

SENATE BILL NO. 369—COMMITTEE ON FINANCE

(ON BEHALF OF THE NEVADA SUPREME COURT)

MARCH 28, 2005

Referred to Committee on Finance

SUMMARY—Makes various changes regarding judiciary.  
(BDR 1-525)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: Contains Appropriation not included  
in Executive Budget.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the judiciary; revising the provisions governing the retirement benefits of retired justices of the Supreme Court and district judges; providing that certain fees collected on the commencement of certain district court actions be credited for the support of specialty court programs; providing that a portion of certain administrative assessments be credited for the support of specialty court programs; making an appropriation; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     **Section 1.** NRS 1A.260 is hereby amended to read as follows:  
2     1A.260 1. No person may become a member of the Judicial  
3 Retirement System unless he is a justice of the Supreme Court or a  
4 district judge.  
5     2. Except as otherwise provided in NRS 1A.370, persons  
6 retired under the provisions of this chapter who are ~~employed~~  
7 *reemployed* as a justice of the Supreme Court or district judge ~~in~~  
8 ~~any judicial capacity, including, without limitation, employment as a~~  
9 ~~senior justice or senior judge of the Nevada Court System,]~~ are not  
10 eligible to become members of the System.



**Sec. 2.** NRS 1A.360 is hereby amended to read as follows:

1A.360 1. Except as otherwise provided in ~~[subsection 4 and]~~  
NRS 1A.370, if a retired justice or judge accepts ~~[employment]~~  
*reemployment* as a justice of the Supreme Court or district judge ~~[in~~  
~~any judicial capacity, including, without limitation, employment as a~~  
~~senior justice or senior judge of the Nevada Court System.]~~ he is  
disqualified from receiving any allowances under the Judicial  
Retirement Plan for the duration of his active service.

2. If a retired justice or judge accepts any employment other  
than that described in subsection 1, the justice or judge is entitled to  
the same allowances as a retired justice or judge who has no  
employment.

3. If a retired justice or judge who accepts employment as a  
justice of the Supreme Court or district judge ~~[in a judicial capacity]~~  
pursuant to ~~[this section]~~ *subsection 1* elects not to reenroll in the  
Judicial Retirement Plan pursuant to subsection ~~[H] 2~~ of NRS  
1A.370, the Court Administrator may pay contributions on behalf of  
the retired justice or judge to a retirement fund which is not a part of  
the Judicial Retirement Plan in an amount not to exceed the amount  
of the contributions that the Court Administrator would pay to the  
System on behalf of a participating justice or judge who is employed  
in a similar position.

~~[4. The System may waive for one period of 30 days or less a  
retired justice's or judge's disqualification under this section if the  
Chief Justice of the Supreme Court certifies in writing, in advance,  
that the retired justice or judge is recalled to meet an emergency and  
that no other qualified person is immediately available.]~~

**Sec. 3.** NRS 1A.370 is hereby amended to read as follows:

1A.370 1. *Any retired justice or judge may, pursuant to  
rules adopted by the Supreme Court, be recalled to active service,  
be reemployed as a senior justice or senior judge of the Nevada  
Court System, be issued a commission as a senior justice or senior  
judge of the Nevada Court System and be compensated for serving  
as a senior justice or senior judge of the Nevada Court System.*

2. A retired justice or judge who accepts ~~[employment]~~  
*reemployment* as a justice of the Supreme Court or district judge ~~[in~~  
~~any judicial capacity, including, without limitation, employment as a~~  
~~senior justice or senior judge of the Nevada Court System, may~~  
~~enroll]~~ *may reenroll* in the Judicial Retirement Plan as of the  
effective date of that ~~[employment.]~~ *reemployment*. As of the  
*effective* date of ~~[enrollment:]~~

~~—(a) He]~~ *reemployment:*

*(a) Except as otherwise provided in paragraph (b), he* forfeits  
all retirement allowances for the duration of that employment; and



(b) *If he accepts reemployment as a senior justice or senior judge of the Nevada Court System, he does not forfeit any retirement allowances for the duration of that employment.*

3. Except as otherwise required as a result of NRS 1A.400 or 1A.410, if the duration of the employment *of a retired justice or judge who reenrolls in the Judicial Retirement Plan pursuant to subsection 2* is at least 6 months, he gains additional service credit for that employment and is entitled to have a separate service retirement allowance calculated based on his compensation and service, effective upon the termination of that employment. If the duration of the employment is:

~~[(1)]~~ (a) Less than 5 years, the additional allowance must be added to his original allowance and must be under the same option and designated the same beneficiary as the original allowance; or

~~[(2)]~~ (b) Five years or more, the additional allowance may be under any option and designate any beneficiary in accordance with NRS 1A.430.

~~[(2)]~~ 4. The original service retirement allowance of such a retired justice or judge must not be recalculated based upon the additional service, ~~[recredit,]~~ nor is he entitled to any of the rights of membership that were not in effect at the time of his original retirement. The accrual of service credit pursuant to this section is subject to the limits imposed by:

(a) NRS 1A.440; and

(b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415.

~~[(3)]~~ 5. Except as otherwise required as a result of NRS 1A.400 or 1A.410, *upon serving as senior justice or senior judge for a number of working days that is equivalent to 1 year of service, as determined by the Board, such* a retired justice or judge ~~[who has been receiving a retirement allowance pursuant to the Judicial Retirement Plan and who is reemployed and is enrolled in the Plan for at least 5 years may have his additional credit for service added to his previous credit for service. This additional credit for service must not apply to more than one period of employment after the original retirement.~~

~~—4. The survivor of a deceased member of the Judicial Retirement Plan who had previously retired and was reemployed and enrolled in the Plan, who qualifies for benefits pursuant to NRS 1A.340 and 1A.530 to 1A.670, inclusive, is eligible for the benefits based on the service accrued through the second period of employment.]~~ *earns an additional year of service credit.*

Sec. 4. NRS 1A.460 is hereby amended to read as follows:

1A.460 1. If a member of the Judicial Retirement Plan enters retirement status under one of the optional plans described in NRS 1A.450 and the designated beneficiary predeceases the retired



1 justice or judge, the monthly retirement allowance must be  
2 automatically adjusted to the unmodified retirement allowance  
3 provided in NRS 1A.440.

4 2. A retired justice or judge may not change the selected option  
5 or designated beneficiary after the effective date of retirement  
6 except as otherwise provided in subsection 3 . ~~[of this section and~~  
7 ~~subsection 3 of NRS 1A.370.]~~

8 3. A retired justice or judge may cancel his selected option and  
9 designation of beneficiary and revert to the unmodified retirement  
10 allowance. He shall make this election by written designation,  
11 acknowledged and filed with the Board. The written election must  
12 be accompanied by a written, notarized acknowledgment of the  
13 change by the beneficiary if the beneficiary is the spouse of the  
14 retired justice or judge. The election to cancel a selected option and  
15 revert to the unmodified allowance does not abrogate any obligation  
16 of the retired justice or judge respecting community property.

17 4. The termination or adjustment of a monthly retirement  
18 allowance resulting from the death of a justice or judge or  
19 beneficiary must not become effective until the first day of the  
20 month immediately following the death of the retired justice or  
21 judge or beneficiary.

22 **Sec. 5.** NRS 19.0335 is hereby amended to read as follows:

23 19.0335 1. Except as otherwise provided in NRS 19.034, on  
24 the commencement of any civil action in the district court for which  
25 a filing fee is required, the clerk of court shall collect, in addition to  
26 any other fee required by law, the following fees in any action that  
27 involves more than one plaintiff and one defendant:

28 (a) A fee of \$30 for each additional plaintiff named in a  
29 complaint when the complaint is filed.

30 (b) A fee of \$30 for each additional defendant named in an  
31 answer when the answer is filed, or a fee of \$30 for each additional  
32 party appearing in the action when the additional party appears in  
33 the action.

34 (c) If a complaint is amended to name an additional plaintiff, a  
35 fee of \$30 for each additional plaintiff named when the complaint is  
36 amended.

37 2. On or before the first Monday of each month, the clerk of  
38 court shall pay over to the county treasurer the amount of all fees  
39 collected by him pursuant to subsection 1. The county treasurer shall  
40 distribute, on or before the 15th day of that month, the money  
41 received in the following amounts for each fee received:

42 (a) Eight dollars for credit to a special account in the county  
43 general fund for the use of the district court for advanced and  
44 improved technological purposes. The special account is restricted  
45 to the use specified, the money in the special account must not be



1 used to supplant existing budgets for maintenance and support of  
2 technology, and the balance in the special account must be carried  
3 forward at the end of each fiscal year.

4 (b) Seven dollars for credit to a special account in the county  
5 general fund in each county in which legal services are provided  
6 without charge to indigent or elderly persons through a program for  
7 legal aid organized under the auspices of the State Bar of Nevada, a  
8 county or local bar association, a county or municipal program for  
9 legal services or other program funded by this State or the United  
10 States to provide legal assistance. The county treasurer shall remit  
11 quarterly to the organization operating the program for legal  
12 services all the money received by him from the clerk of court. The  
13 organization operating the program for legal services shall use any  
14 money received pursuant to this paragraph as follows:

15 (1) Five dollars for the benefit of indigent persons in the  
16 county; and

17 (2) Two dollars for the benefit of elderly persons in the  
18 county.

19 (c) Ten dollars to the State Controller for credit to a special  
20 account in the State General Fund. The State Controller shall  
21 distribute the money received to the Office of Court Administrator  
22 for use in support and maintenance of case management systems  
23 approved by the Office of Court Administrator, for statewide  
24 technological purposes and for distribution to the courts for  
25 technological purposes. The special account is restricted to the use  
26 specified, and the balance in the special account must be carried  
27 forward at the end of each fiscal year.

28 (d) Five dollars to the State Controller for credit to ~~the~~ *the*  
29 special account ~~in the State General Fund. The State Controller~~  
30 ~~shall distribute the money received to the Office of Court~~  
31 ~~Administrator for the payment for the services of retired justices and~~  
32 ~~retired district judges. The special account is restricted to the use~~  
33 ~~specified, and the balance in the special account must be carried~~  
34 ~~forward at the end of each fiscal year.~~ *established pursuant to NRS*  
35 *176.0613 to assist with funding and establishing specialty court*  
36 *programs.*

37 3. As used in this section:

38 (a) "Office of Court Administrator" means the Office of Court  
39 Administrator created pursuant to NRS 1.320.

40 (b) "Technological purposes" means the acquisition or  
41 improvement of technology, including, without limitation, acquiring  
42 or improving technology for converting and archiving records,  
43 purchasing hardware and software, maintaining the technology,  
44 training employees in the operation of the technology and  
45 contracting for professional services relating to the technology.



**Sec. 6.** NRS 176.059 is hereby amended to read as follows:

176.059 1. Except as otherwise provided in subsection 2, when a defendant pleads guilty or is found guilty of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Fine	Assessment
\$5 to \$49.....	\$25
50 to 59.....	40
60 to 69.....	45
70 to 79.....	50
80 to 89.....	55
90 to 99.....	60
100 to 199.....	70
200 to 299.....	80
300 to 399.....	90
400 to 499.....	100
500 to 1,000.....	115

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.

2. The provisions of subsection 1 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

3. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a



1 refund of the fine or administrative assessment he has paid and the  
2 justice or judge shall not recalculate the administrative assessment.

3 4. If the justice or judge permits the fine and administrative  
4 assessment to be paid in installments, the payments must be first  
5 applied to the unpaid balance of the administrative assessment. The  
6 city treasurer shall distribute partially collected administrative  
7 assessments in accordance with the requirements of subsection 5.  
8 The county treasurer shall distribute partially collected  
9 administrative assessments in accordance with the requirements of  
10 subsection 6.

11 5. The money collected for administrative assessments in  
12 municipal court must be paid by the clerk of the court to the city  
13 treasurer on or before the fifth day of each month for the preceding  
14 month. The city treasurer shall distribute, on or before the 15th day  
15 of that month, the money received in the following amounts for each  
16 assessment received:

17 (a) Two dollars to the county treasurer for credit to a special  
18 account in the county general fund for the use of the county's  
19 juvenile court or for services to juvenile offenders. Any money  
20 remaining in the special account after 2 fiscal years must be  
21 deposited in the county general fund if it has not been committed for  
22 expenditure. The county treasurer shall provide, upon request by a  
23 juvenile court, monthly reports of the revenue credited to and  
24 expenditures made from the special account.

25 (b) Seven dollars for credit to a special revenue fund for the use  
26 of the municipal courts. Any money remaining in the special  
27 revenue fund after 2 fiscal years must be deposited in the municipal  
28 general fund if it has not been committed for expenditure. The city  
29 treasurer shall provide, upon request by a municipal court, monthly  
30 reports of the revenue credited to and expenditures made from the  
31 special revenue fund.

32 (c) The remainder of each assessment to the State Controller for  
33 credit to a special account in the State General Fund.

34 6. The money collected for administrative assessments in  
35 justices' courts must be paid by the clerk of the court to the county  
36 treasurer on or before the fifth day of each month for the preceding  
37 month. The county treasurer shall distribute, on or before the 15th  
38 day of that month, the money received in the following amounts for  
39 each assessment received:

40 (a) Two dollars for credit to a special account in the county  
41 general fund for the use of the county's juvenile court or for services  
42 to juvenile offenders. Any money remaining in the special account  
43 after 2 fiscal years must be deposited in the county general fund if it  
44 has not been committed for expenditure. The county treasurer shall



1 provide, upon request by a juvenile court, monthly reports of the  
2 revenue credited to and expenditures made from the special account.

3 (b) Seven dollars for credit to a special revenue fund for the use  
4 of the justices' courts. Any money remaining in the special revenue  
5 fund after 2 fiscal years must be deposited in the county general  
6 fund if it has not been committed for expenditure. The county  
7 treasurer shall provide, upon request by a justice's court, monthly  
8 reports of the revenue credited to and expenditures made from the  
9 special revenue fund.

10 (c) The remainder of each assessment to the State Controller for  
11 credit to a special account in the State General Fund.

12 7. The money apportioned to a juvenile court, a justice's court  
13 or a municipal court pursuant to this section must be used, in  
14 addition to providing services to juvenile offenders in the juvenile  
15 court, to improve the operations of the court, or to acquire  
16 appropriate advanced technology or the use of such technology, or  
17 both. Money used to improve the operations of the court may  
18 include expenditures for:

19 (a) Training and education of personnel;

20 (b) Acquisition of capital goods;

21 (c) Management and operational studies; or

22 (d) Audits.

23 8. Of the total amount deposited in the State General Fund  
24 pursuant to subsections 5 and 6, the State Controller shall distribute  
25 the money received to the following public agencies in the  
26 following manner:

27 (a) Not less than 51 percent to the Office of Court Administrator  
28 for allocation as follows:

29 (1) Eighteen and one-half percent of the amount distributed  
30 to the Office of Court Administrator for the administration of the  
31 courts.

32 (2) Nine percent of the amount distributed to the Office of  
33 Court Administrator for the development of a uniform system for  
34 judicial records.

35 (3) Nine percent of the amount distributed to the Office of  
36 Court Administrator for continuing judicial education.

37 (4) Sixty percent of the amount distributed to the Office of  
38 Court Administrator for the Supreme Court.

39 (5) Three and one-half percent of the amount distributed to  
40 the Office of Court Administrator ~~for the payment for the services~~  
41 ~~of retired justices and retired district judges.]~~ *to assist with funding*  
42 *and establishing specialty court programs.*

43 (b) Not more than 49 percent must be used to the extent of  
44 legislative authorization for the support of:





1 (1) The Central Repository for Nevada Records of Criminal  
2 History;

3 (2) The Peace Officers' Standards and Training Commission;

4 (3) The operation by the Nevada Highway Patrol of a  
5 computerized switching system for information related to law  
6 enforcement;

7 (4) The Fund for the Compensation of Victims of Crime; and

8 (5) The Advisory Council for Prosecuting Attorneys.

9 9. As used in this section:

10 (a) "Juvenile court" has the meaning ascribed to it in  
11 NRS 62A.180.

12 (b) "Office of Court Administrator" means the Office of Court  
13 Administrator created pursuant to NRS 1.320.

14 (c) *"Specialty court program" has the meaning ascribed to it*  
15 *in NRS 176.0613.*

16 **Sec. 7.** 1. There is hereby appropriated from the State  
17 General Fund to the Office of Court Administrator the sum of  
18 \$3,000,000 for the salaries of senior justices and judges of the  
19 Nevada Court System for serving in the Second and Eighth Judicial  
20 Districts and for serving in response to emergency requests for  
21 assistance in all other judicial districts.

22 2. Any remaining balance of the appropriation made by  
23 subsection 1 must not be committed for expenditure after June 30,  
24 2007, and must be reverted to the State General Fund on or before  
25 September 21, 2007.







