

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

**Seventy-Third Session
March 8, 2005**

The Assembly Committee on Ways and Means and the Senate Committee on Finance, Joint Subcommittee on General Government, was called to order at 8:08 a.m., on Tuesday, March 8, 2005. Chairwoman Kathy McClain presided in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Ms. Kathy McClain, Chairwoman
Mr. Morse Arberry Jr.
Mr. Lynn Hettrick
Mr. Joseph M. Hogan
Mrs. Ellen Koivisto
Mr. Bob Seale

SENATE COMMITTEE MEMBERS PRESENT:

Senator Bob Beers, Chairman
Senator Bob Coffin
Senator Dean A. Rhoads

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Bob Guernsey, Principal Deputy Fiscal Analyst (Senate)
Rick Combs, Program Analyst
Susan Cherpeski, Committee Secretary
Anne Bowen, Committee Secretary

JUDICIAL BRANCH

**DISTRICT JUDGE/SURVIVING SPOUSE PENSION (101-1491)—BUDGET PAGE
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Dana K. Bilyeu, Executive Officer, Public Employees' Retirement System of Nevada (PERS), addressed the Subcommittee and explained that the PERS administered the Judicial Retirement System (JRS) on behalf of the Supreme Court. She made the following statement ([Exhibit B](#)):

Good morning, Mr. Chairman, members of the Committee, I am Dana Bilyeu, Executive Officer of the Public Employees' Retirement System. I was asked to review the costs associated with the Judicial Retirement System for the Committee's information.

The Judicial Retirement System was created in 2001 and was funded through the payment of normal cost and expenses as a

percentage of payroll contribution from the budget of the administrative office of the courts, as well as yearly lump sum payments on the accrued unfunded liability of the plan. These lump sum payments are based upon the cash-flow exhibit presented to the money committees during the initial valuation of the program back in 2001 and are designed to pay the unfunded accrued liability of the program over time.

The JRS is valued on a calendar year basis with the results due to be presented to the Retirement Board at this month's board meeting. The results show a reduction in the normal cost of this program. As a result, the contribution rate is going down to 22.5 percent for each of the two years of the coming biennium.

The requested payments for the unfunded accrued liability are contained in Budget Account 1491 and are commensurate with the original cash-flow payments required. Due in fiscal year 2006 is a payment of \$1,554,600, and in fiscal year 2007, a payment of \$1,608,800. The current unfunded liability of the system is \$24,649,522.

That concludes my remarks with respect to the fund, but I would be happy to answer any questions the Committee has regarding that particular program.

Assemblyman Seale verified that the JRS had been started in 2001 and expressed surprise that the fund already had an unfunded liability of \$24,649,522.

Ms. Bilyeu explained that the program consisted of a transfer of the liabilities associated with the previous Judicial Retirement Program, which was administered on a "pay as you go" basis and funded through General Fund appropriation during each legislative session. In 2001, the Legislature created a defined benefit 401(A) program, which had a trust fund that was being invested on its behalf. The liability associated with the fund had two components: the transfer of the old program to the new administration and the drop in the stock market, which had occurred soon after the first infusion of cash into the program in July 2001. She claimed that the unfunded liability had been created as a result of the funding cycle.

Mr. Seale questioned the total assets of the fund. Ms. Bilyeu indicated that the market value of the program was \$19,710,665 as of December 31, 2004. Mr. Seale inquired if the unfunded liability had been calculated by an actuary, and Ms. Bilyeu indicated that was correct: the program was evaluated on a yearly basis by the Segal Company in Denver, Colorado.

Senator Coffin pointed out that the change in the funding of the program allowed the Legislature to see what the retirement plan cost; the annual appropriation had not provided an overall picture of that cost. He asked how the plan was being amortized.

Ms. Bilyeu replied that the program was on a 33-year closed amortization approach, which meant the program had not yet reached a point in its amortization where the contribution rate volatility was apparent. She pointed out that 33 years was the longest period allowed by the Governmental

Accounting Standards Board (GASB), and for the program the 33-year approach offered the best opportunity to smooth contribution rate volatility.

Senator Coffin asked if the program had been started with a "smoothing" method in 2001. Ms. Bilyeu reiterated that, as the program was new, it had the longest amortization period possible under the GASB standards for amortization of unfunded liabilities. The PERS program, since it was a much older program, had a very different profile for purposes of funding the unfunded accrued liability. She said that as the program moved through its unfunded payment period, "smoothing" would be examined as it became important to the contribution rate stability.

Senator Beers noted that the court was proposing a significant increase in the program under which retired judges were employed part-time, and he asked if that would have an impact on the Judicial Retirement System.

Ms. Bilyeu said she had spoken with the justices of the Nevada Supreme Court on several occasions concerning the extension of the Retired Justice Duty Fund, and the PERS had valued the costs associated with it. She indicated that those costs had been outlined in a bill that would be coming before the money Committees.

Assemblyman Hettrick said he had begun working with the JRS in 2001, and ultimately there had been a \$5 million payment in 2001 toward the unfunded liability on the pension plan because it had been on a cash-flow basis. He noted that over the biennium, the state would put over \$3 million into the fund, and if the biennial appropriations continued the state would end up contributing approximately \$200 million over the 33 years to fund the liability.

Mr. Hettrick indicated that he had proposed legislation to use a one-shot appropriation of \$24,669,000 to fully fund the liability. While the one-shot appropriation was sizable, the state would save approximately \$200 million over the next 30 years. He opined that it made sense to save the state's money in the long run, and he just wanted the Subcommittee to be aware that he had proposed the legislation and that would be a topic for discussion at a later time.

Chairwoman McClain commented that Mr. Hettrick had addressed some of her concerns. She asked if there were any further comments. There being none, she closed the hearing on Budget Account 101-1491.

Chairwoman McClain requested that the Honorable Nancy A. Becker, Chief Justice, Nevada Supreme Court, present an overview of the Judicial Branch budget accounts.

Chief Justice Becker provided [Exhibit C](#) to the Subcommittee and said she would discuss the concept of how the court projected the money that would be placed into the budgets of the courts and into the General Fund from administrative assessments. She explained that there were two types of administrative assessments. One type was a \$25 fee levied on felony cases, and none of that money went to the Supreme Court, it went to either the Attorney General's Office or the local district courts. For the purposes of the Supreme Court budget accounts being discussed, the administrative assessments were assessments levied against misdemeanor convictions, mostly traffic citations.

Chief Justice Becker noted that when the revenue from the administrative assessments had been projected years earlier, there had been unexpected population growth, and with that, growth in misdemeanor convictions as well. That growth meant the courts were receiving more money than had been projected and that money had been placed into the General Fund.

Chief Justice Becker emphasized that none of that excess revenue had been used in the court's operating budget, although excess administrative assessments in other budget accounts did remain in those accounts, but not in the court's operating budget. She asserted that the events of September 11, 2001, had changed the administrative assessment program for two reasons: there was a severe economic downturn in the state due to a decrease in tourism, and there was a shift in the focus of law enforcement from public safety and traffic issues to homeland security-related matters, which meant there were fewer officers focused on traffic violations and other misdemeanor crimes. Because of that, the number of assessments from 2001 to 2003 were substantially less than had been projected, and the courts had been forced to appeal to the Interim Finance Committee to request additional funds to be used for operating purposes.

Chief Justice Becker said the total decrease was approximately \$1.5 million, and during the last budget cycle there had not been an increase in the number of assessments. In the previous two years, the number of traffic citations had decreased and the assessments had decreased significantly as well. In one court, the number of citations had decreased by approximately 20,000 with a subsequent decrease in assessments. She said the number of administrative assessments was on a downward trend, and only recently had there been a slight increase. The amount of money collected in FY2005 had increased; however, that was more a reflection of the \$10 increase in the assessment itself than an increase in the number of assessments levied.

Chief Justice Becker directed the Subcommittee to page 4 in [Exhibit C](#), which showed projected administrative assessment revenues with the \$10 increase and without. The projected revenue increase only existed due to that \$10 increase. She assured the Subcommittee she wanted to be "fiscally conservative and fiscally responsible" so the projected growth rate was only 2 percent.

Chief Justice Becker informed the members of the Subcommittee that their respective committees, the Senate Finance Committee and the Assembly Committee on Ways and Means, would receive the final report of the Nevada Supreme Court Funding Commission by the end of March. That Commission had been chaired by former Chief Justice Deborah Agosti and was the first time that there had been an examination of all the courts in the state in an effort to ascertain the cost of operating the entire judicial system in Nevada. There had been studies to ascertain the cost of the Supreme Court, but there had not been studies on the funding of the courts at the local level.

Chief Justice Becker expressed the hope that the information in the report would be helpful in future funding decisions. She indicated that a letter had been sent out soliciting information and that information had been included in the figures in [Exhibit C](#).

Chairwoman McClain noted that the state's population was continuing to grow yet the assessments were decreasing, and she wondered how that could be

when the growth in population meant a growth in drivers and in traffic violations.

Chief Justice Becker responded that the reason for the decrease was a shift in law enforcement. She said there had been an information gathering effort and surveys had been sent to courts and law enforcement agencies throughout the state, which had indicated that, in a post-9/11 world, there had been a considerable shift in resources at the local level toward security. She noted that the decrease might also stem from a lack of funding; the highway patrol had been severely understaffed due to economic cuts.

Chief Justice Becker reiterated that the primary reason for the decrease in assessments was that there were not enough traffic tickets being written. She noted that the lower courts had a very high collection rate and the urban courts had a 90 percent collection rate. The assessments were being collected, but there simply were not as many to collect.

Chief Justice Becker added that the courts had hired collection agencies, and there were significant warrant systems in place to aid in collection of fees. She reiterated that the urban courts had high collections rates, but the area where administrative assessments were not collected was in felonies. The people who committed felonies went to prison, and at that point the courts were unable to collect fees because they no longer had jurisdiction. She explained that the people on probation had to pay several fees: parole and probation fees, supervision fees, et cetera. Those fees were then allocated to victim restitution, drug and alcohol counseling, and supervision. The people were given a set payment per month, and that payment was then divided among the various entities.

Chairwoman McClain remarked that Clark County would be hiring more police officers, and she asked if that would have an effect on the administrative assessment projections. Chief Justice Becker expressed uncertainty and said it was her hope that some of those new police officers would be designated for traffic safety issues and thus increase the amount of assessments, but the Clark County sheriff would make the decision as to the allocation of those resources.

Senator Beers asked if the police departments had been contacted to determine if there would be any shifts in personnel scheduling so that a more concrete projection of administrative assessments could be made.

Chief Justice Becker replied that surveys had been sent out requesting information and the law enforcement agencies had complied, but there had not been any quantitative information. They indicated they had shifted a certain number of people, but there was very little specific information.

Senator Beers asked if the assumption made in the budget accounts was that the administrative assessments would remain at the current level. Chief Justice Becker said that, based upon the numbers from the previous two years, the assumption had been that the levels would remain the same. Predictions of a 5 percent increase could not be made with such limited information. She emphasized that administrative assessments were an unstable funding source, which was one of the reasons why additional General Funds were being requested for the Senior Judge Program. She opined that arbitrarily increasing the projection would result in additional requests being made to the Interim Finance Committee, which she hoped to avoid.

Chief Justice Becker assured the Subcommittee that if the administrative assessments did increase unexpectedly, the money would revert to the General Fund and the Interim Finance Committee would then be able to decide how to use those additional funds.

Senator Coffin asked if the lower court judges were consolidating offenses so there were fewer administrative assessments being levied. He pointed out that if an individual had three or four offenses on one citation, there would be an accompanying three or four assessments, which could be a very large amount of money, and if he were a judge, he would consider reducing the number of assessments. He remarked that the average shown in [Exhibit C](#) was a deceptive number.

Chief Justice Becker agreed that the average could be deceptive. She said there had not been an observable trend in judges combining assessments. Referring to page 5, table 3 of [Exhibit C](#), she pointed out that the average increase was commensurate with the \$10 per assessment increase, and if judges were not levying assessments the graph would be different.

Chief Justice Becker emphasized that it would not be to the benefit of the courts to combine assessments or to lower them because a substantial portion of the money was used to run the local courts, and the local courts were concerned about the decrease in assessments as well.

Senator Coffin commented that he had supported the administrative assessment program in 1983 as a good way to balance the budget, but he had since “[fallen] out of love with the program” because the courts had begun to rely on it too much. The administrative assessment fee had increased to the point that in some cases it was higher than the penalty fine set in statute. He said he had become uncomfortable with the program and had begun to vote against it 15 years earlier.

Chief Justice Becker pointed out that the Legislature had been strict about increases in the assessment except when the local courts had requested those increases. She said that the issue of funding the courts had been raised by the Court Funding Commission, and a second commission, which would include legislators, would examine that issue as well. The question faced by the courts was how the courts should be funded as opposed to how they were being funded, because of the large amount of the assessments funding General Fund obligations within the court systems. It was not an ideal situation for the lower courts or the Supreme Court. She emphasized that she was trying to be fiscally conservative with the projections.

Chairwoman McClain questioned the change in positions from classified to unclassified. Chief Justice Becker indicated that she had provided information earlier regarding how the staff positions of the Administrative Office of the Courts (AOC) and the attorney positions had been placed in the unclassified pay bill. She said that appeared to be a case of not understanding that the AOC would grow and assume responsibilities for the administration of the courts on a statewide basis instead of just the Supreme Court itself, so those positions had been placed in the unclassified pay bill. Those positions were not in the Executive Branch and did not need to be included in the unclassified pay bill, but that had become custom and practice.

Chief Justice Becker requested that 16 positions be removed from the unclassified pay bill and be included in the budget accounts of the Supreme

Court directly rather than through the unclassified pay bill. Eight of those positions were equivalent to the executive staff of the Governor or the executive staff of the Legislative Counsel Bureau, and included the clerk of the court, the assistant clerk of the court, the supervising staff attorneys, the reporter of decisions, the director of the AOC, and the deputy directors of the AOC.

Chief Justice Becker explained that those positions comprised the executive staff of the Supreme Court, and she was requesting the same authority that the Governor had, to include a single line item in the budget under a new budgetary number. Funds would then be transferred from BA 101-1483 and BA 101-1484 into BA 101-1494, and there would be a single line item for the executive staff of the court with a lump sum amount for those positions, which would allow flexibility to reorganize as needed.

Chief Justice Becker pointed out that six years earlier, the Legislature had approved the panel system for the courts, and at that time, the court, in preparation for the addition of two new justices, reorganized and examined case processing and other factors, which had contributed to a reduction in backlog. She indicated that the court was in the process of examining internal operations, and the flexibility to reorganize would be beneficial to the court.

Chief Justice Becker explained that the lump sum amount listed was based on what would be the highest point of a salary range commensurate with executive staff positions in the Governor's Office or in the LCB and in line with the executive director of the Judicial Discipline Commission. The lump sum figure factored in how much those positions were currently being paid, and then an additional \$160,875, divided between Budget Accounts 1483, 1484, and 1494 to fund an imaginary salary range as though it were a scheduled salary situation.

Chief Justice Becker assured the Subcommittee that the lump sum of \$160,875 would be reduced because not every position would be funded to the maximum of an imaginary salary range, but what she was requesting was the authority to use the salary savings from all the budget accounts with a lump sum of approximately \$89,000, which would fund any restructuring of salaries to bring those 8 positions into parity with the executive staff of the LCB and the Governor's Office.

Chief Justice Becker requested that the remaining 8 positions of the aforementioned 16 be included, not as a lump sum amount, but as a line item. She said there were 7 attorney positions that should be designated as deputy supervising staff attorneys, and those positions, in accordance with standard accounting practices, would be funded at the highest range. The amount proposed would bring them into parity with the chief deputies in the Attorney General's Office and the principal deputies in the LCB. She emphasized that no person would receive more than an initial 4 percent increase, which was consistent with a standard raise as the result of a reclassification. The final position was the law librarian, and that position would be listed separately as a line item. There was a request for a modest increase in that salary as well to make it comparable to similar positions in the Executive Branch.

Chief Justice Becker noted that in the Governor's proposed salary restructuring, he had indicated that the entry-level maximum salary be set at \$87,000 for Executive Branch attorneys. If that were approved, that might necessitate readjustments for entry-level salaries for the Attorney General's Office, the LCB,

and the Supreme Court, in order to maintain parity. She emphasized that the requested flexibility would be important to reorganization and the requested position reclassifications would create parity.

Chairwoman McClain asked if the requested authority would allow changes in the number of positions or would only allow changes in the salaries related to positions already in existence. Chief Justice Becker indicated that the authority would allow for changes in the salaries and in the number of positions. She said she was not contemplating changing the number of staff at the moment, but as people retired, and she looked at how the court should operate, changes might need to be made—8 positions might become 10 positions, or a different salary structure might become necessary.

Chairwoman McClain asked if there was a group that made those determinations. Chief Justice Becker said the justices had examined the structure of the Executive Branch and the Legislative Branch, and the responsibilities of individuals within those branches, to determine what the maximum salary levels for those positions should be. She emphasized that there was an internal plan and information had been gathered, but there was no intention of raising every salary to the maximum level. That had been done in order to construct the budget.

Chairwoman McClain expressed concern that if the Legislature allowed the autonomy requested by removing the positions from the unclassified pay bill, it would be difficult to ensure salary parity because there would not be as much legislative oversight.

Chief Justice Becker explained that she was not requesting that the regular staff attorneys be removed from the unclassified pay bill; rather, she was requesting that those salary ranges be set forth in the budget. However, the lump sum was requested for the executive staff personnel, and it was almost impossible to maintain parity with those positions. She pointed out that the request would place the court's executive staff below the LCB executive staff, which had been based on a variety of factors, including the responsibilities of the job. She noted that the LCB staff was responsible to 63 individuals, while the court's staff was responsible to 7, and the Governor's staff was responsible to only 1 individual. A chief of staff position would require more judgment and discretion than other positions, and all those factors had been used in determining the amount requested.

Chairwoman McClain requested additional detail be provided to the Subcommittee outlining the maximum salaries for the various positions and how those had been determined. Chief Justice Becker agreed to provide that information.

Senator Beers asked if an employee could receive an increase of as much as \$30,000. Chief Justice Becker explained that some of the salary ranges increased, but not necessarily to the maximum level—that was merely used in calculating the lump sum requested in the budget.

Senator Beers said it appeared that the increase for two positions would total \$55,000. Chief Justice Becker emphasized that was true only if the positions were funded to the maximum level, but they did not need to be funded to that level, which was the reason for requesting a lump sum. She pointed out that the lump sum amount could be reduced because the salaries would not need to be funded to the maximum level. She stressed that the Legislature would

decide how much of that lump sum the court would receive, and said, "give us 10 percent to divide among those 8 people."

Senator Beers noted that the rest of the state employees would only receive a 2 to 4 percent salary increase. Chief Justice Becker claimed that several of the employees of the court had not received an increase in the salary range for several years, while positions in the classified pay bill had received increases, creating inequity. She reiterated that the Legislature would decide the final amount, but she commented that allowing the courts to have the total salary savings would help the court reorganize.

Senator Beers commented that reaching a consensus among the seven justices could be difficult, and he wondered how the process would work. Chief Justice Becker explained that the justices would sit down and discuss the positions and how individuals were performing within those positions in order to determine whether an increase was merited and, if so, how much of an increase. The final decision was made by majority vote.

Senator Beers reminded Chief Justice Becker that in the past, the justices had difficulties working together and he thought the lump sum distribution could be a possible source of contention. Chief Justice Becker acknowledged that was a possibility, but pointed out that decisions had to be made during the construction of the budget, and any problems that arose had been resolved without any personal animosity between the justices. She stated that the justices had disagreed on legal issues and sometimes disagreed on administrative issues, but had learned to disagree amicably and move forward. She added that it was possible there would be contention in the future as personalities and situations could not always be controlled, but those issues would arise whether the positions stayed in the unclassified pay bill or were paid through a distribution of a lump sum or some other method.

Chief Justice Becker reminded the Subcommittee that in the past there were times when the justices had appeared before the Legislature with differing opinions and different requests, and she acknowledged that had been a frustrating situation for the legislators as they had been placed in the middle, as had been the case when the Legislature had decided the court could meet in panels. She pointed out that that decision had turned out well for the state of Nevada and reduced the backlog.

Chief Justice Becker thanked the Subcommittee for the help the Legislature had provided to the courts and stated that "we all have our respective roles, sometimes we disagree, but we agree a lot more than we disagree. We have an excellent government in the state of Nevada. I was born here, I'm very proud of it, and there's always room for constructive criticism, but you do a damn good job, and I think we do a damn good job."

Chairwoman McClain asked about the Judicial Retirement System and noted that the contribution rate was decreasing from 25.6 percent to 22.5 percent and asked if there would be General Fund savings in judges' salaries because of that decrease.

Judy Holt, Manager, Budgets and Finance, AOC, addressed the Subcommittee and explained that the district judges' salary budget would be reduced. The current contribution rate was 25.6 percent, and the difference created by the decrease to 22.5 percent would be calculated and would be a savings, as all but 16 of the district court judges were participating in the Judicial Retirement

System. The justices also participated in the JRS, so there would be a slight savings there as well. Ms. Holt remarked that she had just learned about that decrease so she would need to calculate the salary savings in order to provide a more definite answer.

Chairwoman McClain indicated that the Subcommittee would now hear specific budget accounts.

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SUPREME COURT (101-1494)—BUDGET PAGE COURTS-2

Chief Justice Becker said she would discuss the request for the staff attorney position and then she would turn the time over to Ron Titus, Director and State Court Administrator, Administrative Office of the Courts (AOC). She said they were requesting one additional staff attorney for the court's civil division and noted that the last new staff attorney position had been added in 1997. Referring to page 8 of [Exhibit C](#), she pointed out that the matters assigned to the civil division and the backlog had increased significantly. Those problems had been alleviated in other areas but had worsened in the civil division, particularly with an increase in the number of election-related and ballot-related issues, including a large increase in the number of initiative petitions.

Chief Justice Becker indicated that another reason for the increase in backlog was the increase in complex cases: medical malpractice, construction defects, commercial litigation, and so forth. As more large businesses incorporated in Nevada, there had been more issues regarding merger law and business law, which were complex issues that required time to research, and in order to deal with that increased time commitment, the court was requesting another civil attorney. She said the court was trying to reduce the backlog by making internal adjustments, but there was simply not enough staff and an additional attorney was needed.

Chief Justice Becker praised her staff and said they were all working very hard, were very dedicated, and were wonderful appellate attorneys, but there were not enough of them. She noted that the criminal division had 13 individuals because that had been where the initial backlog problem occurred. The criminal division was fairly current and those attorneys were needed to stay current so the court did not want to "rob Peter to pay Paul." She emphasized the need for an additional attorney for the civil division and said that was the highest-priority position request.

Ron Titus, Director, AOC, said the next position request was for a Court Document Specialist. He noted that the Court currently outsourced those tasks to the State Printing Office, but having those tasks performed internally would save money and would be a cost-neutral proposition. He indicated that he had spoken with the State Printing Office and that budget had been adjusted accordingly. Chief Justice Becker interjected that the State Printing Office had agreed to the change because it was a more efficient way to operate.

Mr. Titus commented that the position would provide camera-ready copy to the printers, which would simplify the process. He continued and said the next position requested was an Electronic Technician. The court had relied on LCB, and other contractors, to help with sound reinforcement, recording equipment, and various other items. He noted that the budget included a request for videoconferencing between Las Vegas and Carson City, and the technician

would provide support in those areas. Mr. Titus pointed out that currently there were only three positions to support the entire Judicial Branch.

Chairwoman McClain asked who had been performing the tasks that the electronics technician would perform. Mr. Titus said that the clerk of the Court "crawled under the desk and cleared all that stuff up." The LCB staff also provided assistance, but some of those tasks did not get done at all. He commented that the Court would like to broadcast over the Internet, but did not have the expertise to do so. He emphasized that the courts had relied on high-paid positions to perform some of those tasks, which was not an appropriate use of time.

Chairwoman McClain asked if it would be more beneficial to use contract services. Mr. Titus explained that problems often arose when the contractor was not available.

Mr. Titus addressed the next position, the Facilities Manager, and said that the tasks that would be performed by that position were currently being performed by the clerk of the Court, the deputy director, and other staff. He said the Court had spoken with the Division of Buildings and Grounds, which supported the request because having a contact person would make the job easier. He stressed that it was another example of high-salaried employees performing tasks that were outside the scope of their job duties.

Chief Justice Becker added that in every one of the larger state buildings, there was a facilities manager who coordinated with the Buildings and Grounds crew. Chairwoman McClain clarified that the requested position would not replace the use of the Division of Buildings and Grounds, and Mr. Titus assured her the manager would be a contact person.

Chief Justice Becker said a modest increase in the salary of the law clerks was being requested. The law clerks were performing functions very similar to an entry-level staff attorney, and given the crucial nature of the law clerks' work, the law clerks should be paid at the level of the entry-level staff attorneys, which was \$55,000. She said that would also be helpful as a two-year law clerk could then receive a modest increase in the second year, which would encourage clerks to stay. Experienced clerks were very helpful to the judges, who liked to use a two-year schedule with clerks to ensure that at any given time there was at least one experienced law clerk on staff. She added that while the law clerks and staff attorneys performed the same functions, the law clerks stayed for a shorter period of time so the salary should not be above the entry-level for the Staff Attorney I position.

Chief Justice Becker pointed out that the salary for the law clerks had not increased in several years, and maintaining competitiveness and attracting top-level law clerks to work for government entities was difficult. An increase in the salary would be of tremendous assistance to the Court.

Chairwoman McClain asked if the 2 percent cost-of-living salary increase had been included in the \$55,000 salary. Ms. Holt said that the 2 percent increase would be in addition to the salary increase.

Mr. Titus referred the Subcommittee to Decision Unit E-720, the technology initiative for which the Legislature had approved 3 positions in the 2003 Legislative Session. Mr. Titus indicated that the manager of the e-court project would provide further explanation.

Silvia Alfonso, Supreme Court, addressed the Subcommittee and explained that the e-court project would take advantage of technological opportunities to achieve benefits for both the Court and the end users. The e-court would make use of the Internet to facilitate seamless and easy access to internal databases. E-court was comprised of a case management system, a document management system, and e-filing.

Ms. Alfonso said that the case management system was a complete court management system that would be the foundation for the Court's operations. The document management system would allow for the delivery of documents in electronic form and would be integrated with the case management system (CMS) so that documents on file with the Court could be accessed through the CMS. The electronic filing system would be accessible through the Court's website and would allow for the submission of pleadings documents and the payment of filing fees. The system would also provide public access to electronically-filed case information.

Ms. Alfonso indicated that the Court had purchased the document management system and was in the process of implementing the system. The document management system would be the centralized repository for court documents, and would offer efficient management of documents and case files, as well as eliminate document duplication, allow for system integration with e-filing and the case management system, reduce physical storage space, improve information sharing with the use of work flow, and allow for instant retrieval, retention, and disposal of documents by multiple customers.

Ms. Alfonso said the Court wanted to integrate the electronic file system with the case management system and the document management system. She said that e-filing was defined as an information and transactions system where forms and documents could be filed, tracked, and collected. The system would provide public access and would allow notices to be sent to concerned parties.

Ms. Alfonso said that \$111,769 had been spent on the document management system implementation in FY2005. The Court was requesting \$191,000 for FY2006 and \$171,050 for FY2007. She said there would be savings from the system including reduced clerical work, reduced document processing and intake cost, reduced paper file maintenance and storage costs, reduced response time for filing, and increased efficiency in task management.

Assemblyman Seale asked if the savings had been incorporated into the budget. Chief Justice Becker said those savings had not been factored into the budget.

Ms. Holt interjected that the implementation of the systems would not be complete until FY2007, which made it difficult to quantify the savings. Mr. Seale asked if the savings would be in the next biennium, and Ms. Holt assured him that was the Court's goal.

Chief Justice Becker said that a substantial amount of copying occurred in the Court and as paperwork was filed electronically, the savings would be apparent in the shift of personnel away from those types of tasks into other areas, as well as not having to request additional personnel in the future as growth continued.

Chief Justice Becker pointed out that one of the primary focuses of the e-filing, document management, and case management systems were that they allowed multiple users to use the same files at the same time.

Chief Justice Becker said that currently if someone wanted access to the public record, he or she would have to physically visit the Supreme Court building in Carson City. With e-filing and with the document management system, that individual could access the public records online, which made the Court more accessible to the public. She added that if she wished to read a record, she would have to take that record into her chambers, and if another judge wanted to read that record, he would be unable to do so. Chief Justice Becker emphasized the value of having a system that would allow the judges to access information concurrently.

Chief Justice Becker praised Ms. Alfonso for her work and said a great deal of progress had been made on the case management and document management systems. The funds for the implementation process for those systems and the e-filing system were requested in BA 101-1494.

Chairwoman McClain pointed out that the legislatively-approved budget for the 2003-2005 biennium had not included funding for Phase 1 of the technology initiative, and she wondered where the Court had found the funding. Ms. Holt explained that the Legislature had approved the position that Ms. Alfonso occupied and along with that position had come some funding that had initially been intended for a different document management system. With that money and some salary savings, there had been enough funding to begin the project. She noted that the money had been encumbered, but had not yet been spent, and the payments to the vendors would continue as the document management system was implemented.

Ms. Holt added that the Court had also received funding through S. B. 106 of the 72nd Legislative Session, which had allowed a filing fee surcharge that was to be used for technology in the Clerk of the Court's Office. Approximately \$60,000 in fee surcharges had accrued, and those moneys had been used to fund Phase 1 as well.

Chairwoman McClain requested clarification regarding which budget accounts those funds were included in, and Ms. Holt indicated that the money included with Ms. Alfonso's position was in BA 101-1494 and the filing fee surcharge money was located in BA 101-1486.

Chairwoman McClain noted that BA 101-1494 requested funds for training and she asked how that money would be used. Ms. Alfonso explained that the funds would be used to train in-house staff to support the system and lessen dependence on consultants. Chief Justice Becker added that funds would be used to pay the consultants to train staff so that the consultants would not need to be paid in the future.

Chairwoman McClain verified that the program implementation was expected to be completed in two years, and Ms. Holt indicated that was correct.

Mr. Seale remarked that efficiencies in state government were a good thing, but he had noticed that, while he had received much electronic support and used his computer, he still used paper because he preferred hard copies of information. He asked if that would add some unanticipated costs.

Chief Justice Becker opined there would not be additional costs because paperwork was printed and copied currently. The hope was that as individuals with more familiarity and comfort with computer technology joined the Court, eventually there would be less paper printing. She commented that she was not the "most technical person in the world," but she was content to read a record electronically as long as the program had search capabilities, which the system would have. She said lessening the paperwork would be a gradual process.

Chairwoman McClain inquired about the one-shot appropriation request for the move to the Regional Justice Center (RJC), and she asked when the move was expected to take place. Chief Justice Becker said the Court was in the process of working with Clark County to get a definitive move date. There would be no move in FY2005, so the Court was asking that the money that had been appropriated for the FY2005 budget be rolled over into the FY2006 budget. She stressed that once a date had been established, the lease information in the budget could be adjusted accordingly.

Chairwoman McClain asked if there had been any indication as to when the Court would know the date. Chief Justice Becker said the Court had been unhappy with the lack of a date commitment, so the Court had written a letter to Clark County demanding a firm date.

Chairwoman McClain clarified that the Court wanted to keep the money appropriated in FY2005 and roll it over into FY2006. She asked if more money would be needed by the time the RJC was ready. Ms. Holt said that was a consideration and the Court was reassessing whether there would be any inflation or if there could actually be some savings. She opined that the end cost would actually be fairly close to the projection. The rent would have to be adjusted as the amount included in the budget was for a full year of rent and that would change depending on the move date. When the new contract was negotiated, there might also be some changes.

Rick Combs, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, interjected that typically those moneys did not roll forward and allowing that would set a precedent. He advised the Subcommittee that the best option would be to get a specific amount before closing the budget because it was possible that the move date might end up being in the second year of the biennium, and, in that case, it would be better to not place the money in the budget. A one-shot appropriation would allow the money to be used in either year of the biennium, rather than reverting at the end of the first year, which would necessitate a request to the Interim Finance Committee. That information was needed prior to closing in order to work out the best way to handle the appropriation.

Chief Justice Becker agreed that definitive information was needed and assured the Subcommittee that Ms. Holt was working to obtain that information.

Chairwoman McClain asked if the current lease was nearing expiration, and Chief Justice Becker indicated the Court was in negotiation to extend that lease for six months with an option for an additional six months if the relocation to the RJC had not been completed.

Assemblyman Seale requested an overview of the issues surrounding the Regional Justice Center (RJC). Chief Justice Becker explained that in 1993, the Clark County court, the district court, the Las Vegas municipal court, and the Supreme Court had decided to co-locate in one courthouse to better serve the

public. Under the circumstances, all those courts located in the same building would create a cost-savings.

Chief Justice Becker said that it took a great deal of time to plan a building, particularly with the number of statutes regulating how government entities could build buildings. Because of those regulations and requirements, the Court used its own personnel, along with Clark County personnel, to do the preliminary space planning and cost accounting. Using funds from administrative assessments, the Court was then able to hire professional space planners to use the Court's ideas and turn them into the needed documentation. With that information, the Court was able to provide design documents in order to get a cost estimate of the building. The voters approved the bonding for the building in 1999, so the building was funded through administrative assessments, user fees, bonds, and General Funds.

Chief Justice Becker stated that the result was an award-winning design, and that design had been used by other entities, including the federal government. Unfortunately, the construction phase of the project had not gone as well as expected, and the project was approximately 2.5 years behind. She suggested that the members of the Subcommittee, if they had a chance, should take a tour of the building.

Chairwoman McClain asked what the reason was for the delays. Chief Justice Becker said that the Court had been informed there were disputations between the owner and the contractor, and the issues were proceeding to arbitration because there was a concern regarding contractual law and how much an owner could dictate to a contractor and how much authority a contractor had.

Chairwoman McClain questioned the videoconferencing request and asked if the videoconference equipment would be used immediately or would be used after the move to the RJC. Chief Justice Becker explained that the equipment would be used to videoconference between Las Vegas and Carson City and was designed to be implemented in the RJC, but would be used before the move. She said it would help the Court provide access to the public by allowing arguments to be broadcast over the Internet. Cameras were allowed in the courtroom when requested, and there had been live coverage on occasion. She emphasized that whether the RJC was ready or not, the equipment would still be needed to allow for greater access to the public. Chairwoman McClain verified that the videoconferencing equipment could be moved wherever it was needed—the RJC or any other location.

Mr. Titus clarified that the proposal was to install the videoconferencing equipment in the RJC, and not to put it into the current offices. He explained that the proposal would create a connection between a public room in the RJC and a public room in the law library for public videoconferencing and between chambers in each location. He noted that the request for replacement equipment was basic. The Court followed the Department of Information Technology's recommended replacement costs and schedule of four years. There were no other major items in the technology requests, although Decision Unit E-711 was a request for recording equipment similar to that used in the LCB.

Chairwoman McClain closed the hearing on Budget Account 101-1494 and opened the hearing on Budget Account 101-1483.

JUDICIAL BRANCH

**ADMINISTRATIVE OFFICE OF THE COURTS (101-1483)—BUDGET PAGE
COURTS-12**

Chief Justice Becker addressed the position transfer request for a Judicial Branch auditor from BA 101-1483 to BA 101-1484. The position had been recommended in 2003 as a result of the legislative audit in 2002. The position had been placed in the AOC, which was funded through administrative assessments. Because the administrative assessments had been less than anticipated there had not been sufficient funds to hire the new position. She noted that many of the questions asked by the Subcommittee would have had more complete answers if there were sufficient personnel to pull case files and double-check information. Those tasks would be performed by the auditor. She pointed out the position would also work with the lower courts to ensure consistency in the way administrative assessments were administered.

Chief Justice Becker said there had been cooperation with the lower courts and a subsequent improvement in the consistency of administrative assessment collection, but the AOC needed an individual to “go down there in the trenches and do nothing but sift through files” to perform the audit functions necessary to provide the information required by the Legislature. She opined that the position was needed, but because there was insufficient funding through administrative assessments, the position should be funded in BA 101-1484 through a General Fund appropriation.

Mr. Titus directed the Subcommittee’s attention to page 16 of [Exhibit C](#) and pointed out that the reserve amount was “dangerously low,” even with the transfer of the auditor position. He said the AOC tried to maintain a 3-month reserve. He noted that the other items in the budget were fairly minor: replacement equipment and new equipment requests.

Assemblyman Hogan pointed out that there was an expenditure of \$95,000 for professional services in the budget and he requested additional details. Ms. Holt explained that the Court had used money from the AOC’s professional services funds to hire a contractor to assist in the court funding report project. The costs had been more than anticipated, and there were schedules in the budget as well. She offered to provide additional detail regarding professional services.

Chairwoman McClain asked if administrative assessments had funded the professional services, and Chief Justice Becker indicated that was correct.

Chairwoman McClain noted that the costs for professional services had been included in the base budget, and she asked if the professional services would continue. Ms. Holt said that from session to session there were studies, and the Court typically had those kinds of expenditures in the AOC. There were different studies and they were ongoing, so those expenses had been built into the budget in anticipation of continuing similar activities.

Chairwoman McClain questioned why the decision had been made to transfer the auditor position rather than to reduce the amount for professional services and use that to pay for the position. Chief Justice Becker said she would provide additional documentation to justify the decision. She said the primary reason was that if administrative assessment totals decreased, the professional services would not be used and those funds would not be expended; however, once a position was added, that position had to be funded. She conceded that the professional services funding might be better used for the auditor position, and indicated that she and her staff would examine that possibility.

Chairwoman McClain commented that the auditor should be a contract position and should be paid according to how much revenue he generated. Chief Justice Becker explained that the auditor would not actually be generating revenue. She added that the administrative assessment program was an extremely complex auditing task and having an in-house staff person would provide stability while professional services would necessitate using one particular contractor or having to retrain contractors fairly often.

Chairwoman McClain closed the hearing on Budget Account 101-1483 and opened the hearing on Budget Account 101-1484.

JUDICIAL BRANCH

DIVISION OF PLANNING & ANALYSIS (101-1484)—BUDGET PAGE COURTS-18

Mr. Titus explained that BA 101-1484 was funded through the General Fund. The positions in the budget account collected statistics and data as asked for by the Legislature, produced an annual report, and performed various other studies. He noted that the position of deputy director was included in the budget as was the proposed transfer of the auditor. There was a request for a rural courts coordinator position due to the "Interim Study of the Criminal Justice System in Rural Nevada and Transitional Housing for Released Offenders," which had recommended a position be created that would coordinate services in the rural courts. The courts individually were unable to provide those services, but through coordinating the courts and having a central point of contact, counseling services and specialty court services could be provided.

Mr. Titus explained that the position would perform such tasks as identifying rural court needs that could be met through cooperative efforts throughout the state, seeking grant funding for those coordinated efforts, as well as coordinating counseling services. The position would be crucial in coordinating specialty court activities as well. He emphasized that the position would benefit the rural areas and aid in providing required services, such as counseling.

Chairwoman McClain asked what qualifications would be needed for the position. Mr. Titus said the qualifications would be similar to those needed in court administration positions, particularly court management experience.

Chief Justice Becker interjected that the position would be similar to a management analyst. She explained that the rural courts did not have the economic ability to hire management staff people, but hiring one person in the AOC would help the rural courts to coordinate services and answer questions, particularly in areas where there were limited resources. She pointed out that it was very difficult to find counseling programs that met the requirements to provide mandated counseling for DUI and domestic violence offenses. There were not many agencies and to try and coordinate those agencies with more than 40 rural courts was difficult. Counseling agencies wanted to work with one person to ensure consistent results.

Chief Justice Becker informed the Subcommittee that there was proposed legislation that examined other ways to providing counseling because there were currently people in rural areas who could not comply with the counseling requirements because there were simply no services within 200 miles. She emphasized that those citizens of Nevada needed help and the position would be crucial to providing that help. Chief Justice Becker remarked that many projects had been successfully coordinated, such as the MC-IJIS (Multi-County

Integrated Justice Information System), but there was a limit to how much could be done without that additional position.

Chairwoman McClain closed the hearing on Budget Account 101-1484 and opened the hearing on Budget Account 101-1486.

JUDICIAL BRANCH

UNIFORM SYSTEM OF JUDICIAL RECORDS (101-1486)—BUDGET PAGE COURTS-24

Mr. Titus explained that Budget Account 101-1486 was fully funded through administrative assessment revenue and funded two major technology initiatives: the NRCS (Nevada Rural Court System) and the MC-IJIS (Multi-County Integrated Justice Information System). He said that the NRCS provided a case management system for the rural courts. The NRCS was currently installed in 13 courts, with plans to install in another 10 limited jurisdiction courts and then in the district courts.

Mr. Titus said that the courts contributed approximately \$2,500 per user, which was defined as anyone who updated the database, meaning a judge would not be a user. The system was an economic way for the rural courts to use a case management system as the rural courts generally did not have individuals with the technological expertise necessary to maintain the system.

Mr. Titus explained that the MC-IJIS focused on providing criminal disposition information to the Criminal History Records Repository. The courts were requesting a Database Management Specialist position in the second year of the biennium.

Mr. Titus noted that the rest of the items in the budget were normal maintenance and replacement requests. The majority of the funding was used to manage the two major projects, and he mentioned that there had been success in obtaining grants to fund those projects as well.

Chairwoman McClain asked if the MC-IJIS would aid the Criminal History Records Repository in obtaining dispositions from cases so that the information would be consistent and correct. Mr. Titus said that was the purpose of the system, and he said the major grants received had been from the National Criminal History Improvement Program (NCHIP) to provide the electronic transmission of those dispositions. He added that the Criminal History Records Repository was relying upon the Court to fully implement the MC-IJIS.

Mr. Titus explained that one of the major problems with criminal history records was that the information received from the courts did not match the information received from law enforcement because it did not take into account what occurred in the district attorney's office. The district attorney could change charges so when the disposition records were received from the courts and law enforcement, they did not match, which created more work for the repository.

Mr. Titus said there was a current project to standardize those charges to ensure that if a district attorney modified or dropped a charge, the repository would receive that information. The MC-IJIS addressed those issues that would be very complicated on paper. He emphasized that consistency was the largest issue and they were working to resolve it, but the charge codes had to be standardized. Mr. Titus noted that simple citations required the updating of six

different files with the codes and it had taken several months to resolve such a seemingly small issue in the North Las Vegas Municipal Court.

Chairwoman McClain inquired as to the time line of the process, and Mr. Titus conceded that the standardization project was moving slowly. There were delays due to ongoing court cases and time constraints. Despite the slow progress, both Clark and Washoe Counties were contemplating the implementation of the MC-IJIS, which was a positive sign. He said that the Court had made various presentations nationally on the system and had demonstrated it several times, and the system was quite impressive, particularly when a court employee received a filing electronically from the district attorney and everything was filled out for him.

Chairwoman McClain remarked that the implementation of the system should eliminate problems with inconsistent criminal records. She questioned the possibility of continued grant funding. Mr. Titus commented that when the project had started, there had been grant funding in the amount of approximately \$600,000 in 1999 and 2000, but the current grant from the NCHIP was approximately \$200,000. Chief Justice Becker added that over time the grant amounts had been decreasing and those cuts had been absorbed through the administrative assessment process. She opined that eventually the grant funding would disappear and the full cost of the system would be absorbed through administrative assessments.

Chairwoman McClain asked, given that information, if the funding would support the Database Management Specialist position and Chief Justice Becker indicated that it would.

Senator Beers noted that the reserve in the budget account was decreasing, which implied that there would be a time when the system could not be maintained by the current level of funding. Mr. Titus said that once the MC-IJIS was fully implemented and functional, he expected that the counties would contribute some funding in the form of user fees, such as was done in the NRCS. With that funding and the administrative assessments, there should be sufficient funding for the program.

Chairwoman McClain said she hoped the system was implemented quickly, and Chief Justice Becker agreed. Chairwoman McClain remarked that she had been told if records matched, an accurate background check could be run in as little as 30 seconds. Chief Justice Becker pointed out that when the Criminal History Records Repository had been established, it had been established without coordinating with the courts or the district attorneys, so now they had to go back which was a much harder, slower task.

Chairwoman McClain closed the hearing on Budget Account 101-1486 and indicated that the Subcommittee would hear brief comments on Budget Accounts 101-1487, 101-1493, and 101-2889.

JUDICIAL BRANCH

JUDICIAL EDUCATION (101-1487)–BUDGET PAGE COURTS-29

JUDICIAL TRAVEL AND SUPPORT (101-1493)–BUDGET PAGE COURTS-37

LAW LIBRARY (101-2889)–BUDGET PAGE COURTS-44

Mr. Titus explained that BA 101-1487 was funded through administrative assessments and provided judicial education to judges and court personnel. The budget contained only routine requests. He clarified that judicial education

consisted of various seminars conducted throughout the year as well as individual education for newly elected judges, who received one or two weeks of required education at the Judicial College.

Mr. Titus said that BA 101-1493 was funded through peremptory challenges and funded judicial travel for judges within their districts as well as judicial travel for senior judges. He noted that the items in the budget account were one position—a statewide program coordinator—and other expenses as approved by the Supreme Court. There were three districts where the judges in those districts traveled between three counties, which accounted for a significant portion of the budget costs.

Mr. Titus indicated that BA 101-2889 was the law library and the costs in the budget were due to inflation increases necessary to fund and maintain the collections the library currently had.

Assemblyman Seale expressed confusion as to the reason for three separate budget accounts when the accounts could be combined. Mr. Titus explained that the funding was designated in NRS 176.059, which stated that 49 percent of administrative assessments were to go into the General Fund, 51 percent was to go to the courts. Of that 51 percent, 60 percent went to the Supreme Court, 18.5 percent to the AOC, 9 percent for the Uniform System of Judicial Records (USJR), 9 percent for judicial education, and 3.5 percent for senior judges. Those percentages were set in statute and the Court was not allowed to move funds between the budget accounts.

Chief Justice Becker indicated that was correct unless the Legislature chose to authorize the movement of funds. She pointed out that those programs could be placed into one budget account, but the percentages would have to remain the same. The reason the budget accounts were separate was that the Legislature had chosen to set up the accounts that way.

Mr. Seale remarked that the Legislature could simplify the accounts. Senator Coffin interjected that there had been difficulties between the Legislative and Judicial Branches, which had led to the creation of the three separate budget accounts to “lockbox” the money. He commented that it was not necessary, but it was the way things had been done. Chief Justice Becker assured the Subcommittee she would not object to any changes.

Chairwoman McClain indicated the hearings on the three budget accounts were closed and opened the hearing on Budget Account 101-1495.

JUDICIAL BRANCH

SPECIALTY COURT (101-1495)—BUDGET PAGE COURTS-35

Mr. Titus presented BA 101-1495 and said it was a new budget account and was fully funded by a \$7 administrative assessment on each misdemeanor conviction. The expected revenue was approximately \$2.9 million in FY2006 and approximately \$3.3 million in FY2007. Responsibility for allocation of those funds was given to the State Court Administrator, as designated by A.B. 29 of the 72nd Session. Mr. Titus commented that he, as State Court Administrator, relied upon the Judicial Council and the Specialty Court Funding Committee, which was comprised of specialty court judges. The Committee had developed an application process to evaluate the needs of the specialty courts and the money would be disbursed accordingly.

Mr. Titus said that in FY2004, the revenue totaled less than \$1.9 million and receipts of approximately \$5 million were expected in FY2006. He referred the Subcommittee to page 13 of [Exhibit C](#) and noted that approximately \$3.3 million in specialty court funds had been disbursed to date. Initial disbursements were made according to testimony given to the Legislature; the General Fund provided approximately \$1.3 million to Clark County, Washoe County, and the Western Region Drug Court. That amount had been decreased to approximately \$375,000 to cover the first six months of FY2004. The money was disbursed and that level of disbursement to those three courts had been maintained for the entire period.

Mr. Titus explained that the process consisted of a request submission from the courts each fiscal year. The funding committee considered the requests according to need and availability of funds and then determined an annual amount the specialty court would receive. Due to cash flow, that amount would be disbursed in two payments: one in July and one in January. The ultimate goal was to be able to inform the courts how much they would receive ahead of time so the counties could supplement that amount.

Mr. Titus noted that the specialty court committee had recommended the creation of a reserve. The initial reserve would be a 3-month reserve. Obligations were made to the specialty courts before money was received. If the receipts happened to decrease or were less than projected, the reserve would allow the Court to honor those obligations so the specialty courts would not have to decrease funding for needed services. He pointed out that if a court had a significant increase in workload, the reserve could be used to aid the court for a short period of time.

Mr. Titus said that the creation of the 3-month reserve had been delayed for approximately one year so funding to the courts could be maximized. The receipts on the administrative assessments had not met initial expectations, which had hurt the courts quite a bit and they had struggled to meet demand.

Mr. Titus added that the specialty courts committee would be developing standard terminology, program evaluation criteria, standard accounting practices, quality control procedures, and program qualifications, which would allow the courts to maximize the number of clients served as well as to ensure the best use of funding.

Chairwoman McClain requested additional details on specialty court assessments and asked whether the collection projections would increase. Chief Justice Becker replied that the projections had been based on approximately 477,000 assessments, but the actual number of assessments was approximately 428,000. Much like the administrative assessments in the other budget accounts, there had been a downward trend in the number of assessments as a result of the decrease in traffic tickets. Consequently, the projections were \$2.5 million in FY2004 while the actual receipts were only \$1.8 million; the projections were \$3.3 million in FY2005 and the actual receipts would most likely be approximately \$2.5 million. Chief Justice Becker noted that the specialty court funding committee had been aware of that decrease and had taken that into consideration when deciding awards and grants for the upcoming fiscal years.

Ms. Holt added that initially it had been thought that every assessment that was processed would have a \$7 specialty court assessment attached to it, but that was not the case. The \$7 specialty court assessment only pertained to

infractions that occurred on or after the effective date of the law creating the specialty court assessment. The courts still received assessments from infractions that occurred in the past so the projections were estimating that only 85 percent of all administrative assessments would have the specialty court assessment attached.

Chairwoman McClain asked when the courts expected that 100 percent of the administrative assessments would have the \$7 specialty court assessment attached. Ms. Holt explained that in 1997 the law changed allowing the local courts to retain a larger percentage of the assessments, and there were still citations being processed for infractions that had occurred prior to 1997. She said there was not a specific date when all administrative assessments would have the specialty court assessment, but she thought it would be quite far in the future.

Chief Justice Becker interjected that as time passed the percentage would become closer to 90 percent, but whether it would ever reach 100 percent would depend on what citations were still out there and unpaid. She reiterated that it would get closer to 100 percent, but it would take time.

Mr. Titus added that the collection of assessments was prioritized. The specialty court assessment was fourth on the list of priorities, and when fines were paid, the last \$7 on the fine was used as the specialty court assessment. Chairwoman McClain requested a breakdown of the priority list to which Mr. Titus had alluded. Mr. Titus said that the first part of the assessment went to the local court, the second portion went to the state, the third was a facility fee, and the fourth went to specialty courts. He remarked that any future assessments would be added to the end of the priority list.

Chief Justice Becker said she would prefer not to add assessments because the amounts were becoming too much for the people paying the tickets. She expressed appreciation to the Legislature for trying to keep the assessments as low as possible.

Chairwoman McClain asked if there was any proposed legislation that would affect the Court, particularly as related to the Retired Justice Duty Fund. Chief Justice Becker said that was part of the Senior Judge's Program, and she indicated that Justice Rose would be presenting that budget account. She noted that it would have an effect on the specialty courts because, if the legislation were approved, General Funds would replace the money currently going into the Senior Judge Program, and that money would then be transferred to the specialty courts.

Chairwoman McClain closed the hearing on Budget Account 101-1495 and opened the hearing on Budget Account 101-1496.

JUDICIAL BRANCH

RETIRED JUSTICE DUTY FUND (101-1496)—BUDGET PAGE COURTS 40

The Honorable Robert E. Rose, Vice Chief Justice, Nevada Supreme Court, presented BA 101-1496. Justice Rose said he had been asked to comment on the proposed legislation that would expand the use of senior judges. He said the Court was requesting \$3 million over the biennium to be used to support senior judges throughout the state of Nevada.

Justice Rose indicated that there were two reasons for the request. The first reason was that district judges were paid with money from the General Fund, and it seemed appropriate that senior judges, who were used more extensively, should also be funded through the General Fund. The second reason was that administrative assessments, by their very nature, were uncertain, and using money from the General Fund would provide a more stable funding base for the program.

Justice Rose addressed the need for the program and said requests for senior judges were received on a weekly basis and many were turned down because funding was insufficient. The program was currently funded by administrative assessment fees in the amount of approximately \$30,000 per month. The money was received and the assignments were sent out, and it was a very quick process. He said that in the past, it had not been a problem because there were very few senior judges available, and while there had not been very much funding, not much funding had been needed. However, there were now 15 senior judges and there was an enormous demand for their services throughout the state. In order to expand the program, General Fund moneys were needed.

Justice Rose said he wished to revise the requested amounts in The Executive Budget from \$1.2 million in the first year and \$1.8 million in the second year of the biennium to \$1.4 million in the first year and \$1.6 million in the second year of the biennium. The reason for the change was due to startup costs and the transfer to the Regional Justice Center (RJC).

Justice Rose explained that senior judges could perform any tasks that a district court judge could perform: trying a case, holding a settlement conference, doing an early neutral evaluation, handling a short-term jury trial. In other words, they could do anything that a trial judge could do and they were already fully trained. There were no other costs, and the judges were only paid for the time they worked.

Justice Rose added that an expansion of the program would provide greater support to the district courts throughout the state. He claimed that regardless of the number of judges in the various districts throughout the state, there still would be a chronic need for district judge help and support. In Clark County alone, 20 new district court judges were needed to handle caseload, and obviously it was not possible to hire 20 new judges. The chronic shortfall meant judges were "on a very fast track and running as fast as they [could] to keep up." There were 2,600 filings per year in Clark County, while the average was approximately 1,400 per year, and he pointed out that the senior judges provided assistance in reducing those numbers.

Justice Rose informed the Subcommittee that there were 11 senior judges who could work half-time, which cost approximately \$1.25 million. He noted that other judges would be retiring and could enter the program; one judge in particular would be entering the program so that would bring the cost to approximately \$1.3 million in the first year. In the second year, there would be three judges to join the senior judges and that would cost approximately \$1.5 million. He indicated that he would be providing those figures as well as additional statistics when the proposed legislation was brought before the Legislature.

Justice Rose pointed out that he was \$100,000 short in each year of the biennium because the additional money would be used for increased supervision

and evaluation of the district court judges. Job performance evaluations could be performed either by adding a position that would supervise the judges, which would cost approximately \$85,000 each year of the biennium, with an additional \$5,000 in the first year for costs and expenses, or by using the funds to contract out the supervision to attorneys or an organization.

Justice Rose added that the senior judges should also be evaluated. That \$100,000 per year would be used for evaluation, which was needed as the program expanded to ensure that all the judges were performing their jobs well and to make any necessary corrections.

Mr. Seale questioned if there were enough courtrooms to accommodate the expansion of the program and how the expansion would affect caseload. Justice Rose agreed that space accommodations were always an issue, particularly in Clark County, but the Regional Justice Center, when completed, would have more courtrooms, as well as additional rooms, that could be used by senior judges for settlements and conferences. He conceded that it would be difficult before the move to the RJC, but he opined that the 8th Judicial District wanted to and would find the room so the senior judges could work. He noted that the lack of space was one of the reasons why the requests from the district courts were not “astronomical” because without the room, the district courts were unable to use all the help that they needed.

Justice Rose addressed Mr. Seale’s second question and said the expansion would allow for the maintenance of the caseload. He pointed out that the senior judges were not always assigned to trial; he or she might do the motion calendar for the judges or handle settlement conferences, and those statistics would be kept. He noted that a senior judge had spent 154 days on one trial, which had then helped the overall calendar hours of all the judges. The impact was hard to quantify, but Justice Rose assured the Subcommittee that statistics would be compiled. He reiterated that the senior judge program helped the district courts “hold the line” and reduce the backlog in caseload. He added that the current delay in cases going to trial, due to backlog, was unacceptable by any standards of judicial performance.

Chief Justice Becker offered additional information and directed the Subcommittee’s attention to a chart on page 15 of [Exhibit C](#). She explained that the chart showed statistics if each district judge, in the two large urban districts, Washoe and Clark, had 1,400 cases. Of the total need for the Second and Eighth Judicial Districts, 59 percent was met by existing judges, 9.21 percent would be met if seven new judges were approved for Clark County, and an additional 9.76 percent would be met if senior judges were utilized. Even with the senior judges, 21.82 percent of the need was still unmet. She pointed out that the senior judges would help reduce the caseload per judge, so cases would move more quickly.

Chief Justice Becker said that Justice Rose would have additional information when the proposed legislation came before the Legislature, but she emphasized that the goal was to reduce the unmet need to approximately 21 percent.

Mr. Seale clarified that the senior judges would be paid on an hourly basis rather than a daily basis.

Chief Justice Becker addressed the aforementioned concerns regarding space accommodations, and said the Second and Eighth Judicial Districts had been asked how they would use the senior judges with the existing facilities and they

had provided that information, taking into account that the senior judges could only work a certain number of hours and that only a certain number of hours could be used within the existing facilities. Chief Justice Becker said the districts were aware of those issues and were looking for functions that allowed them to maximize the use of the senior judges with existing facilities and staff.

Senator Coffin commented that one of the difficulties the district courts faced was that the judges were elected. In some cases, the entire judicial court might have to recuse itself from hearing a case because the members had all received a campaign contribution from someone involved in that case.

Justice Rose said each judge made his own determination as to whether he should disqualify himself from a case due to a campaign contribution. It was not an automatic disqualification, but rather a choice made by the judge himself. Occasionally, a prominent law firm was sued and all the judges would feel it was inappropriate to hear the case. In that situation, a senior judge would hear the case. The primary purposes of the senior judges were to fill in when there was disqualification and recusal of a judge, a judge was attending school, or a judge was ill. Justice Rose noted that several judges had been absent for several months due to illness and a senior judge had been used to fill in.

Justice Rose remarked that was the traditional use of senior judges, but expanding the program would allow the use of senior judges for docket control, settlement programs, and the specialty courts.

Senator Coffin praised the Senior Judge Program and said it should be expanded. He said that perceived conflict of interest was an issue, but the Senior Judge Program eliminated those problems.

Chairwoman McClain asked when the proposed legislation mentioned by Chief Justice Becker would be brought before the Legislature, and she asked if it would be heard in the money committees or in the judiciary committees. Mr. Titus said the legislation was still in the drafting stage and could be ready at any time. Chief Justice Becker interjected that it would be the Legislature's decision as to which committee heard the legislation first.

Chairwoman McClain requested that Justice Rose provide to the Subcommittee the information that would be presented for the bill hearing. Justice Rose said he would get that information to the LCB Fiscal staff.

Senator Rhoads said the Senior Judge's Program appeared to be a retired judge's "dream come true" where he could receive extra pay after he retired. He asked if other states had similar programs or if it would be less expensive to hire more judges rather than relying on retired judges, who might not be as aware of current issues.

Justice Rose stated that most states used their senior judges in a similar manner and used them more extensively. California, Connecticut, and Arizona were three of the states that used senior judges, and those states had indicated that it would be very difficult to maintain operations without senior judges because the senior judges were a proven and trained resource.

Justice Rose agreed that it was a good deal for the retired judge, but the cost of one judge with staff and an office would cost more than \$1 million. The cost for a retired judge was approximately \$113 per hour of work and the retired

judges only worked part-time. Justice Rose said it was “the best bang for the buck in the judiciary.”

Justice Rose pointed out that one problem faced by the Senior Judge Program was attracting retired judges. A retired judge in the private sector could make \$350 per hour. He repeated that it was a good deal for a senior judge, but a better deal for the state of Nevada. He said that a minimum threshold of pay had to be maintained in order to attract senior judges who could be making more money elsewhere.

Chairwoman McClain indicated that all the budget accounts had been heard, and she adjourned the meeting at 10:27 a.m.

RESPECTFULLY SUBMITTED:

Susan Cherpeski
Committee Attaché

APPROVED BY:

Assemblywoman Kathy McClain, Chairwoman

DATE: _____

Senator Bob Beers, Chairman

DATE: _____

EXHIBITS				
Committee Name: <u>Jt. Sub. on General Government</u>				
Date: <u>March 8, 2005</u> Time of Meeting: <u>8:00 a.m.</u>				
Bill #	Exhibit ID	Witness	Dept.	Description
	A			Meeting Agenda
	B	Dana Bilyeu	PERS	Testimony (2 pages)
	C	Chief Justice Nancy Becker	Supreme Court	2005-2007 Biennial Judicial Branch Budgets (booklet)