting mandatory mediation for foreclosures.

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ASSEMBLY BILL 149: Revises provisions governing foreclosures on property.
(BDR 9-824)

There is nothing in our budget to address the fiscal impact of this measure. Senior judges would play a role in conducting those foreclosure mediations.

CHAIR HORSFORD:

Please provide expense projections for the fiscal impact of that legislation.

CHIEF JUSTICE HARDESTY:

We are working on that now and will provide you with the information when we have it. We have senior judges who are currently available to perform these mediations.

The calculation we use to determine hours of service does not always make the senior judges happy. When the Supreme Court started the Senior Judge Program, the compensation was based on a 210-day year. In 2008, we changed the calculation to a 250-day year. This significantly reduced the hourly pay for the senior judges. We also reduced the amount of reimbursement we paid them for travel costs. This limited the number of judges willing to travel to rural areas uncompensated for their travel cost. We need to address this problem.

CHAIR HORSFORD:

As the result of the salary increase in January 2009, what is the hourly rate of payment for senior justices and senior judges? How did you arrive at these rates?

Ms. BJORK:

The current hourly rate for a senior justice is \$128 an hour and the hourly rate for a senior judge is \$120.54. This includes the fringe benefit of retirement which is based on the Judges Rating System rate of 23.5 percent of salary.

We calculate these rates by taking the base salary as a former justice or judge, accounting for longevity, and dividing it by the number of judicial days. We then divide that by 8 hours. I have previously provided this calculation to your staff.

CHIEF JUSTICE HARDESTY:

If the Legislature decides not to extend the critical needs statute for the Senior Judge Program, it would be in jeopardy because potentially, we would not be able to offer those benefits.

CHAIR HORSFORD:

We will open the hearing on B/A 101-1495, Specialty Court.

Specialty Court – Budget Page COURTS-18 (Volume I)
Budget Account 101-1495

Please explain the factors that were considered in establishing a 7-percent growth rate for Specialty Court assessment revenue in the coming biennium.

Ms. BJORK:

I studied the three-year growth from FY 2004-2005 through FY 2007-2008 and applied the average to each year of the coming biennium. Recognizing there has been a decline in the number of citations written by the Las Vegas Justice Court, I built that on the Legislatively approved amount for FY 2008-2009 in order not to overstate the amount going into the coming biennium.

We will not achieve that 7-percent level of growth in FY 2008-2009. However, I did not build the budget based on 7 percent for this fiscal year; I based it on the Legislatively approved amount which was about 3 percent. I estimate we will receive about 5 percent in this fiscal year; I am not concerned about the level of revenue projected for the next biennium. I am confident we will make the 7-percent growth. If we do not, the Specialty Court Funding Committee meets on a quarterly basis to study the revenue and make necessary adjustments.

CHAIR HORSFORD:

Why did the Specialty Court Funding Committee determine the funding for Juvenile Drug and Mental Health Limited Court should be reduced in FY 2009-2010?

MR. TITUS:

I do not remember why we made that change and will get back to your staff with the information.

CHAIR DENIS:

What Specialty Courts do you anticipate adding in FY 2010-2011?

Ms. BJORK:

The FY 2010-2011 levels are based on what the Specialty Court Funding Committee approved for FY 2009-2010. The Committee meets annually to approve the budget for the coming fiscal year. It has not made decisions yet on the budget for FY 2010-2011. I built the budget based on the assumption that FY 2009-2010 levels will be the base year levels going into FY 2010-2011. We have set aside protected funding. If there are any new or expanded programs, we will be able to fund them depending on what the Committee requests. We are projecting at least two more programs in FY 2010-2011.

CHAIR DENIS:

Do you know what those programs will be?

Ms. BJORK:

No, we do not.

CHIEF JUSTICE HARDESTY:

We are not planning any programs because, in the absence of the funding, we do not spend. A presentation was made by the specialty court throughout the State and to the Advisory Commission on the Administration of Justice (ACAJ). That report shows we are underfunding Specialty Courts by about \$32 million. When we get requests, and if the funding is there, we will distribute it through the Specialty Court Funding Committee.

CHAIR HORSFORD:

Will the BDR proposal that was discussed earlier affect this budget? If not, what is the solution to address the need for specialty court?

CHIEF JUSTICE HARDESTY:

Funding for this budget is not addressed in the proposed BDR. The solution is to increase the funding for Specialty Courts. The ACAJ found that Nevada currently funds victims of crime through a portion of the AA revenue that goes through the Executive Branch. Of the portion that goes to the Executive Branch, a small percentage is the primary source of money for the Nevada Victims of Crime Program (VOCP). However, the VOCP is budgeted to a certain level. If the AAs are collected above that sum, the excess reverts to the General Fund. The VOCP loses the benefit of excess collections from the AA. Based on a calculation made last June, the VOCP lost about \$375,000 in the AA revenue that was collected over and above what was budgeted. In A.B. 114, we suggested that practice be ended. Instead of reverting the excess AA money to the General Fund, we leave it in the VOCP. It would be prudent if this were the State's approach to all the AAs. Leave them in the court system, and allow us to make those grants that would improve funding for Specialty Courts and other areas. We have reverted over \$6.7 million to the General Fund from the Supreme Court budget over the last several years. Those funds could just as easily have been diverted to support Specialty Courts and other courts. Currently, the Specialty Court portion of the AA revenue stays in the Specialty Court budget account and accumulates.

ASSEMBLY BILL 114: Makes various changes concerning compensation to victims of crime. (BDR 16-624)

MR. TITUS:

Budget accounts, like the Specialty Court account, are funded by the AA revenue but the account retains the AA revenue. A reversion only happens when there is a mix of both General Fund and the AA funding.

CHAIR HORSFORD:

What is the ability of the Specialty Courts to support a program for drug and alcohol treatment services in an intermediate-sanctioned facility in lieu of prison? We are told, by the Department of Prisons, this will amount to 1,500 to 2,000 offenders each year.

CHIEF JUSTICE HARDESTY:

Under current funding, the Specialty Courts could not handle that. We have suggested an increase in the AA fees in felony and gross misdemeanor cases to a level of \$200 to \$500. About 10,000 of these people are sentenced in the State each year. About 30 percent of those will go to prison. The rest are on probation. Conditions of probation include the requirement that they pay court-ordered fines and fees. We must do a better job of collecting these. These funds could then be channeled to support expanding the Specialty Courts' supervision of those individuals and also provide facilities where they can have temporary housing. This would allow a prison experience of about 120 days rather than several years. This often gets the attention of the offender and convinces them they should comply with the rules of their probation. Implementation of this plan depends on the success of several BDRs now being filed.

Currently, we have no centralized method of collecting fines, fees and restitution. We are especially ineffective at collecting restitution for victims of crime. That would increase the overall influx of dollars into the system. Fines go to the Permanent School Fund, but fees are available to provide support for the issues this Legislature is currently debating. For example, if you collect DNA testing fees, you create a source of funding for more DNA testing requested by law enforcement. Collect public defender fees and you can address the indigent defense questions raised by the Indigent Defense Commission, the Supreme Court and the Nevada Association of Counties.

If we address the collection of the AA fees, you can see what this does to the overall Judicial Branch budget if we continue to fund it in this manner. A \$25 AA fee in a felony case is a joke. We should change them to \$200 or \$250. Supervision fees are budgeted to the Division of Parole and Probation to offset its budget costs. When a defendant is placed on probation, he or she pays \$30 a month in supervision fees. We should have them pay the \$30 against their court-ordered fines, fees and restitution instead. There are many examples of defendants who are paying \$30-supervision fees instead of applying the AA fees, DNA fees and State public-defender fees and restitution to their victims. We must get out of this cycle. This is why we are supporting a new revenue system to deal with those interim measures. Instead of adding more people to prison at a cost of \$18,000 to \$20,000 a year, you can temporarily house them, get their attention and supervise them on probation at a cost of about \$3,000 to \$6,000 a year. With the supervision technologies now available, we can effectively supervise these people. This is the structure I hope the Legislature will consider.

CHAIR HORSFORD:

I agree. Several of these bills will probably go to the Committee on the Judiciary for consideration. Because of the fee-related provision, they will come back to the Senate Committee on Finance and the Assembly Committee on Ways and Means. I believe there is an opportunity in this budget crisis to develop new ways of approaching these issues. It all begins with the success of the Specialty Courts and the results that have been achieved there. The number of technical violators and the caseload of the Division of Parole and Probation could be addressed, in part, by the centralization of these fees.

CHIEF JUSTICE HARDESTY:

The ACAJ heard a presentation on a court called Hope Court. It is the Hawaii court that deals with probation violations. They deal with probation violations immediately. With our current system, if someone violates parole, they might not appear before a judge for two or three weeks. The offender needs to know someone is watching them and will immediately respond. In Hope Court, a form of Specialty Court, which we would like to add, the judge hears that violation within 24 hours. Often, he has that offender in jail. He inconveniences their life, and Hope Court has been successful in reducing the number of violations that turn into a prison sentence. The Specialty Courts in Nevada are underfunded. An example is the Mental Health Court in Clark County. The judge there has only 75 slots in the biggest County in the State.

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CHAIR HORSFORD:

This is an investment in a program that works and which in turn allows dollars to be freed up for other programs. The way to achieve true public safety is to provide that direct intervention rather than building new prisons.

We will now open the hearing on B/A 101-2889, Law Library.

Law Library – Budget Page COURTS-21 (Volume I)
Budget Account 101-2889

CHAIR DENIS:

How will the request to reduce funding for the cost of publications and periodicals affect the Law Library's ability to maintain current legal research materials?

KATHLEEN HARRINGTON (Law Librarian, Law Library, Nevada Supreme Court):

We will continue most of our subscriptions but will cut those that are duplications. It should keep us up to date.

CHAIR DENIS:

Is it possible to obtain a single license for this material which would cover all the State agencies requiring this information?

MS. HARRINGTON:

I have not heard of such a license.

CHIEF JUSTICE HARDESTY:

It would be wise to centralize such an effort through the Supreme Court Law Library which most agencies use to obtain such information. It is an idea we will explore.

CHAIR DENIS:

The State Library system subscribes to similar online tools for which they share the license.

MS. HARRINGTON:

The two main vendors of legal information are Lexis-Nexis, which the Legislative Counsel Bureau uses, and Westlaw which the courts and the Office of the Attorney General (AG) use. We also provide Thompson West Publishing's RIA Tax Court Reports that are used by the AG Tax Division, the public and the local bar association. It can be accessed directly through the AG. Noticing that Thompson West Publishing raises their print costs at least 11 percent each year, we negotiated a Library Maintenance Agreement with them at only a 5-percent increase each year. This has brought substantial savings to our library budget.

CHAIR DENIS:

What contract service expenditures would be reduced, and how will those reductions impact operations of the Law Library?

MS. HARRINGTON:

Those reductions are basically for office supplies. We eliminated one service maintenance contract on a microfiche reader that is heavily used by attorneys

and the public for previous Supreme Court opinions. We will have to be frugal with our supplies, but I believe we will make it through the biennium.

Administrative Office of the Courts – Budget Page COURTS-31 (Volume I)
Budget Account 101-1483

CHAIR HORSFORD:

Please justify your request for the four new positions. How does this compare with the way other courts use help desk positions?

MR. TITUS:

We have reorganized our IT method and are consolidating three help desks into one. We need this new position to consolidate that desk. We are also requesting one personnel analyst position. Our human resources (HR) staff does not just support the Supreme Court, but supports all the district court judges in the State. When we reorganized earlier, we did not foresee the amount of work that would be required by the HR staff. This is why we are requesting the position.

We are requesting a judicial branch auditor position. We have a judicial auditor in Las Vegas to take care of our minimum accounting standards. We have more reports and other administrative work than can be handled by one auditor. We also want to use this position to audit the courts, including the Specialty Courts, and to get more accountability.

We are also requesting an audiovisual (AV) technician position. The Supreme Court is now Webcasting and requires AV support. We also have a video conferencing capability to provide video testimony, especially for rural courts. These courts rely on crime laboratories in larger cities and require lab technicians to testify on results, often by traveling great distances to these courts. This position would support them as well and cut travel costs.

CHAIR DENIS:

Are contractors currently providing these AV services?

MR. TITUS:

No, we do not use contracted services for this.

CHAIR DENIS:

How many current full-time equivalent (FTE) positions do you now have associated with duties at your help desks?

MR. KASTELITZ:

We have two FTEs dedicated to help desks. On the Nevada Court System (NCS) and the statewide CMS we have three employees who share that coverage.

CHAIR DENIS:

Are you going to reduce the number of help desks?

MR. KASTELITZ:

We are planning to consolidate these three different help desks into one service desk. One of the current help desks covers routine calls to the Supreme Court

and the AOC. One of the desks covers application support for the NCS and one help desk covers integration calls.

CHAIR DENIS:

Can workload statistics be provided to support the request for the additional IT help desk position, including information regarding industry standards for help desks?

MR. KASTELITZ:

I can provide you with a copy of our IT assessment report.

CHAIR DENIS:

What efficiencies would result from combining the existing help desk?

MR. KASTELITZ:

If you resolve a problem at the lowest level, that is the cheapest and most efficient way to do it. We have developed a tiered level of support with Tier 0 being the self-help site on the Web. Tier 1 is the help desk. Our goal is to resolve 75 to 80 percent of the calls on that level. This will allow Tier 2 and Tier 3 skilled technicians to be able to complete projects more efficiently.

CHAIR HORSFORD:

Will your request for training be for more staff than are requested in this budget?

MR. KASTELITZ:

In this budget, the training comes to about \$5,000 for each employee each year. This is to bring the Tier 1 staff up to speed so they will be able to resolve that high percentage of calls. The Court will indirectly benefit from this training because they will get improved service.

MR. DENIS:

Please provide us with a list of the training schedule and specific types of training they will receive.

You are also providing training on a new Avaya telephone switch. Why is the training not included in the price of the switch?

MR. KASTELITZ:

The phone switch technology we currently have is nearly 25 years old. The people who were trained in using that switch have now retired or left the Court for other reasons. Training is no longer available on that switch. We will get limited training on the new Avaya switch. We need to purchase additional training so we will have a backup person who knows the new switch. We are hoping they will do that training on site.

CHAIR HORSFORD:

We will open the hearing on B/A 101-1484, Judicial Programs and Services Division.

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Why did the Judicial Branch decide to request a new position at a higher cost versus continuing the practice of using temporary contract services to provide benefits to the Capital Improvement Projects?

ROBIN L. SWEET (Deputy Director, Judicial Programs and Services, Office of the Court Administrator, Nevada Supreme Court):

We want the new position to help discontinue the problem of turnover that is occurring in using contract services. In the past, we have trained people only to have them leave. Because it is so specialized, and there are so many grant support activities and related court issues in that program, it takes a long time to train an individual. It is important to maintain continuity in that position.

CHAIR HORSFORD:

Performance Indicator 2, regarding the number of courts that require assistance with statistical reporting requirements for training and data collection, was projected in FY 2007-2008 to be eight courts. It was actually only four. What was the cause of that discrepancy?

Ms. SWEET:

We had originally planned our Phase II effort for the data collection to be further along than they were. This took 2.5 years instead 18 months.

CHAIR HORSFORD:

Performance Indicator 1, the percentage of Nevada courts reporting detailed statistics to the AOC as required by Supreme Court order, was projected as 98 percent but actually was 68 percent. Why the discrepancy?

Ms. SWEET:

We changed our measure of success. We now require more complete information than we required at the time we set the goal of 98 percent.

CHIEF JUSTICE HARDESTY:

We were not getting true compliance and so insisted on greater accountability. Our courts were not as successful as we needed them to be, and we wanted to be fully compliant.

CHAIR HORSFORD:

We will open the hearing on B/A 101-1486, Uniform System of Judicial Records.

Uniform System of Judicial Records – Budget Page COURTS-49 (Volume I)
Budget Account 101-1486

In decision unit E-277, has the Judicial Branch received vendor quotes or estimates of the number of contracted configuration and installation support hours that will be required to complete the projects?

E-277 Maximize Internet and Technology – Page COURTS-52

STEVE TUTTLE (Information Technology Manager, Office of the Court Administrator, Nevada Supreme Court):

This is a plan we have put in place for the NCS. It includes a primary server in Carson City for the Multi-County Integrated Justice Information System (MCIJIS) and an identical server which mirrors the operation in case we lose the primary server. This will prevent a disruption of services to our courts. We have 28 courts currently using this system and will be installing 17 more courts. We also have done this with our NCS. We have placed an identical server in Las Vegas to achieve the same disaster recovery. We obtained vendor quotes two or three years ago when we applied this to the NCS program.

CHAIR HORSFORD:

Are there updated estimates since that time? How will that \$110,250 be used?

MR. TUTTLE:

The total \$127,185 cost will purchase the servers and software. The Oracle vendor will set it up at a cost of \$100,250. We did not get a new quote from any other service because we had a proven product that was successful and we want to duplicate it.

ASSEMBLYWOMAN MCCLAIN:

Will this system incorporate all the courts? Will it include all adjudicated cases? Plea bargaining? Will the central criminal history repository get information through this new system?

MR. TUTTLE:

The USJR program is all encompassing. We are trying to capture all details of these cases. We launched our integration program with the intent that all law enforcement entities will be able to share that information. These programs will standardize the processes for capturing the information and then automating it.

We have 28 courts actively participating in our NCS program. The majority can move information, like a criminal citation, electronically. This system also supports a number of criminal justice agencies such as police agencies and detention centers. Our goal is to achieve what you just described; to capture complete information and get it delivered to agencies that need it to make good decisions.

ASSEMBLYWOMAN MCCLAIN:

If a case of elder abuse does not reach the level of criminal prosecution, due to plea bargaining, how do we capture the entire history so investigators could learn persons have a history of certain behavior? There must be a way to capture such details to avoid continuing problems.

CHIEF JUSTICE HARDESTY:

It makes no sense for a person who is arrested to be interviewed by the booking authorities and then to be separately interviewed again after they have entered a plea and before sentencing by the Division of Parole and Probation. This multiple interviewing of a person leads to the problem of having differing information going to the agencies that need it. We need a seamless system of collecting the data; keeping the constant data throughout the process and

adding to it as necessary. This is what the Legislature should insist upon. It would be far more efficient.

ASSEMBLYWOMAN McCLAIN:

We heard testimony last Session regarding offenders who committed violent crimes which were bargained down to nonviolent crimes. Consequently, they were released for good behavior but were actually still violent offenders.

CHIEF JUSTICE HARDESTY:

The Legislature is forced to make decisions on anecdotal stories rather than evidence and hard data. With a seamless system, legislators would have the history and know the exact situation.

CHAIR HORSFORD:

Now that we are in the process of both policy and funding discussions on such issues, is there something we can do to demonstrate such a system to the other stakeholders?

CHIEF JUSTICE HARDESTY:

This is a critical function of the ACAJ. All the stakeholders are represented in that Commission. It has identified the problem. We now need to get them committed to a seamless process initiated by the AOC. In addition, we must begin the collection process and to rely on the information that has already been collected. We are duplicating our process. As an example, it takes 90 days to obtain a presentence report in Clark County. The individual remains in jail, increasing costs to the County. When that data is obtained, it is a duplication of information already in the system. This is highly inefficient. It does not require additional legislation. It requires people who are managing these systems to begin relying on such a seamless process. The courts will need to drive this process.

CHAIR HORSFORD:

There are enhancements in other stakeholder budgets that may be requested because we are looking for cost savings. I request we review agency budgets that have enhancements for data collection purposes. With your leadership as Chair of the ACAJ, we can bring those stakeholders together and decide if there is a way to start this process now before we start spending that money in the various enhancement units of other budgets.

ASSEMBLYWOMAN McCLAIN:

There are a number of policy bills being introduced that relate to this issue which also have fiscal notes.

MR. TITUS:

The AOC works closely with the Criminal History Records Repository. They collect the information upon arrest. When a criminal charge is changed, or pled down, it is difficult to track. We are working to correct that.

CHIEF JUSTICE HARDESTY:

The Grant Sawyer Center did an evaluation of sentencing reported to the NCS in 2007. The report indicated that district court judges were imposing sentences not prescribed by the statute in 13 percent of the cases. This was obviously

incorrect and we questioned the data. We learned the data being collected only shows a portion of the criminal statute, rather than the entire statute. Failure to show the entire criminal statute, which only required the addition of one more entry in the data entry box, changed the complete result of that report. The resolution of these problems is often easy.

ASSEMBLYWOMAN MCCLAIN:

This is a cooperation issue between the stakeholders rather than an equipment problem.

MR. TUTTLE:

When law enforcement wrote a citation, approximately six different data entry clerks were needed to enter that information in various databases. Now, through these integration efforts, we are able to capture that information in the field electronically on hand-held computers. That information is then downloaded and passed to the courts electronically which then creates a court case. Once the case is adjudicated, the condition information is entered and the case is closed. That information is automatically sent to the Department of Motor Vehicles which then populates their database. Fewer people are now involved in the process. We can do this with all criminal documents.

MR. DENIS:

Please provide details regarding how the training hours will be used in decision unit E-277.

CHIEF JUSTICE HARDESTY:

We will provide that information.

CHAIR DENIS:

In decision unit E-278, you have requested two servers. What kind of servers are those? How much are you paying for the software?

E-278 Maximize Internet and Technology – Page COURTS-52

MR. TUTTLE:

They are Oracle servers. Our CMS, a client-server application, is becoming outdated. We need to migrate to a Web-based system. We have 28 courts using this client server and 17 more to be added. By the time we get all our courts onboard, this system will be ten years old. It will then take us another ten years to migrate everyone off. Our request will allow us to set up a Web-based environment and start migrating our court data now. The majority of this cost will be for hardware, but there will be software costs associated with applications and licenses.

CHAIR DENIS:

Are the two positions included in this request to migrate 40 courts to the new CMS the same two positions that were to be created as temporary employees as referenced at the June 2008 IFC meeting?

MR. TUTTLE:

They are not the same positions. The Supreme Court requested those positions. The two positions requested in decision unit E-278 are for migrating the trial court applications.

CHAIR DENIS:

How does the Judicial Branch expect to migrate 40 courts to the new CMS if only 37 courts are expected to use the NCS during the coming biennium?

MR. TUTTLE:

I was using an approximate number. We have 26 courts currently using the system and are looking to add 17 more. That would be 43 courts if all decide to participate. However, it is not mandatory to participate. Some of our courts may not do so.

CHAIR DENIS:

In the Base Budget, why did the Judicial Branch only transfer \$10,000 from this account for technology projects for FY 2007-2008? Did expenditures for technology projects only total \$10,000 in the Supreme Court account in that fiscal year?

Ms. BJORK:

Chapter 2.250 of the NRS allows the court to collect a technology fee of \$50 on civil filings. The statute allows for that revenue to be maintained in a balance-forward account. Therefore, the funding is retained in the USJR budget. We use that funding to relieve the costs of IT to the extent possible in the Supreme Court's budget. In FY 2007-2008, we had \$40,000 authorized by statute and I transferred \$10,000 to the Supreme Court account. We achieved significant reversions from the Supreme Court account and I wanted to retain those funds for future use in the USJR account. We decided to transfer them to the Supreme Court budget to relieve the General Fund need in FY 2009-2010.

CHAIR DENIS:

Is that the reason you are going from \$10,000 in FY 2007-2008 to \$107,290 in FY 2009-2010?

Ms. BJORK:

Yes, for all these reasons I just explained.

CHAIR DENIS:

In decision unit E-251, please provide us with the description and purpose of the training you are requesting, as well as the location and estimated cost of each training event.

E-251 Working Environment and Wage – Page COURTS-51

MR. TUTTLE:

We will provide that information. We are trying to get people cross trained. Our systems are tightly coupled. When one goes down it affects the others. This will prevent us from being shorthanded if a system problem occurs and also relieves us from much of the more expensive contract support we sometimes require.

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CHAIR HORSFORD:

We will now open the hearing on B/A 101-1487, Judicial Education.

Judicial Education – Budget Page COURTS-58 (Volume I)
Budget Account 101-1487

Performance Indicator 4 projected 226 courses for members of the judiciary that were funded, but not sponsored, by the AOC in FY 2007-2008; yet the actual result was only 67. Why was there such a discrepancy between the projected and actual numbers?

MICHAEL BELL (Manager, Judicial Education Division, Administrative Office of the Court, Nevada Supreme Court):

I had a different set of statistics and will get back to you with a clarification of that information.

CHAIR HORSFORD:

In decision unit E-325, you have requested a new position. Why are the existing staff assigned to this account unable to perform duties associated with creating and updating bench books and establishing and developing a distance education program for judges and other staff?

E-325 Services at Level Closest to People – Page COURTS-60

MR. BELL:

The workload analysis we do is on an ongoing basis in terms of the number of conferences we convene; the number of registrants for those conferences and the current staff. Of the four staff members other than myself, two are dedicated to each section. The academic coordinator and a program assistant provide education for judges and quasi-judicial officials. The other two positions, a program specialist and program assistant, are dedicated to the training and education of court administrators and staff.

In FY 2007-2008, we provided staff for conferencing reaching almost 600 people. In FY 2008-2009, we are projecting 650 staff will be receiving that information. These four positions are busy with activities related to the conferences. The position we are requesting is for someone to help us with the growth we anticipate in the future. That growth will occur in two areas. One is publications development. We have two bench books that are used by judges. One was updated in 2007 and the other was completed in 2008. We have many more to complete for judges on specialized topics which are constantly updated. The other reason for this position is to help provide more distance education. This will reduce travel costs and time out of court for judges and staff. When we have held statewide conferences for court staff, we typically reach only about 8 to 10 percent of those invited. The rest cannot be released from their court duties to attend. This is not acceptable. We need to reach them all.

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CHAIR HORSFORD:

There being no other business to come before this Subcommittee, this meeting is adjourned at 10:50 a.m.

RESPECTFULLY SUBMITTED:

Michael Archer,
Committee Secretary

APPROVED BY:

Senator Steven A. Horsford, Chair

DATE: _____

Assemblyman Mo Denis, Chair

DATE: _____