

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

**Seventy-Seventh Session
March 13, 2013**

A joint meeting of the Assembly Committee on Ways and Means' Subcommittee on General Government and the Senate Committee on Finance's Subcommittee on General Government was called to order by Chair Lucy Flores at 8:03 a.m. on Wednesday, March 13, 2013, in Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblywoman Lucy Flores, Chair
Assemblyman Paul Aizley, Vice Chair
Assemblyman Andy Eisen
Assemblyman Cresent Hardy
Assemblyman Joseph M. Hogan

SENATE COMMITTEE MEMBERS PRESENT:

Senator Joyce Woodhouse, Chair
Senator Moises (Mo) Denis
Senator Michael Roberson

COMMITTEE MEMBERS EXCUSED:

Assemblyman Paul Anderson



STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Kristen Kolbe, Program Analyst
Carol Thomsen, Committee Secretary
Cynthia Wyett, Committee Assistant

Chair Flores opened the hearing regarding the budgets of the Supreme Court and invited representatives to come forward and address the Subcommittees.

The Honorable Kristina Pickering, Chief Justice, Supreme Court, introduced herself; Robin L. Sweet, State Court Administrator and Director of the Administrative Office of the Courts (AOC); Deanna Bjork, Manager of Budgets, AOC; and the Honorable James W. Hardesty, Associate Justice, Supreme Court, to the Subcommittees.

Chief Justice Pickering indicated that also present at the hearing were representatives from the Supreme Court's information technology section, security section, and the Foreclosure Mediation Program, who would provide additional information to the Subcommittees upon request. Chief Justice Pickering reported that Ms. Bjork would commence with the presentation regarding the Supreme Court.

Ms. Bjork referred to [Exhibit C](#), "Judicial Branch Budget Hearing," which was available to the public and members of the Subcommittees via the Nevada Electronic Legislative Information System (NELIS).

Ms. Bjork stated that before discussing the actual budget accounts, she would like to review the projections for the Supreme Court's major funding source, which was administrative assessment revenue. Ms. Bjork explained that administrative assessment revenue funded four of the five budget accounts that would be heard by the Subcommittees today. She referred to page 4 of the exhibit, which contained a chart that depicted the historical administrative assessment revenue amounts and the amounts projected for the upcoming biennium. According to Ms. Bjork, there was a total of \$58,399,842 budgeted for administrative assessment revenue over the upcoming biennium, and that revenue source was shared with the General Fund. Ms. Bjork noted that the Judicial Branch received 51 percent of administrative assessment revenue and the Executive Branch received 49 percent.

Ms. Bjork referred to pages 2, 3, and 4 of [Exhibit C](#), which depicted administrative assessment revenue. Page 2 described the mandates of *Nevada Revised Statutes* (NRS) 176.059. When the administrative assessment was collected on a misdemeanor fine, \$2 was allocated to the county treasurer for juvenile court; \$7 was allocated for use by the municipal/justice court; and \$5 was allocated to the State General Fund. Ms. Bjork said of the remaining amount collected for a misdemeanor fine, not less than 51 percent was allocated to the Judicial Branch and not more than 49 percent was allocated to the Executive Branch.

Ms. Bjork stated that page 2 of the exhibit indicated how those amounts were represented in The Executive Budget for the upcoming biennium. The 51 percent of assessment revenue allocated to the Judicial Branch would be split between six programs as follows:

1. The Administrative Office of the Courts, 25.39 percent in fiscal year (FY) 2014 and 25.12 percent in FY 2015.
2. The Uniform System of Judicial Records, 4.63 percent in FY 2014 and 4.90 percent in FY 2015.
3. Judicial Education, 6.48 percent in each year of the biennium.
4. Supreme Court, 48 percent in each year of the biennium.
5. Specialty Court, 12 percent in each year of the biennium.
6. Senior Justice and Senior Judge Program, 3.5 percent in each year of the biennium.

Ms. Bjork indicated that the shares for each program were specified in NRS. She reiterated that administrative assessment revenue was a major funding source for Judicial Branch budget accounts and funded four of the five budget accounts that would be reviewed by the Subcommittees today.

Ms. Bjork stated that page 3 of [Exhibit C](#) depicted the administrative assessment revenue projections for the upcoming biennium. In fiscal year (FY) 2011 and FY 2012 the number of assessments had grown; however, the amounts per assessment had declined. There was no correlation between general administrative assessments and specialty court administrative assessments. Ms. Bjork said page 3 of the exhibit depicted the numbers for specialty court assessments, which was in addition to the general administrative assessment.

Continuing her presentation, Ms. Bjork referred to page 4 of the exhibit, which depicted the historical amounts of general administrative assessment revenue received. In FY 2009, the Judicial Branch received \$29,464,703 in administrative assessment revenue; she noted that the General Fund share of \$5 had not existed prior to 2010, and the revenue had been split between the Judicial Branch and the Executive Branch. Ms. Bjork explained that the 2010 Special Session had passed Assembly Bill No. 6 of the 26th Special Session (2010), which mandated that a \$5 administrative assessment for each misdemeanor fine would be placed in the General Fund. That legislation had a significant effect on Judicial Branch budgets, and that mandate drove the current projections for the upcoming biennium.

Ms. Bjork stated that in FY 2011, the share for the Judicial Branch and the Executive Branch began to decline, as depicted on page 4 of the exhibit. The shares continued to decline in FY 2012 and were projected to continue that decline until FY 2015 when a 1.34 percent increase was projected. Ms. Bjork explained that projected budget calculations were also influenced by the reports from the Economic Forum. She indicated that NRS 353.246 required that the budget requests from the Judicial Branch include the projections from the Economic Forum, which had continued the \$5 assessment for the General Fund prior to splitting the remainder of the revenue between the Judicial Branch and the Executive Branch.

Chair Flores said it appeared that the caseload for the Supreme Court had increased while the administrative assessment revenue was declining, and she asked whether that was because of the \$5 assessment for the General Fund. She wondered what had contributed to the decline in assessment revenue.

Ms. Bjork explained that the caseload was tied to the budget for the Supreme Court. That budget was funded in part by General Fund dollars and in part by administrative assessment revenue, and when assessment revenue was projected to decline, the filler for the Supreme Court's budget was the General Fund. That appropriation had increased because of the decline in administrative assessment revenue.

The Honorable James W. Hardesty, Associate Justice, Supreme Court, stated he would like to augment Ms. Bjork's response. He explained that the caseload for the Supreme Court had no bearing on the decline in administrative assessment revenue. The caseloads in the traffic divisions of the statewide limited jurisdiction courts were increasing, but the economy was reflecting an

inability to collect the administrative assessments. Justice Hardesty said the problem facing the Supreme Court and limited jurisdiction judges across the state, was the reduced ability to collect the fees, which directly affected the Supreme Court. Justice Hardesty opined that the increase of \$5 in the administrative assessment fee had made matters worse. He commented that the thought had been to simply add another \$5 administrative assessment, but that had reduced the capability of the courts to collect those fees.

Secondly, said Justice Hardesty, the Legislature had placed a priority on the \$5 fee, which also affected the budget for the Supreme Court. He pointed out that the General Fund had not received the revenue prior to the 2010 Special Session, and enactment of the fee had affected the Supreme Court's primary budget source. The point the Supreme Court had made in its initial budget overview for the Legislative Commission's Budget Subcommittee in January 2013, and the point Justice Hardesty was making today, was that if that practice continued the budget capability of the Supreme Court and its revenue source would be harmed at a time when the Court's caseload was "going through the roof."

Chair Flores asked whether any type of program had been initiated for individuals to pay fines, such as quashing warrants or other incentives to help increase revenue.

Justice Hardesty stated that the limited courts throughout the state had conducted various amnesty programs, but because of the economy many individuals who were facing administrative assessments and fines requested to convert those fines to jail time or community service. That obviously had an effect on the Supreme Court's revenue source. Justice Hardesty said there had been many discussions over the years about what was occurring with administrative assessment fees, some of which were higher than the fines themselves. The limited courts had the discretion to respond to the inability of a defendant to pay a fine by either placing the defendant in jail or requiring community service. Justice Hardesty said those choices often filled up the jails at the county level.

Chair Flores thanked Justice Hardesty for his comments and asked Ms. Bjork to continue her presentation.

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts (AOC), reiterated that administrative assessment revenue was projected to decline in fiscal year (FY) 2014; however, page 4 of [Exhibit C](#) depicted the revenue for the General Fund share, which was not projected to decline. The Economic Forum had projected 1.31 percent growth in General Fund revenue for each year of the upcoming biennium. Ms. Bjork said the General Fund share was consuming more revenue than was allocated to the Judicial and Executive share. The percentage of the statewide total revenue that was going to the General Fund share had grown from 7.62 percent in FY 2011 to 8.29 percent in FY 2012 and was projected to increase to 8.65 percent in FY 2013.

Chair Flores asked whether Ms. Bjork believed the revenue decline for the Supreme Court was because of the \$5 administrative assessment fee added by the 2010 Special Session.

Ms. Bjork believed the decline in revenue was a combination of the additional \$5 assessment fee and the economy. Ms. Bjork said the effect of a further decline in administrative assessment revenue would be a decline in the Supreme Court's reserve account, which would require more General Fund appropriations in the two budget accounts that were jointly funded from the General Fund and administrative assessment revenue—the Supreme Court and the Senior Judge Program.

Assemblyman Aizley asked Ms. Bjork to point out areas during her budget presentation where the creation of appellate courts would shift the burden on the Supreme Court's budgets to the appellate court budgets. In other words, said Mr. Aizley, was there a way to save money in the Supreme Court budgets to help pay for the proposed appellate court.

Ms. Bjork stated that the Supreme Court budget was the only budget that would be affected by the appellate court. She stated the Supreme Court had submitted a fiscal note with Senate Joint Resolution No. 14* of the 76th Session (2011) to describe those costs; S.J.R. 14* was resubmitted to the 2013 Legislature.

Ms. Bjork stated that the Administrative Office of the Courts (AOC) supported the Supreme Court and funded its administrative services. The AOC believed it could also provide those services to the appellate court without affecting the AOC budget or requiring additional staff; once again, she stated that it was the budget account for the Supreme Court that would be affected.

Assemblyman Aizley asked whether there would be a reduction in the Supreme Court budget with the creation of the appellate court. Ms. Bjork replied there would be no decline in the Supreme Court's budget.

Assemblyman Aizley asked, if there was an appellate court in existence today, whether some expenses for the Supreme Court could be reduced. Ms. Bjork said the answer was no, she did not believe there would be a reduction in expenses.

The Honorable Kristina Pickering, Chief Justice, Supreme Court, stated that the appellate court model used existing staff in the AOC and existing facilities at the Regional Justice Center in Las Vegas. The fiscal note that accompanied S.J.R. 14* indicated that the earliest date the appellate court could come online would be January 2015 because, after passage of the legislation, a vote of the people would be required. Once that had been accomplished, the judges would be selected and the court would be established at the earliest in January 2015. Chief Justice Pickering said the appellate court model included three new judges and accompanying staff. The personnel costs associated with that court would be approximately \$1.6 million, but because that court would not come online until the end of fiscal year (FY) 2015, the amount for the upcoming biennium would be relatively nominal.

Chief Justice Pickering said the Supreme Court had submitted legislation in response to a suggestion by the Senate Committee on Finance that would allow the Supreme Court to retain its reversions going forward rather remitting them to the General Fund at the end of each fiscal year. She believed that for FY 2015 the appellate court expense, which was contingent on passage of S.J.R. 14* by the Legislature and approval by the voters, could be satisfied from retention of the reversions. The Supreme Court would attempt to save for that eventuality rather than submit a direct budget cost for the appellate court.

Assemblyman Aizley asked whether creation of the appellate court would cause a reduction in the caseload for the Supreme Court.

Chief Justice Pickering replied that there would be a reduction in caseload because approximately 800 of the current 2,500 cases per year would be transferred to the appellate court. However, the appellate court would use existing staff of the AOC to help process those cases; therefore, there would not be a direct reduction, but rather an improved production by the justices on the Supreme Court. The primary cost would be for the additional judges and accompanying staff without a correlative reduction because the same AOC staff and the same central legal staff would also service the appellate court.

Chair Flores wondered whether there had been a decrease, increase, or no change in the number of traffic citations being issued. She also wondered whether it was simply the inability to collect on those citations that was causing the decrease in administrative assessment revenue.

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts (AOC), stated she did not have information about the contents of the annual report concerning disposition of traffic citations. However, she did have access to information from the Las Vegas Metropolitan Police Department, which indicated that citations had increased by 6 percent as of February 2013. The number of citations appeared to be increasing, but the amounts collected were decreasing.

Chair Flores asked Ms. Bjork to continue her presentation.

Ms. Bjork referred to page 5 of [Exhibit C](#), which depicted a chart of administrative assessment revenue that showed the actual amounts received, the actual trend, and the projected amounts. The chart indicated that the revenue trend was down, which was consistent with the Supreme Court's projections for the upcoming biennium.

Ms. Bjork stated that if there were no further questions from the Subcommittees regarding administrative assessment revenue, she would commence with the budget presentation for budget account (BA) 1494.

With no further questions or comments forthcoming regarding administrative assessment revenue, Chair Flores instructed Ms. Bjork to commence her budget presentation.

LEGISLATIVE - JUDICIAL
JUDICIAL BRANCH
SUPREME COURT (101-1494)
BUDGET PAGE JUDICIAL-13

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts (AOC), referred to page 6 of [Exhibit C](#) and stated that budget account (BA) 1494 funded the direct expenditures of the Supreme Court, with the exception of education and justice salaries. The Supreme Court's budget funded the cost of seven chambers, central legal staff, and the civil settlement program. Ms. Bjork said the budget request for fiscal year (FY) 2014 was \$11,411,285 and for FY 2015 the request was \$11,649,092. She explained that 43 percent of the budget was funded from a General Fund appropriation, and the remainder was funded from administrative assessment revenue. According to Ms. Bjork, the base budget contained 84 positions and the Supreme Court had two locations: (1) the Supreme Court building in Carson City; and (2) the Regional Justice Center in Las Vegas.

Ms. Bjork indicated there were some changes in the base budget that would affect the General Fund appropriation. With the decline in administrative assessment revenue, the budget required additional General Fund appropriations, and page 7 of the exhibit indicated some of the changes that had occurred during the biennium. Ms. Bjork reported that the Supreme Court shifted some administrative costs to the budget account for the AOC, and in so doing, added positions as depicted on page 7.

Ms. Bjork said the budget included some enhancement (E) and maintenance (M) decision units. Page 8 of the exhibit depicted decision unit M-200, which would add two civil attorney positions to the budget to address delays in time to disposition for civil cases. The decision unit requested a General Fund appropriation of \$252,893 in FY 2014 and \$250,482 in FY 2015, and would increase the number of civil attorney positions from 9 to 11. Those attorneys would be housed at the Regional Justice Center in Las Vegas. Ms. Bjork indicated there were currently no attorneys at that facility.

Chair Flores asked what had occurred since FY 2009 that resulted in an increased number of civil appeals filed; in FY 2009, there apparently were 780 appeals filed and in FY 2012 there were 969 appeals filed, which represented a 24.2 percent increase.

The Honorable James W. Hardesty, Associate Justice, Supreme Court, said the increase was a direct reflection of the addition of district court judges. He indicated that the 2009 Legislature had approved Assembly Bill No. 64 of the 75th Session and Assembly Bill No. 65 of the 75th Session, and the Supreme Court was grateful for passage of that legislation. Justice Hardesty indicated that in 2009 the Supreme Court had presented a business plan to the Legislature that increased civil filing fees. He noted that civil filing fees had not been examined in Nevada in approximately 23 years, and Nevada had not been competitive with surrounding states. The Supreme Court raised the civil filing fees with the approval of the 2009 Legislature and dedicated those fees to pay the costs associated with the new judges and the additional courtrooms approved by passage of A.B. No. 64 and A.B. No. 65.

Justice Hardesty said he was pleased to report to the Subcommittees that the plan had been very successful. Eight new courtrooms had been constructed in Clark County and paid for entirely with the additional civil filing fees with no cost to taxpayers. The same was true in Washoe County where a new courtroom was constructed, which was a direct result of passage of the aforementioned legislation. However, as pointed out, in 2009 when the number of district court judges increased that also increased the caseload of the Supreme Court, and that was the reason for the increase in the number of civil appeals filed. Justice Hardesty said it was a fact that Nevada had one of the highest caseloads at the state trial court level, and that had now percolated up to the court of appeals [the State Supreme Court].

Chair Flores asked about the average age of the appeals; she wondered about the backlog of civil appeals.

Justice Hardesty said what was of concern to the justices, and what was reflected in decision unit M-200, which requested two additional civil attorney positions, was the increase in the time to disposition of civil cases. Because of that concern, the time to disposition was monitored on a monthly basis.

Justice Hardesty noted that there was another problem facing the Supreme Court, and that was the loss of the Court's central staff because of the unclassified pay bill. That pay bill was harming the Supreme Court's ability to do its job. Justice Hardesty explained that the Supreme Court was losing attorneys to other branches of state government, which was the only way those attorneys could realize a pay increase. Therefore, attorneys who had been trained and developed, and who provided the backbone for the preparation

of the Supreme Court's caseload, were being lost to other agencies, and the Supreme Court had to hire and train new staff. Justice Hardesty noted that there was significant turnover in attorneys and information technology staff at the Supreme Court.

Chair Flores said the Subcommittees were unaware of that turnover, but Fiscal Analysis Division staff would research that information. She asked whether the two civil attorneys would be unclassified or nonclassified positions. Justice Hardesty replied that attorneys were hired by the Supreme Court under the unclassified pay bill.

Assemblyman Eisen asked about the potential for additional costs associated with the two positions, and he wondered whether there was space available for those positions in the Regional Justice Center.

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts (AOC), said decision unit M-200 would address position-related costs and start-up costs for items such as publications was also included. The Regional Justice Center had the room to accommodate the two positions, and there would be no additional costs for rent or other support.

Assemblyman Eisen asked about the costs paid to the Regional Justice Center. Ms. Bjork said the Supreme Court paid approximately \$36,000 per month for rent at the Center and also paid a minimal cost for janitorial services and parking. The Supreme Court paid 3 percent of the building operation costs per year. She stated she would be happy to provide the Subcommittees with the line-item details regarding the costs.

Chair Flores asked about the backlog of cases and the delay in case-processing for civil appeals.

The Honorable Kristina Pickering, Chief Justice, Supreme Court, stated that there was an ever-increasing number of Supreme Court cases being filed. In 2012, the number of cases topped out at 2,500, and she pointed out that there was a finite capacity to process cases. Chief Justice Pickering said there were seven Supreme Court justices and the best estimate, including all measures that had been put into place such as the mandatory civil settlement program and reliance on central legal staff to help process cases, was that the Supreme Court could process 2,270 cases per year. That explained the backlog

in cases; there was a point at which a human being could not produce any more and do justice to individual cases.

Chief Justice Pickering stated when the number of cases processed reach 2,270, the number of filings that exceeded that number would increase the backlog. She noted that there were now 82 district court judges, and upon appeal, the Supreme Court conducted a mandatory review of the final judgments from those 82 courts. The Supreme Court could not change that statistic: the justices had to review each appealed case whether it was a case involving a driver's license revocation or whether it was a death penalty case. Chief Justice Pickering noted that some cases took more time to review, but the Supreme Court was at the maximum level of performance in processing appeals, even with the addition of two new staff attorney positions.

Chair Flores said it appeared that the two new attorney positions would not help to decrease the backlog of cases. Chief Justice Pickering replied that the 2,270 dispositions that the Supreme Court believed it was capable of processing included the two new attorney positions.

Justice Hardesty commented that by the end of fiscal year (FY) 2015, the Supreme Court's backlog would increase from approximately 1,900 cases to approximately 3,380 cases. He opined that the backlog was a potential crisis about to happen.

Ms. Bjork commented that eight staff attorneys had left the Supreme Court in the last two years, and another nine professionals had also left the Supreme Court and the Administrative Office of the Courts (AOC).

Chair Flores asked Ms. Bjork to discuss the declining administrative court assessments and the effect that decline would have on the operating budget for the Judicial Branch; she also wondered about the effect the loss of staff would have on the Supreme Court.

Ms. Bjork stated that she could answer Chair Flores' inquiry from the budget perspective. Because of the staff turnover, vacant position savings had been reverted to the General Fund in fiscal year (FY) 2012. She commented that FY 2012 was a "balancing act" because administrative assessment revenue had declined and position turnovers had occurred, which allowed the Supreme Court to revert approximately \$400,000 to the General Fund in FY 2012.

Ms. Bjork said the same scenario was occurring in FY 2013, and as of today, the administrative assessment revenue projections showed a 5.2 percent decline. Historically the amount of administrative assessment revenue received during the last six months of the fiscal year usually exceeded the amount received during the first six months. Ms. Bjork believed that the Supreme Court's projection for a 3.2 percent decline in FY 2013 was more realistic. She stated that if the fiscal year ended today, and the projected 5.2 percent decline had actually been realized, there would be no funds to revert to the General Fund, and the Supreme Court would be required to approach the Interim Finance Committee to seek contingency funding.

Ms. Bjork said the Supreme Court was monitoring costs very closely across all budget accounts because of the decline in administrative assessment revenue. The figures changed on a monthly basis as depicted on page 5 of [Exhibit C](#), which graphed the revenues received by month through January 2013 and their month-to-month fluctuations.

Ms. Bjork said it was very difficult to track administrative assessment revenue because there were so many factors that contributed to the amount received by the Supreme Court. When she projected amounts going forward, those projections were based on historical trends. Currently, the AOC was unable to fill some positions, and there had been a vacant position in budget account (BA) 1486, Uniform System of Judicial Records, for quite some time. However, said Ms. Bjork, the Supreme Court was fully staffed in its attorney positions as of the current week because the Court had recruited and filled those positions.

Continuing her budget presentation, Ms. Bjork referred to page 9 of [Exhibit C](#) that depicted decision unit Enhancement (E) 350, which would add 2.5 security positions to address existing security concerns and risks at the Supreme Court building and the AOC annex in Carson City. The Supreme Court building was 117,000 square feet with public access on two floors. Ms. Bjork said decision unit E-350 would offset the need for security coverage by the Capitol Police, currently supervised by the Buildings and Grounds Section, State Public Works Division, Department of Administration. Ms. Bjork explained that the existing coverage was inadequate to protect the buildings, the employees, and the public. She stated that the request would require a General Fund appropriation of \$217,268 in FY 2014 and \$213,971 in FY 2015.

Chair Flores asked what was driving the need for the Supreme Court to establish its own dedicated security force. It was her understanding that several sources provided security for the Supreme Court.

The Honorable James W. Hardesty, Associate Justice, Supreme Court, said he had been dealing with the problem of security since approximately 2008, and the Court had been dealing with the problem for a much longer time. He opined that it would be best if he described the "actual" security situation at the Supreme Court rather than the "claims" about the security situation.

Justice Hardesty said the reality was that Capitol Police provided the security for the Supreme Court. He indicated that his comments were not intended to be disrespectful of the officers who came to the Supreme Court building, sat in a room, and watched the video surveillance screens. That was the total security provided to the Supreme Court building. Since at least 2009, the request for additional security had been made repeatedly before the Legislature because the security provided to the Supreme Court was inadequate and inefficient.

Chair Flores asked Justice Hardesty to provide examples of what changes should be made.

Justice Hardesty said that in 2009 the Capitol Police, without informing the justices, reduced the number of officers at the Supreme Court building in response to budget cuts. One Capitol Police officer manned one shift of approximately seven hours, with another officer manning an overlapping shift of approximately seven hours to monitor the video surveillance screens on the second floor of the building. Justice Hardesty stated that the primary public access to the Supreme Court building was on the first floor where the law library was located.

In 2009, when Justice Hardesty was Chief Justice, he was forced to close the public accesses to the building because of the lack of security and the inability to have Capitol Police present on the first floor to provide security for the law librarians. Justice Hardesty noted that some persons who entered the law library presented security threats either to personnel or the building. He stated that he would not reveal some of the facts and subject matter regarding past security problems because he did not want to expose the building to additional security problems. Justice Hardesty emphasized that security problems existed and those problems had been reported to the Legislature.

Chair Flores asked whether exposure to additional security problems was the reason the Legislature had not received copies of the U.S. Department of Homeland Security's audit report conducted in November 2011, which determined the need for dedicated security for the Judicial Branch.

Justice Hardesty replied in the affirmative, noting that the report carried a confidentiality notice designated by the Department of Homeland Security that limited access of the audit report to the justices and staff of the Supreme Court.

According to Justice Hardesty, for several sessions the Supreme Court had proposed to the Legislature that it hire its own police officers who would report directly to the Court. Justice Hardesty emphasized that the Court needed at least three officers, which was the number of Capitol Police officers that were supposed to be assigned to the Court; however, that number had been decreased in 2009.

Justice Hardesty said it had been suggested that there was security coverage available from the Carson City Sheriff's Office, and he believed those officers would be dispatched to the Supreme Court if a significant event occurred. Also, Legislative Police officers could be called in response to a significant event.

Justice Hardesty invited the Subcommittees to review its published list of qualifications and duties for the Legislative Police, and review the level of security that was provided to legislators and the Legislative Building by those officers. He then invited the Subcommittees to compare that level of security to the level of security provided to the Supreme Court by the Capitol Police. He stated that the Supreme Court received less than one-third of the services from the Capitol Police that the Legislature received from its Legislative Police.

Justice Hardesty said the Supreme Court had eliminated the Capitol Police officer position at the Las Vegas Regional Justice Center in 2009 and replaced that officer with coverage by a Clark County court deputy marshal. The net effect of that decision was a savings of \$50,000, along with improved security for the Supreme Court. Justice Hardesty stated that the Court was now asking the Legislature to allow it to designate the police force that would report to the Supreme Court to manage and control the security for the Court building, its personnel, and the year-around threats that were aimed at justices and other members of the Court. He commented that the Court was in session year-around and received some interesting mail; the Court also dealt with other security problems. Justice Hardesty emphasized that the Supreme Court

wanted adequate security rather than its own police force. That could be handled by providing the Court with security staff that had the same duties and responsibilities at the Court as Legislative Police officers had at the Legislature.

The situation could be handled by eliminating the one full-time and one part-time Capitol Police officers assigned to the Supreme Court, said Justice Hardesty, which would more than offset the cost for the Court's own supervised and directed security force. The Supreme Court had requested the amount of savings prior to initiating the proposal and were provided estimates of approximately \$300,000 over the biennium in savings. Now, it appeared that there would be no savings, and Justice Hardesty questioned why there would be no savings if the Supreme Court eliminated the Capitol Police officers. He asked why the Buildings and Grounds Section had not provided information to the Legislature and the Supreme Court regarding the estimated savings associated with the reduction in Capitol Police and replacement with a dedicated police force.

Justice Hardesty stated that the Supreme Court had been suggesting use of alternative security personnel for many years, and in 2009 the Court had suggested use of security personnel from Wackenhut Services, Incorporated, as opposed to Peace Officers Standards and Training (POST) certified security personnel. Justice Hardesty said the Supreme Court had been unable to create its own security force and had put off a formal request to the Legislature for three sessions. However, said Justice Hardy, "enough is enough" because the security threats were real, and the security problems at the Supreme Court had to be addressed.

Chair Flores said the Subcommittees would like to have a clear understanding of the current security situation for the Supreme Court. She asked Justice Hardesty to provide a comprehensive overview of the current security, including personnel who traveled with the justices. Chair Flores noted that it was difficult for the Subcommittees' members to determine the different security providers for the Supreme Court. Chair Flores asked about the number of dedicated personnel in the Supreme Court building, the hours worked, and which personnel traveled with the justices. She asked what part of security was offered by the Washoe County Sheriff's Office, the Capitol Police, and the Legislative Police.

Justice Hardesty explained that the security for the Supreme Court consisted of one Capitol Police officer assigned for one shift in the video surveillance room

on the second floor of the Supreme Court building, and a second officer whose shift overlapped the first officer's shift. Those two officers provided coverage in the video surveillance room from 7:00 a.m. to 7:00 p.m.

Justice Hardesty said the Supreme Court had security at the Regional Justice Center through a contract with the Eighth Judicial District Court to provide the court deputy marshal's service, which provided security for the district court and the entire facility. That was the sum of the security for the Supreme Court; there was no security for the justices themselves. If a justice conducted an oral argument outside the building, there was no security except the chief of police who was hired by the Court in July 2012. Prior to that time, said Justice Hardesty, there was no personal security for the justices, and the recently hired chief of police was the only officer to provide security for off-campus events.

Chair Flores asked whether the chief of police accompanied justices when traveling to Las Vegas. Justice Hardesty replied that the chief of police did not accompany justices when traveling.

Chair Flores said she was under the impression that there was security for justices when traveling.

Justice Hardesty stated emphatically that there was no security for justices when traveling. He indicated that the Justices of the Supreme Court had no security whatsoever when traveling; the only personal security was in the Supreme Court building in Carson City and the Regional Justice Center in Las Vegas. That security was as previously described—two Capitol Police officers (one full-time position and one part-time position) who monitored the security video surveillance screens in the building for 12 hours a day. Justice Hardesty opined that was security for the building rather than security for the justices or the personnel. Justices were not accompanied anywhere they went such as airports or restaurants. He noted that the justices had not requested that level of security, and the current request to add 2.5 full-time-equivalent (FTE) security personnel was not intended to provide that level of security; however, it would be useful at times.

Chair Flores said she understood the degree of security provided to district court judges by the court marshal's service at the Regional Justice Center in Las Vegas because she had witnessed district court judges being escorted to their vehicles.

Justice Hardesty stated that Chief Justice Pickering sometimes left the Supreme Court at the Regional Justice Center at 1:00 a.m. and walked out the door unaccompanied by security to the parking lot across the street. That was the level of security received by the Supreme Court justices in Nevada.

Chair Flores stated that the Subcommittees understood the lack of security, and she asked what service would be provided by the additional 2.5 FTE security personnel.

Assemblyman Eisen asked whether the Supreme Court's chief of police would accompany justices when traveling to places such as Ely for hearings. He wondered whether the chief of police's absence would be offset by additional personnel at the Supreme Court building or whether it would be a reduction in security personnel at the building.

Justice Hardesty said it would be a reduction in personnel at the building, because the chief of police was the only security personnel. The Supreme Court did not expect the chief of police to work 24/7, so the point in hiring additional security personnel would be to create a staging schedule where there was coverage within the building and coverage for the justices when meeting elsewhere. Justice Hardesty said the proposal in decision unit E-350 should be fiscally neutral to the state because Capitol Police officer positions would be eliminated. He reiterated that a calculation should be provided to the Legislature to address the savings created by elimination of the Capitol Police officers at the Supreme Court building rather than indicating there would be no fiscal consequence.

The Honorable Kristina Pickering, Chief Justice, Supreme Court, pointed out that on February 25, 2009, the Capitol Police were able to testify before the Subcommittees on Public Safety/Natural Resources/Transportation about the exact amount of savings that would occur when positions were eliminated from the Capitol Police force. The savings were the same amounts that were included in decision unit E-350 that should be offset from the budget account for the Capitol Police and placed in the budget account for the Supreme Court.

The Capitol Police would not need the officers if the Supreme Court provided its own security personnel.

Chief Justice Pickering reiterated that the request was only for the Supreme Court's Carson City building and the Administrative Office of the Courts (AOC) annex; the request had absolutely nothing to do with security in Las Vegas at the Regional Justice Center or with dignitary protection. The request was to provide protection for staff who worked in the law library and in the second floor clerk's office and for persons who attended oral arguments at the Supreme Court. Chief Justice Pickering said the Court had one Capitol Police officer who was in the video room screening the surveillance cameras, and if an incident occurred elsewhere in the building, the question was who would respond to that emergency.

Chief Justice Pickering said she had listened with interest to testimony from the Capitol Police that, indeed, the Supreme Court had more persons assigned to security than just one officer. She indicated that the log book for 2012 had been reviewed in preparation for the meeting today, and it was reported that there were 68 days in 2012 when there was only one Capitol Police officer on duty in the Supreme Court building. Chief Justice Pickering said if that were the situation in the Legislative Building, legislators would view that with substantial concern. When an officer was watching monitors, there was no one to address security situations as they arose. She noted that 68 days amounted to 27 percent of the time that the Supreme Court building was covered by a single officer.

Another point, said Chief Justice Pickering, was that the Supreme Court had been told that there would be two Capitol Police officers dedicated to security at the building; however, because of the lack of funding for overtime pay, the officers assigned to the Supreme Court were often pulled to fill the gaps in other buildings. The Capitol Police looked at those two officers as a reservoir of available staff and constantly tapped that reservoir. Chief Justice Pickering said she was new to the Supreme Court, but the frustration was that there should be a better dialogue between the Court and the Legislature.

Chair Flores noted that the Supreme Court proposed to start the requested positions at an accelerated pay grade and step, and new positions were generally recommended at entry-level, step-one pay. She also asked for elaboration of the type of duties that the requested security personnel would perform.

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts (AOC), explained that the positions were budgeted at an accelerated pay scale—one as a pay grade 36, step 10, and the second as a pay grade 36, step 6. The positions had been budgeted at those levels in consultation with the chief of police for the Supreme Court. The chief of police wanted the positions to have sufficient pay to hire the most qualified individuals. Ms. Bjork said when a person was hired at step 1, they normally did not have a great deal of experience, and the chief of police wanted to hire more experienced officers.

Chair Flores asked about the dollar amounts of the starting pay for the positions.

Ms. Bjork said she did not have that line-item detail, and she would provide that information to Legislative Counsel Bureau (LCB) Fiscal Analysis Division staff. Ms. Bjork said she could provide the total salary figure that included the part-time position that would be hired at pay grade 36, step 1. The total amount would be \$202,914, including fringe benefits, for FY 2014 and \$210,959 for FY 2015. Those figures represented the salaries and fringe benefits for the requested 2.5 security personnel positions. Ms. Bjork pointed out that the chief of police position that was added by the Supreme Court in July 2012 was included in the base budget. That position had been hired in accordance with *Nevada Revised Statutes* (NRS) 2.295.

The Honorable James W. Hardesty, Associate Justice, Supreme Court, stated that the Supreme Court had two physical sites in Carson City, the Supreme Court building and a rented building for staff of the Administrative Office of the Courts (AOC). There was no security coverage for the personnel in the AOC building, and the requested positions would be deployed to provide some coverage at that site. Justice Hardesty said if an officer was monitoring the video surveillance cameras and an incident occurred, there would be another officer available to deal with that incident without abandoning the security cameras, which was what currently transpired. There would be an officer walking around and monitoring visitors to the building, and at times, the presence of a peace officer alone was a deterrent to incidents. Justice Hardesty said that would be helpful, and it would also be helpful to have an officer who could visit the AOC building and provide security at that building. Justice Hardesty said the number of officer positions requested would provide for that coverage, taking into account vacations and potential sick time or other time off.

Senator Roberson thanked Chief Justice Pickering and Justice Hardesty for their testimony. He found their testimony on the issue compelling, and he believed the Subcommittees should address the serious security needs of the Supreme Court.

Chair Flores asked whether the positions would be fully POST certified personnel; she also wondered who would oversee the duties of the positions.

Robin L. Sweet, State Court Administrator and Director of the Administrative Office of the Courts, indicated that the current chief of police was POST certified and the budget request included the qualifications necessary for POST certification for the new officers.

Assemblyman Aizley asked whether the requested positions would be in addition to the Capitol Police officers or whether the positions would replace those officers. Justice Hardesty replied that the proposal was to eliminate the Capitol Police positions, which would generate the savings, and the Supreme Court would then hire the requested 2.5 FTE positions.

Continuing her budget presentation, Ms. Bjork stated that the remaining enhancement decision units were:

- E-710: replace hardware and software, which would require a General Fund appropriation of \$30,349 in FY 2014 and \$63,433 in FY 2015.
- E-750: related to the Foreclosure Mediation Program decision unit in budget account (BA) 1492.

Ms. Bjork noted that if decision unit E-750 was approved in BA 1492, decision unit E-750 in BA 1494, Supreme Court, would also need to be approved.

With no further testimony or comments regarding BA 1494, the Chair instructed Ms. Bjork to continue with the budget presentation of BA 1483.

LEGISLATIVE - JUDICIAL

JUDICIAL BRANCH

ADMINISTRATIVE OFFICE OF THE COURTS (101-1483)

BUDGET PAGE JUDICIAL-28

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts, stated that the budget account funded the Office of the Court Administrator and the administrative support services for programs under the administration of the Supreme Court, and the Supreme Court itself.

The budget request was for \$5,433,506 in fiscal year (FY) 2014 and \$4,949,217 in FY 2015. Ms. Bjork stated that the budget account was funded from administrative assessment revenue and also received reimbursement revenue from the Foreclosure Mediation Program. The reserves in BA 1483 were projected to be \$1,457,281 in FY 2014 and \$896,980 in FY 2015, and there were 34.5 full-time-equivalent (FTE) positions in the base budget.

Ms. Bjork stated that there had been some changes to the base budget in the current biennium that differed from the legislatively approved authorization in 2011. The AOC eliminated 4.5 positions and moved 3 administrative indirect service positions from the Supreme Court's budget (BA 1494) to the AOC's budget (BA 1483). The budget account also restored the salaries, longevity, and merit salary increases for staff. Ms. Bjork indicated that BA 1483 had also added the Silvernet costs of approximately \$200,000 and fiber line costs for data of approximately \$36,000 over the biennium from the Supreme Court's budget (BA 1494).

Ms. Bjork said the AOC budget included decision unit Enhancement (E) 710 to replace hardware by decreasing reserves \$100,630 over the biennium. Decision unit E-750 related to the Foreclosure Mediation Program decision unit in budget account (BA) 1492.

Chair Flores noted that the AOC had not prepared a flat budget and would restore the salaries, longevity, and merit salary increases for staff and she asked for an explanation. She also wondered about the Judicial Branch's decision to reclassify all unclassified positions to nonclassified positions. Chair Flores noted that those significant changes were not reflected in an enhancement unit because they were included in the base budget.

Ms. Bjork explained that the budget request for the Judicial Branch was a separate budget. The request was included in The Executive Budget by the Budget Division, Department of Administration, for informational purposes. The budget for the Judicial Branch was prepared separately from the policies of the Executive Branch. Therefore, said Ms. Bjork, when the budget was being prepared the salaries were restored in the base budget. The Supreme Court justices were asked whether the Court wanted to include an enhancement decision unit in its budget to reduce salaries and the answer was no, it did not want to reduce salaries. Ms. Bjork believed that the Justice Hardesty could provide an explanation.

The Honorable James W. Hardesty, Associate Justice, Supreme Court, said that when the Supreme Court was preparing its budget, the caseload was increasing to a point that was difficult to manage, and the Court was losing key personnel. As a consequence, the Supreme Court constructed its budget retaining the existing salary, merit, and longevity payments. Justice Hardesty stated that the Supreme Court believed that was possible within the budget that had been presented to the Legislature.

The Supreme Court had also pointed out that it was losing personnel because of the unclassified pay bill, said Justice Hardesty, which might have been historically imposed upon the Court, but was inconsistent with the action of the Legislature. He noted that personnel of the Legislature were not subject to the unclassified pay bill, nor were personnel of the Office of the Governor. The Supreme Court believed it had demonstrated fiscal responsibility over its budget to the Legislature over the past several biennia by returning an average of \$2 million to the General Fund.

Justice Hardesty said the intent of the Supreme Court was to better manage the salaries of attorneys and other personnel who served the Supreme Court without being confined to an unclassified pay bill that was connected to the entirety of Executive Branch agencies, when staff of both the Legislature and the Office of the Governor were not subject to the unclassified pay bill. The flexibility of being able to adjust salaries to attract attorneys to work at the Supreme Court was critical to the performance of the Supreme Court's constitutional duties. Justice Hardesty said if the Court wanted to adjust salaries to attract persons who had several years of work experience with the United States Court of Appeals or a Harvard graduate, it would be unable to do so under the confines of the unclassified pay bill.

Justice Hardesty said another problem presented by the unclassified pay bill was that attorneys were leaving the Supreme Court to work in other positions within state government because that was the only way those attorneys could realize a pay raise. He pointed out that if an attorney would realize a pay increase by transferring to the Office of the Attorney General, why not allow the Supreme Court to increase attorney salaries, as long as the Court remained within its budgeted authority. That would allow the Supreme Court to retain the key personnel it needed to "get the job done."

Justice Hardesty said the reason the Supreme Court was proposing to reclassify all unclassified positions to nonclassified positions was to conform with the action of the other two branches of government, and to increase the ability of the Supreme Court to retain its key personnel without suffering a "brain drain" in critical areas.

Chair Flores said that positions not included in the unclassified pay bill were governed by rules and policies, and she wondered whether the Supreme Court had established rules and policies for its nonclassified staff.

Justice Hardesty replied that the Supreme Court had employment policies in place. He pointed out that Supreme Court personnel were members of the Judicial Branch, not the Executive or Legislative Branches. Therefore, those employees were governed by the Supreme Court's personnel policies and salary ranges, which would be maintained with one adjustment. He explained that in the past, the salary ranges for Supreme Court attorneys had been spread over a ten-step pay system; however, to develop some level of competition with the salaries offered by the Office of the Attorney General, the Supreme Court had simply conformed the steps in its pay system to match those of that Office.

Chair Flores asked whether the reclassification would require statutory revisions. Justice Hardesty said the only change would be to remove Supreme Court personnel from the unclassified pay bill.

Ms. Bjork commented that per *Nevada Revised Statutes* (NRS) 284.013; NRS 284.139, subsection 1, paragraph (a); and NRS 284.140, the Supreme Court was exempt from the state personnel system rules established in statute. Also, the definition of unclassified positions was specific to Executive Branch personnel. Ms. Bjork did not believe that any statutory changes would be required.

With no further testimony or comments regarding BA 1483, the Chair instructed Ms. Bjork to continue with the budget presentation of BA 1484.

LEGISLATIVE - JUDICIAL
JUDICIAL BRANCH
JUDICIAL PROGRAMS AND SERVICES DIVISION (101-1484)
BUDGET PAGE JUDICIAL-32

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts, stated that budget account (BA) 1484 funded staff that managed programs and projects to assist Nevada trial courts in providing access to justice. The budget requested \$1,142,608 in fiscal year (FY) 2014 and \$1,187,698 in FY 2015. The primary funding source was the General Fund, although the budget account received federal Court Improvement Program grant funds that funded 1.5 positions out of the 10 positions within the budget account. Some funding was also received from court interpreter fees.

Ms. Bjork stated there were some changes in the base budget during the current biennium that differed from the legislatively approved authorization in 2011. Those changes were depicted on page 15 of [Exhibit C](#). There were enhancement (E) decision units as follows:

- E-225: requested \$7,782 in General Fund appropriations over the biennium to fund staff travel to trial courts to measure access and fairness in Nevada courts, and to review compliance with the Supreme Court ruling in ADKT [Administrative Docket] No. 398.
- E-710: requested replacement of four laptops over the biennium, funded from General Fund appropriation and federal Court Improvement Program grant funds.

With no further testimony or comments regarding budget account (BA) 1484, the Chair instructed Ms. Bjork to continue with the budget presentation of BA 1486.

LEGISLATIVE - JUDICIAL
JUDICIAL BRANCH
UNIFORM SYSTEM OF JUDICIAL RECORDS (101-1486)
BUDGET PAGE JUDICIAL-36

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts, stated BA 1496 standardized, advanced, and supported technology in all 79 trial courts throughout the state. The budget request was for \$3,053,432 in fiscal year (FY) 2014 and \$2,718,187 in FY 2015. The account was primarily funded from administrative assessment revenue, but also received Nevada Court System (NCS) user fees and \$10 of the multiparty filing fee established in *Nevada Revised Statutes* (NRS) 19.0335. Ms. Bjork noted that general reserves in BA 1486 were projected to be \$760,354 in FY 2014 and \$328,808 in FY 2015. The balance of the special reserves equaled \$870,000, and there were 11 positions in the base budget.

During the current biennium, said Ms. Bjork, changes were made to the base budget that included elimination of a court systems analyst position and restoration of salaries, longevity, and merit salary increases.

Ms. Bjork noted that the budget contained decision unit Enhancement (E) 710, which would replace hardware and software and would reduce reserves by \$57,050 over the biennium.

Chair Flores asked about use of the special reserves in BA 1486 to further the migration of the current NCS case-management system to a replacement system. It appeared that the migration had been temporarily postponed and she asked about the timeline to complete the migration.

Robin L. Sweet, State Court Administrator and Director of the Administrative Office of the Courts (AOC), stated that the NCS migration was approved and the analysis work had commenced; however, owing to reductions in staff and other related resource problems, the AOC had been unable to move forward with the migration as originally planned. There was a meeting scheduled with the justices and senior Supreme Court staff in March 2013 to review the product that the AOC hoped would be approved. If that product met the needs of the Supreme Court and the justices agreed with the selection of the vendor that had been recommended by the AOC, the project would move forward with a plan for completion over the next biennium.

Senator Denis said after the project had been approved, it appeared additional requests had been received from the lower courts that required changes to the original plan.

Ms. Sweet stated that the current system would not work for all courts, and some of the courts were branching out individually because of the inability of the current system to keep up with the requests for the technology needed by the courts. The proposed system included a new platform and process that AOC believed would meet the needs of the courts. Ms. Sweet said the lower courts had been asked about their needs during assessment, and she believed that the proposed vendor could meet those needs.

Senator Denis asked whether the AOC was looking at an off-the-shelf program, or a customized program. Ms. Sweet replied that it was an off-the-shelf program that would also be customized to make the program Nevada-specific.

Senator Denis asked about the age of the current system and Ms. Sweet replied that the system had been installed in the first court in approximately 2003.

Senator Denis asked about the new platform, and Ms. Sweet replied that it was a more web-based platform.

Senator Denis asked about development by the vendor. Ms. Sweet replied that the vendor had developed the system and had demonstrated it for the AOC. The vendor had installed a similar system in another state which was working well, and the vendor would simply customize the program to meet Nevada's needs. Ms. Sweet said installation of the system was dependent upon approval of the justices and the senior Supreme Court staff; she also noted that the current data could be converted to the new system.

Senator Denis asked about the time frame for completion of the migration. Ms. Sweet said if the March 2013 meeting with the Justices and senior Court staff was successful and an agreement was reached, the AOC hoped to commence installation during the summer months of 2013 and move forward over the next two years to complete the process of data conversion, training, and bringing all courts online.

Chair Flores said it appeared the Subcommittees could assume that the \$870,000 in the special reserve account was earmarked for NCS migration. Ms. Sweet replied that was the intent of the Supreme Court, and the financial

plan had been established with the vendor pending approval of the justices and senior Court staff.

Senator Denis asked whether the system, once it was up and running, would be supported in-house or whether the vendor would provide the maintenance.

Ms. Sweet said the maintenance plan would be blended; there would be an in-house support team to respond to trial court questions or problems, and the vendor would continue to support the overall product.

With no further testimony or comments regarding budget account (BA) 1486, the Chair instructed Ms. Bjork to continue with the budget presentation of BA 1495.

LEGISLATIVE - JUDICIAL
JUDICIAL BRANCH
SPECIALTY COURT (101-1495)
BUDGET PAGE JUDICIAL-44

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts, stated that budget account (BA) 1495 funded 44 specialty court programs throughout the state, as depicted on page 23 of [Exhibit C](#). Almost all funds in the budget account were passed directly through to specialty court programs; the budget requested \$8,240,935 in fiscal year (FY) 2014 and \$7,432,420 in FY 2015. The reserves were on the decline and projected at \$2,093,716 in FY 2014 and \$1,285,201 in FY 2015. Ms. Bjork stated that the AOC incurred some expenses in administering the specialty court program, and there was one full-time-equivalent (FTE) position and budget and accounting costs that were paid from the AOC's budget.

Ms. Bjork noted that the program funding levels for BA 1495 for FY 2014 were recommended by the Specialty Court Funding Committee and approved by the Judicial Council of the State of Nevada. The budget request reflected the approved levels in FY 2014, but the Specialty Court Funding Committee had not yet approved the funding levels for FY 2015. That Committee would meet in December 2013 to review the revenue and reserve levels and the budget requests, and a recommendation would then be made for the funding levels in FY 2015. Ms. Bjork said it was likely that the amounts for FY 2015 contained in The Executive Budget for BA 1495 would be reduced by the Committee.

Chair Flores asked for additional information regarding the new cash-balance policy and how that affected the distribution of funding for the specialty court programs.

Ms. Bjork said the coordinator assigned to the program was responsible for reviewing quarterly financial reports from each specialty court program to determine whether spending was in line with the approved funding levels or whether changes and adjustments needed to be made. At the end of the fiscal year, said Ms. Bjork, if a program failed to expend the funds and a cash balance remained, the approved amounts for the subsequent fiscal year for that program would be reduced by the cash-balance amount.

Chair Flores asked for the reasoning behind that methodology. It appeared that reducing the budget going forward would not incentivize the programs to reduce costs; she wondered why there was not a carry-forward funding policy for the specialty court programs.

The Honorable Michael L. Douglas, Associate Justice, Supreme Court, said he was one of the co-chairs of the Specialty Court Funding Committee. The Committee had adopted the funding policy because of the limited amount of money available. If a program requested funds that were subsequently not expended, the Committee would reduce the annual amount authorized for the program by the amount of the cash balance. Justice Douglas said he did not believe there was any agency that would allow programs to indefinitely carry funding forward.

More importantly, said Justice Douglas, the reserves in the specialty court program were declining, and the Committee had been unable to fund new programs. The only way the budget could fund new programs, or continue funding at the same level for current programs, was to be good stewards of the available funding. Justice Douglas stated that the Committee had determined that the best methodology, and one that would not put programs at risk, was to inform programs who had cash balances to expend those funds within a three-year period. The programs that failed to expend the funds were informed that the Committee would reduce future funding for those programs by the balance carried forward.

Justice Douglas explained that not expending the funds would not incentivize a program. If a program indicated it would have 120 participants and only had 90 participants, the Committee would not penalize the program for the lesser

number of participants by taking money away. The program would still be funded at the same level, but future funding would take into consideration the unexpended funds. Justice Douglas explained that the Specialty Court Funding Committee had reviewed the funding for statewide programs to determine how the programs would be affected by that policy. He opined that it was extremely important to equalize program support throughout the state.

Chair Flores asked whether the funding for specialty court programs was based on the number of participants. Justice Douglas replied that the level of funding was determined by a combination of the number of participants and the programming expenses.

Justice Douglas said, for example, if the Committee authorized \$100 for a program and that program only spent \$80, the annual amount authorized for the next year would be reduced by \$20. The Committee was aware that a report was required by the Legislature regarding how the allocated funding had been expended, and as good stewards, the Committee could not report that one program had not spent its total authorized amount and continued to receive the full \$100 for that program.

If that was the practice, said Justice Douglas, there would be no funding available for other programs. When a program failed to use the funds, the carry-forward amount was reflected in future authorized annual funding. That allowed the Committee to maintain program funding at the existing rate and possibly fund a few one-year programs as had been done in the past in Clark County.

Chair Flores asked about how the funding distribution was determined for the specialty court programs. She noted that funding for the Veterans Treatment Court had actually been reduced by 6.5 percent over the 2013-2015 biennium.

Justice Douglas said he could not comment about the funding reduction for the Veterans Treatment Court. He noted that the Veterans Treatment Court in Washoe County was the first to receive funding, and a funding decline in that program would be because of a decline in participants. The Veterans Treatment Court in Clark County was funded by the county because the specialty court program could not provide additional funding. Justice Douglas explained that the county had reviewed existing programs funded by the specialty court program and reprioritized the funding in existing programs to include funding for the Veterans Treatment Court.

Chair Flores said it appeared that funding had decreased in northern Nevada and the rural areas. There appeared to be an overall funding decrease of 6.5 percent for the Veterans Treatment Court. In addition, there was a decrease of 43 percent in the Specialty Court Team Training program.

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts, explained that the amounts recommended for each specialty court program in The Executive Budget for the 2011 Legislature sometimes differed from the amounts that were authorized by the Supreme Court. She explained that the Judicial Branch was exempt from the State Budget Act, and therefore, the Judicial Branch modified the specialty court budgets as needed. The specialty court figures for FY 2012 indicated funding of \$72,225 for the Veterans Treatment Court in Washoe County. That court was also budgeted for \$86,289 for FY 2013, FY 2014, and FY 2015.

Ms. Bjork explained that funding for the specialty court programs was determined by the detailed budget plan submitted by each program to the specialty court. The plans were reviewed by the coordinator, who then made a recommendation to the Specialty Court Funding Committee based on available funding. Ms. Bjork noted that the decision for funding in FY 2014 was to fund the courts at the same level approved by the Committee for FY 2013.

Chair Flores asked whether the Specialty Court Funding Committee made the final determination regarding the level of funding for each specialty court. Ms. Bjork replied that was correct.

Chair Flores understood that the funding level was not entirely based on the number of participants in the court programs. She wanted to ensure that services would be available for veterans who would benefit by the Veterans Treatment Court program.

Justice Douglas stated that specialty courts had been authorized prior to the nationwide direction regarding veteran's courts. All programs supported by the specialty court budget account presently included veteran participants. He explained that veterans treatment courts were originally created as one-stop shopping centers because coordinators could be brought in from the state's Office of Veterans' Services to align veterans with medical, housing, rehabilitation, and educational benefits. The Veterans Treatment Court was a new program that was added to the list of existing specialty courts. Justice Douglas said the problem for the existing specialty courts was that to

create the Veterans Treatment Court, the Judicial Branch had to take funds from existing ongoing programs and reallocate those funds to a specialized veterans court.

Justice Douglas did not believe that the needs or treatment of veterans had declined. In fact, he believed it was just the opposite, that treatment had increased because the program was now veteran-specific. He commented that shifts in funding were the nature of the specialty court program, and a veteran resident of Nevada could receive treatment in any one of the programs. Recently, veterans had been directed to the Veterans Treatment Court because that court was more closely aligned to their needs and could provide additional resources specific to veterans.

Justice Douglas said the current problem was that the legislation that created the Veterans Treatment Court in Clark County failed to fund that mandate. He explained that the specialty courts required a coordinator and had to be staffed for the length of time the program was operational, which had created some difficulty. Justice Douglas said it was not because the Judicial Branch did not want to fund that court, but rather that it lacked the funding and recognized the problem of taking funding from existing court programs for the Veterans Treatment Court.

Assemblyman Eisen said he appreciated the efforts that had been made with the specialty court program across the spectrum. According to the 2012 *Annual Report of the Nevada Judiciary*, the number of new participants in the specialty court programs would increase from 2,643 actual participants in FY 2012 to approximately 3,700 in each year of the upcoming biennium. Also, Dr. Eisen noted that the number of graduates was projected to increase from the FY 2012 total of 1,541 to a projected total of 1,700 for each year of the upcoming biennium. Dr. Eisen commented that with the projected increase in participants, the projected number of graduates actually represented a decrease in the percentage of graduates over the biennium from about 58 percent in FY 2012 to about 46 percent in FY 2014 and FY 2015. He asked whether there was a reason that the rate of graduates would decrease, and he wondered whether there were efforts underway to address that decrease.

Justice Douglas explained that when an individual was placed in a specialty court program, the court hoped it was giving that individual an opportunity to address his or her "demons" and become a successful citizen. It was hoped that graduates from the court's programs would seek employment, pay taxes,

take care of his or her family, and not burden the cities, the counties, or the state by being an incarcerated person in one of the most expensive beds in the cities, the counties, or the state.

However, said Justice Douglas, graduation from a specialty court program was based on each individual's ability to adapt, whether the problem was substance abuse, mental health needs, or co-occurring disorders. He emphasized that there was no single treatment formula that worked best in all programs. Justice Douglas was not sure that the number of graduates would actually decline or whether the decline would be because the workload of the staff in the specialty court programs had increased while the ability to "hand-hold" individual participants had declined.

According to Justice Douglas, the pioneers of the specialty court programs throughout the state had created one of the best specialty courts in the country, which had been used as the model for many states. The early court programs were "three-strike" programs that would allow participants to fail and be placed back into the program three times. The ability to conduct case follow-up and ensure that participants were able to actually get to work or to appointments had been affected by the tremendous demand for the limited amount of funding.

Justice Douglas stated that when a participant returned to court and had failed the program because of not attending a group session or by failing a drug test, or had reoffended with a new charge, those cases had to be reviewed and a decision made about further programming or incarceration. The goal of the specialty court program was to help participants successfully complete the program and graduate.

Justice Douglas said the judges and program coordinators held four regional meetings each year to discuss ways to make the programs better and determine ways to reach out and help participants. One example in Clark County was the Honorable Cedric A. Kerns, Municipal Court Judge, who used his own time and his own individual talents to recruit donations from private industry representatives. Those donations helped him run a specialty court program that reached out in a different way to offer assistance and get persons off the streets.

Justice Douglas emphasized that the judges and courts tried to make the programs better; the court did not set the programs up for participants to fail, but rather for them to succeed. The reality, however, was that not everyone would succeed, and judges had to make a final determination about whether an individual should reenter the program or serve the original sentence.

The Honorable James W. Hardesty, Associate Justice, Supreme Court, commented that the specialty court budget account was underfunded. There would be an \$800,000 loss from FY 2014 to FY 2015, which would directly affect graduation rates because of the lack of funding to provide the services needed to achieve success. He pointed out that administrative assessment fees were the funding source for the specialty court program, and the decline in funding was because of a reduction in fee revenue. Justice Hardesty stated that the Specialty Court Funding Committee was dealing with a finite pie and had to spread the money among the programs. He opined that the cash balances had to be flexible to fund the existing programs, let alone entertain funding for new programs.

Assemblyman Eisen hoped that during the four regional meetings each year, the judges and staff of the specialty court programs could identify action that could be taken to increase the number of graduates from year to year. He realized that a graduation rate of 100 percent was impossible and was an unlikely goal for the program. He thanked Justice Douglas and Justice Hardesty for their comments.

Ms. Bjork commented that page 21 of [Exhibit C](#) showed that in the last three fiscal years the revenue in BA 1495 had declined, and it was projected to continue that decline in the current fiscal year and over the upcoming biennium.

Justice Hardesty stated that the decline in revenue was a direct product of the additional \$5 administrative assessment fee that had been added for the General Fund, as previously discussed. That was a priority fee that gave the state a \$5 off-the-top preference, which reduced collection of administrative assessments and affected the collection of funds for the specialty court program. The most successful specialty courts were declining in revenue because of those policies.

With no further testimony or comments regarding budget account (BA) 1495, the Chair instructed Ms. Bjork to continue with the budget presentation of BA 1492.

LEGISLATIVE - JUDICIAL
JUDICIAL BRANCH
FORECLOSURE MEDIATION PROGRAM (101-1492)
BUDGET PAGE JUDICIAL-50

Deanna Bjork, Manager of Budgets, Administrative Office of the Courts, stated that the Foreclosure Mediation Program (FMP) had been formed by the 2009 Legislature to directly address the foreclosure crisis and help families remain in their homes and to provide an opportunity for homeowners and lenders to discuss alternatives to foreclosure.

Ms. Bjork said the budget request was for \$2,313,792 in fiscal year (FY) 2014 and \$1,654,813 in FY 2015, which would deplete general reserves in FY 2015; therefore, continuation of the program would require a General Fund appropriation.

Funding for the FMP, said Ms. Bjork, was through receipt of \$44.33 of the \$200 fee for each notice of default (NOD) and election to sell per chapter 107 of the *Nevada Revised Statutes* (NRS). The FMP also received \$200 from the homeowner and \$200 from the trustee, which was passed through to the mediator once the mediation and other program requirements had been adhered to.

Ms. Bjork stated all costs for the FMP were funded from the NOD fees, including salaries and operating costs. She reiterated that the mediation service fee of \$400 was pass-through funding for the mediator, and when necessary, those amounts would be refunded to the trustee and the homeowner rather than redirected for program costs.

Ms. Bjork referred to page 25 of [Exhibit C](#), which depicted the decline in NOD fees that began in October 2011, as explained to the August 23, 2012, meeting of the Interim Finance Committee by the Honorable James W. Hardesty, Associate Justice, Supreme Court.

Ms. Bjork stated that 20 positions had been approved in the FMP budget account for fiscal year (FY) 2010 and FY 2011, and those positions had also been approved by the Legislature for FY 2012 and FY 2013. However, in October 2011 there was a significant decline in the number of NODs, and because of that decline, 11 positions had been eliminated in FY 2012.

Ms. Bjork said the projections for the NODs for FY 2013 and the upcoming biennium were tied to the projections of the Economic Forum per NRS 353.246. The Economic Forum projected 9,117 NODs in FY 2014 and 8,203 NODs in FY 2015. Ms. Bjork indicated that the revenue in budget account (BA) 1492 was projected to decline to \$404,100 in FY 2014 with expenses of \$1,141,356, and decline to \$363,600 in FY 2015 with expenses of \$1,170,125. The same facts applied to FY 2015, said Ms. Bjork, so the FMP would quickly spend down its reserve. Ms. Bjork said continuation of the FMP would require a General Fund appropriation, and the budget request included decision unit Enhancement (E) 750, which requested a \$202,727 General Fund appropriation for that purpose.

Chair Flores asked whether there was information available that compared the projections of NODs for FY 2014 and FY 2015 to the projections in FY 2010, FY 2011, and FY 2012. She noted that projections were for 9,117 NODs in FY 2014 and 8,203 NODs in FY 2015, and she was curious about the number of NODs that had been filed in the previous three fiscal years. She also wondered how the NOD numbers had been projected for the upcoming biennium.

Ms. Bjork stated that the projections had been made by the Technical Advisory Committee on Future State Revenues of the Economic Forum at its November 30, 2012, meeting. She explained that her projections had to be consistent with those of the Economic Forum because the General Fund also received \$150 of the \$200 NOD fee.

Ms. Bjork stated that page 27 of [Exhibit C](#) contained a chart that depicted the dramatic decline in NOD fees. In FY 2010 the FMP received \$3,903,732, in FY 2011 the amount was \$2,708,626, and in FY 2012 the amount was \$745,837. Ms. Bjork said in FY 2013 there had been a slight increase in the number of NODs filed and she was unsure about why that had occurred. It might be because once the NODs declined in October 2011, the lenders began to address some of the older NODs. She indicated that the FMP manager was present at the hearing and might be able to provide additional information.

Chair Flores understood that it was difficult to project when NOD fees would begin to increase, and she also understood that the Administrative Office of the Courts (AOC) was required to align its projections with those of the Economic Forum. She wondered whether the AOC had developed a plan to

address the decreasing revenue, such as moving staff or doing other things that might have been contemplated to address the decline in revenue.

The Honorable Kristina Pickering, Chief Justice, Supreme Court, indicated that the AOC had reported to the Interim Finance Committee (IFC) about the decline in NOD fees and other associated fees in August of 2012. When the FMP was running at full speed, there were 21 employees, but that number had been reduced to 9 employees. Chief Justice Pickering said the Supreme Court was the steward of the funds, but was not the architect of the FMP. The Supreme Court had attempted to be responsible in sharing information about the decline in revenue with the IFC. The Supreme Court had also reported that a further reduction in staff would hamper the operation of the FMP; the Supreme Court was trying to be as conservative as possible with funding.

Chief Justice Pickering said page 25 of [Exhibit C](#) depicted the number of NODs, which had dropped to 16,818 in FY 2012. That number was quite significant because it consisted of two parts. According to Chief Justice Pickering, from July 1, 2011, to September 30, 2011, there were 13,121 NODs filed, and from October 1, 2011, to June 30, 2012, there were only 3,697 NODs filed, and that downward trend continued into FY 2013. Chief Justice Pickering said that downward trend occurred because of the mandates of Assembly Bill No. 284 of the 76th Session, which went into effect on October 1, 2011. She noted that there had clearly been a reaction in response to that legislation that caused a rapid decline in the number of NODs filed. Chief Justice Pickering pointed out that the expenses in budget account (BA) 1492 exceeded the revenue.

Chair Flores wondered about the provision of the Foreclosure Mediation Program (FMP) that required homeowners to elect, or opt in, to participate in the FMP within 30 days of receiving a NOD. She wondered whether changing to an opt-out program would prove beneficial.

The Honorable James W. Hardesty, Associate Justice, Supreme Court, stated that the Court was not aware of possible statutory changes in the FMP. The program had been created by a legislative initiative rather than a Supreme Court initiative. Justice Hardesty said the Supreme Court was not in a position to formulate alternatives or alter designs of the FMP because it was a legislative initiative.

Chair Flores asked whether that type of change would have either a positive or negative effect on the FMP.

Justice Hardesty said changing the program to an opt-out program might create problems. One reason the FMP could not function with less than nine staff members was that *Nevada Revised Statutes* (NRS) compelled the FMP to process certificates as a condition of receiving a notice of sale.

Justice Hardesty indicated that there would be no mediation needed for persons who were simply receiving a notice of default (NOD), but individuals had to receive a certificate to proceed with a notice of sale. The FMP had to process several thousand certificates for cases where no mediation had been involved. There were any number of potential statutory changes that could be entertained by the Legislature. Justice Hardesty pointed out that A.B. No. 284 of the 76th Session (2011) had a significant fiscal effect on the FMP. The concern of the Supreme Court was that it was left with the program after the changes had occurred, and it was very difficult to manage a program in that fashion.

Chair Flores asked whether there had been an effort to conduct community outreach or publicity about the availability of mediation services.

Verisa Campbell, Deputy Director, Foreclosure Mediation Program (FMP), Administrative Office of the Courts (AOC), said the FMP had partnered with the Office of the Attorney General to become part of the group that would be publicized in an effort to make homeowners aware of the information and services available. The average FMP participation rate was between 8 percent and 12 percent, and Ms. Campbell said she would like to see that percentage increase. However, as noted previously by Justice Hardesty, the staff of the FMP had been reduced to nine positions, which meant that the program was operating at the "bare-bones" level.

Ms. Campbell said staff was performing the essential functions in accordance with *Nevada Revised Statutes* and to fulfill the FMP mandates, and any additional duties could not be undertaken without an increase in staff. Also, said Ms. Campbell, the FMP had been operating at a deficit throughout the biennium. She reiterated that any changes that would involve additional duties beyond what staff was currently responsible for could not be completed without further funding for staff.

Chair Flores said if there were changes to the opt-in provision of the FMP, how would outreach and education be provided to the public about the change, should it occur.

Justice Hardesty commented that he was unsure what the proposal would be to change the FMP from an opt-in to an opt-out program. He observed that with fewer or no NODs, an opt-in or opt-out provision would be irrelevant. It would not help because the people who opted in or opted out would be those who were subject to NODs. Justice Hardesty said the problem was the number of NODs because that was the funding source for the FMP. He opined that if there was no funding, all the opt-in or opt-out provisions and all the discussion about mediation services would be insignificant. As pointed out by Ms. Campbell, there was currently an 8 percent to 12 percent voluntary participation rate, and even if there was a 100 percent participation rate for NODs, a substantial portion of the NODs did not involve properties categorized as residential properties.

Justice Hardesty pointed out that the FMP was funded by all NODs including commercial and residential property; however, there was a significantly reduced number of participants because of the number of properties that actually qualified. The NOD revenue was the key to the FMP, and as long as the number of foreclosures and notices of default were low, an opt-in or opt-out provision would not alter the FMP expenses or its ability to be funded and managed through the current operating budget.

Chair Flores stated that she understood, but even a small revenue increase would be helpful.

Justice Hardesty explained that participants paid the fee when the NOD was filed, and whether the participant opted in or opted out of the program was irrelevant and would not increase the revenue for the FMP.

Chair Flores asked whether 100 percent of those fees were allocated to the FMP. Justice Hardesty replied that Assembly Bill No. 6 of the 26th Special Session (2010) had increased the NOD fees by \$150, which was added to the General Fund rather than used to support the FMP. It was similar to action taken by the Legislature that increased the administrative assessment fee by \$5 for the General Fund. Justice Hardesty said the effect of the added \$150 fee was a reduction in NODs. He opined that perhaps those policies should be reexamined by the Legislature.

Chair Flores noted that the Supreme Court had converted from a manual process to an automated process to track FMP cases, and she wondered how that process had helped in analyzing the program's performance.

Ms. Campbell opined that it had helped. Prior to conversion to the electronic system staff had manually counted cases, which equated to millions of sheets of paper; however, in 2012 the FMP had converted to an electronic case-management and document-storage system. That system had to be customized because there was no other system throughout the country with a program that would meet the needs of the FMP. Ms. Campbell said the new system had certainly helped with the tracking of cases, but the program was still not at the point where it could track within specific categories. However, because of the reduction in staff, and the need to meet the mandates of NRS, some of the ideas for the electronic-tracking system had been put on hold.

Chair Flores asked whether the electronic system helped in tracking the mediation cases that had been processed but not actually concluded.

Ms. Campbell said the electronic system actually tracked the level of completion in each case, but staff could not follow up and ascertain whether a homeowner remained in the home after one year because the system did not have that capability, and the FMP did not have sufficient staff. Ms. Campbell said that she hoped to be able to follow up on cases at some point in the future, but because of limited staff, the FMP had to focus on statutorily mandated duties. Ms. Campbell said the system had allowed the FMP to generate more specific reports that were far better than those generated in the past.

Chair Flores asked about predicting the percentage of mediations that were negotiated or close to ending in foreclosure. Ms. Campbell said the FMP completed analysis on a quarterly basis and provided quarterly reports, along with an annual report that actually demonstrated past outcomes, to the Supreme Court.

Chair Flores asked whether there were further questions from the Subcommittees, and there being none, the Chair closed the hearing for BA 1492.

Assembly Committee on Ways and Means
Subcommittee on General Government
Senate Committee on Finance
Subcommittee on General Government
March 13, 2013
Page 41

Chair Flores opened Public Comment, and there was none. With no further business to come before the Subcommittees, the Chair adjourned the hearing at 10:04 a.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Secretary

APPROVED BY:

Assemblywoman Lucy Flores, Chair

DATE: _____

Senator Joyce Woodhouse, Chair

DATE: _____

EXHIBITS

Committee Name: Subcommittee on General Government

Date: March 13, 2013

Time of Meeting: 8:03 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
* *	C	Deanna Bjork, Budget Manager, AOC	Judicial Branch Budget Hearing