MINUTES OF THE MEETING OF THE ASSEMBLY COMMITTEE ON WAYS AND MEANS AND SENATE COMMITTEE ON FINANCE SUBCOMMITTEES ON GENERAL GOVERNMENT

Seventy-Ninth Session
February 15, 2017

The joint meeting of the Assembly Committee on Ways and Means and Senate Committee on Finance Subcommittees on General Government was called to order by Chair Heidi Swank at 8:03 a.m. on Wednesday, February 15, 2017, 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 www.leg.state.nv.us/App/NELIS/REL/79th2017.

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblywoman Heidi Swank, Chair
Assemblywoman Teresa Benitez-Thompson, Vice Chair
Assemblywoman Olivia Diaz
Assemblyman Chris Edwards
Assemblyman John Hambrick
Assemblywoman Ellen B. Spiegel

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Aaron D. Ford, Chair
Senator Becky Harris
Senator David R. Parks

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Jay Kriebel, Program Analyst
Anne Bowen, Committee Secretary
Lisa McAlister, Committee Assistant

Chair Swank called for public comment and there was none.

ELECTED OFFICIALS
JUDICIAL BRANCH
SUPREME COURT (101-1494)
BUDGET PAGE JUDICIAL-11

The Honorable James W. Hardesty, Associate Justice, Supreme Court of Nevada, presented budget account (BA) 1494, Supreme Court. Exhibit C, a copy of a PowerPoint titled "Judicial Branch Budget Hearing, James W. Hardesty, Justice, Assembly Committee on Ways and Means and Senate Committee on Finance, Subcommittees on General Government February 15, 2017," was submitted.

Justice Hardesty stated that he appreciated the opportunity to present the Supreme Court budget. In Exhibit C, there were a number of specific areas that Justice Hardesty wanted to address, including foreclosure mediation, administrative assessments, the issues surrounding the Pay Bill, and a few other points.

Justice Hardesty apologized for the absence of Chief Justice Michael Cherry, who was undergoing minor surgery, and assured the Subcommittees that Chief Justice Cherry would be fine and had sent his apologies for not being present. If there were any questions specifically for the Chief Justice, Justice Hardesty would be happy to transmit those to him.

In the Judicial Branch revenue, shown on page 2 of Exhibit C, total funding was $124 million. The General Fund represented about 65 percent of total funding and administrative assessment and other fees represented 34 percent. Justice Hardesty pointed out a very modest federal grant that was also included in the revenue stream. The General Fund request for expenditures included judicial elected officials' salaries, which represented the highest part of the budget. Those salaries were for the Supreme Court Justices, the Court of Appeals judges, and the 82 district court judges across the state. Justice Hardesty noted that the salaries paid to justices of the peace and municipal court judges were paid by local governments.

Ten percent of the Supreme Court's funding was requested for specialty courts and 6 percent was allocated for operations of the Court of Appeals. Justice Hardesty said that number related to how the funds were being applied, but a substantial portion of the Court of Appeals funding came from staff who were transferred from the Supreme Court to the Court of Appeals to assist in its support. He said this was not an increase in funding from what was represented or discussed with the Legislature in 2011 and 2013; rather, it was a transfer of staff from one budget account to the Court of Appeals budget account to better use their services.

Justice Hardesty noted that judicial retirement represented approximately $3.3 million in the Supreme Court budget.

Justice Hardesty commented that the Senior Judge Program, which the Legislature had funded over the years, had been a successful investment by the State. The program had resolved many cases through settlement conferences and assignments for judges who had been unable to preside for a variety of reasons. Currently, there were approximately 25 senior judges in the program, and Justice Hardesty believed senior judges provided an extraordinary service throughout the state.

Justice Hardesty referred to page 3 of Exhibit C, Enhancements, and stated that enhancements totaled $10,491,502, but most of that amount was associated with specialty courts, and $6 million of that $8,317,942 was asking the Legislature to continue the funding it began in the 2015 Session. He said that at the recommendation of the Advisory Commission on the Administration of Justice in 2015 and again this year, the Supreme Court was requesting expansion of General Fund contributions to the specialty courts to increase participation.

Justice Hardesty noted that a substantial portion of the enhancements were technology-related. The Supreme Court had a number of systems for which software agreements were expiring or companies had changed hands, and this had affected the stability of the technology system.

According to Justice Hardesty, the largest portion of the enhancements was decision unit Enhancement (E) 849, a 2 percent salary increase for staff. This request paralleled the Governor's request to the Legislature to increase state salaries by 2 percent per year. Justice Hardesty commented that Supreme Court employees, like most state employees, had gone without any compensation increases for quite some time and had suffered substantial cuts as well as mandatory furloughs.

Enhancements affecting multiple budget accounts were shown on page 4 of Exhibit C, decision unit E-710, replacement of computer hardware. Justice Hardesty said that, as with many state agencies, the Supreme Court tried to replace laptops and desktops every four or five years. Replacement of computer hardware totaled $242,918 for the biennium and affected various budget accounts that were listed in parenthesis.

Decision unit E-711 concerned Microsoft Exchange E-mail Software Upgrade.

Decision unit E-849 concerned the 2 percent salary increase for staff, which would amount to $598,158 for the biennium, and affected staff in the various budget accounts listed in parentheses.

Budget account (BA) 1494 was the general Supreme Court budget, which administered the Nevada judicial system. The Supreme Court decided, or assigned to the Court of Appeals, civil and criminal cases appealed from district courts. The Supreme Court exercised extraordinary writ review, licensed and disciplined attorneys, and conducted appellate review for judicial discipline. Justice Hardesty informed the Subcommittees that process involved 24 chambers staff, 27 clerks' office staff, 24 central staff attorneys, and 5.53 security staff.

According to Justice Hardesty, the Legislature had recognized the need for security for the Supreme Court. He said he would be presenting the need to extend that security to the new building in Las Vegas. The new security had been very successful, and Justice Hardesty extended special appreciation to the Legislative Police and the Capitol Police Division for their help.

Page 6 of Exhibit C referred to the Supreme Court and Court of Appeals Cases Filed and Disposed, Projections for the 2017-2019 biennium. According to Justice Hardesty, the Supreme Court had argued that the Court of Appeals be added to the *Nevada Constitution* so that the backlog of cases could be addressed and the number of dispositions increased. For fiscal year (FY) 2015 in the first six months of the Court of Appeals operation, which was the last six months of FY 2015, 500 cases were assigned to it. Justice Hardesty said that reduced pending Supreme Court cases to 1,544, including the other cases resolved during that fiscal year.

Fiscal year (FY) 2016 offered the first full-year snapshot of the effort of the two courts. Justice Hardesty said that in FY 2016, another 639 cases were assigned to the Court of Appeals. He noted that filings had increased, but not substantially, and cases pending declined somewhat because of the first year's efforts. Unfortunately, in FY 2017 projections showed 2,648 cases, an increase of 8 percent in filings with the Supreme Court. Justice Hardesty said that would be the highest year-to-year percentage increase in filings that he had seen in the 12 years he had served on the court.

There were several possible reasons for that increase. There had been an increase in the number of attorney discipline cases, and the State Bar of Nevada had a backlog of about 550 pending attorney discipline investigations. The Court had urged the Bar to clear the backlog and increase its budget to hire investigative staff. From the point of view of the Supreme Court, if attorney discipline was not timely, it was not useful. Justice Hardesty said it made no sense for attorneys and complainants to wait three years for an attorney to be disciplined if it was appropriate.

Chair Swank asked about the new cases filed and wondered why the Supreme Court numbers were different from the projections in The Executive Budget.

Justice Hardesty asked Emily Rahmeyer, Manager of Budgets, to answer Chair Swank's question.

Emily Rahmeyer, Manager of Budgets, Administrative Office of the Courts, Nevada Supreme Court, said the projections provided by the Supreme Court were completed just over a month ago and were updated projections based on the most recent filings. She said the previous projections had been compiled on an annualized basis, based upon the previous three years.

Justice Hardesty added that the projections were compiled with the Supreme Court Clerk, based on the actual filings received in the first six months of the fiscal year.

Justice Hardesty returned to the subject of Bar discipline and said the Court was projecting 150 new Bar discipline cases this fiscal year. Confirmation had been received from the State Bar of Nevada that in addition to the 80 cases already filed, it expected to file another 68 between now and June 30, 2017. He said the other area that had seen a substantial increase was the number of criminal cases filed in the district courts. Civil cases had decreased somewhat, partially because of the decline in the foreclosure mediation program.

Justice Hardesty noted that about 50 percent of the criminal filings with the Supreme Court were proper person filings from inmates in the state prison system and from others who were representing themselves for one reason or another. He said those types of cases could be challenging and time-consuming, but proper person filings also generated interesting legal questions that had resulted in published opinions. Justice Hardesty said the Court had been active through the work of Justice Kristina Pickering and Justice Michael L. Douglas to develop a program that assigned inmates pro bono counsel. He noted a number of attorneys had volunteered to handle some of the pro bono appeals when the Court believed there were unique legal questions that would affect jurisprudence in Nevada.

Chair Swank asked Justice Hardesty to clarify the term “proper person,” and he said a proper person was the shorthand term used to describe someone who was representing himself or herself in the filing of a case or in the defense of a case.

Senator Ford said he wanted to follow up on the statistics Justice Hardesty had addressed. He was aware that the Supreme Court’s stated goal was to send one-third of its cases to the Court of Appeals, and he knew that goal was attempted but had not been met. He asked to what Justice Hardesty attributed not being able to get one-third of the cases to the Court of Appeals.

Justice Hardesty said it was attributable to a couple of different things. First, when the Court of Appeals was approved, it took two months following the approval by the voters to set up the court. Under the budget constructed for the first six months of the Court, the judges did not have staff until April 1. For the first six months of operation, even though the Court of Appeals had been assigned 500 cases, the judges were going to the National Judicial College for training and preparing to open the Court. Justice Hardesty said things began to change in the subsequent six-month period. Recommendations from the chief justices in Iowa and

Mississippi identified case categories that would presumptively be held by the Supreme Court and case categories that would be transferred to the Court of Appeals. Justice Hardesty noted that the process was probably too conservative, and as a result, the Supreme Court retained more cases than necessary. Chief Justice Cherry transferred 98 cases to the Court of Appeals in January 2017, and it was predicted that he would transfer close to 85 to 90 in February. Justice Hardesty opined that the Supreme Court would transfer close to 1,000 cases to the Court of Appeals in 2017.

Justice Hardesty informed the Subcommittees that the number of cases presented to the Nevada Supreme Court and the Court of Appeals was higher than the number of cases the state of Iowa received. The state of Iowa had 15 court of appeals judges, while Nevada had 3, and Iowa had 7 Supreme Court justices. In Mississippi, the filings were fewer than Nevada, but the state had 10 appellate court judges and 7 Supreme Court justices. Justice Hardesty maintained the Nevada Supreme Court was still overloaded compared with other courts, and he asked that the focus be on the cases resolved.

Chair Swank requested that the presentation return to budget account (BA) 1494 and then continue to BA 1489.

Justice Hardesty referred to page 7 of Exhibit C and said that budget account (BA) 1494 was funded 50.35 percent by administrative assessments and 49.23 percent by General Fund. The overall expenditures for BA 1494 totaled $12,199,612 for fiscal year (FY) 2018 and $11,724,922 for FY 2019. Justice Hardesty reiterated that the Judicial Branch was funded with administrative assessments and as long as police issued many traffic tickets and the money could be collected, there would be funding for the Judicial Branch. He submitted there was no connection between the imposition of municipal court fees and the Supreme Court, but that was the funding mechanism that had been in place for quite some time. Administrative assessments had decreased considerably, which directly affected the Supreme Court's budget and led to the Supreme Court's request that the Legislature increase its percentage participation in the administrative assessment revenue.

Page 8 of Exhibit C referred to Supreme Court Enhancements in BA 1494. Decision unit Enhancement (E) 712 represented a document management system replacement request for a total of $590,889 for the biennium. Justice Hardesty said that decision unit represented the highest dollar request.

Decision unit E-226, staff attorney education, was being increased because staff had not been able to attend any staff-related conferences for some time.

The additional expansion trays for technology storage devices requested in decision unit E-720 would cost $58,988 in FY 2018.

Decision unit E-850 dealt with market salary analysis and a benchmark salary survey and report and requested $13,525 for a comprehensive analysis for positions in the Court. This included a market salary analysis, benchmark salary survey and report, and a list of comparative organizations and contacts. Justice Hardesty did not believe that the Court had been competitive in the job market, nor had the Court had a thorough analysis of its job classifications and salaries for some time. The Supreme Court planned to undertake that study in the upcoming fiscal year.

The executive assistant position referred to in decision unit E-848 was an upgrade for that position as part of the reorganization of the Supreme Court central legal staff. There were paralegal positions in the central staff that were transferred to the Supreme Court Clerk's Office, and some of the paralegal duties were also reassigned. Justice Hardesty explained that this enhancement would allow for some of the paralegal functions to be handled at the executive assistant 3 level, which had improved the efficiency of the operations through the use of paralegals.

Page 9 of Exhibit C dealt with the SIRE Document Management System (DMS), which represented the largest of the request. The SIRE DMS was the electronic storage for all documents received on cases from attorneys and other participants. The DMS also electronically distributed documents among court departments for review. In practical terms, Justice Hardesty said he could sit at his laptop anywhere he was located and retrieve internal court documents to work on them. This was particularly important when the Court received petitions for emergencies. This system, as well as the case management system and electronic system, was integrated with the document management system. SIRE DMS was purchased in 2012 by Hyland Software, which discontinued support and maintenance for the Court's SIRE DMS system. Hyland Software urged its customers to migrate to its DMS OnBase. Justice Hardesty said that if this request was not approved, the Court would not be able to upgrade applications for its server operating system software, its database software, and its Microsoft Word and Adobe Acrobat. No new releases of SIRE DMS would be available. As an alternative, the Court would have to seek replacement of the DMS, and Justice Hardesty maintained that would be at a much higher cost than this proposed enhancement.

Chair Swank said she wanted to talk about the change in classification requested for positions, and requested Fiscal Analysis Division staff to explain the difference between unclassified and nonclassified employees.

Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that unclassified positions were those specifically identified and with their pay set in the Pay Bill that was approved by the Legislature each session. Unclassified positions generally worked at the pleasure of the appointing authority, usually a director of a department. Nonclassified positions were restricted primarily to the Office of the Governor. The salaries for those positions were set by the Governor or the chief of staff, and

funding for those positions was based on a pool of funds provided for salaries within the Office of the Governor.

Chair Swank requested that Justice Hardesty explain why the Supreme Court wanted to move the positions into nonclassified service.

Justice Hardesty said, in short, to save money and be more efficient. He directed the Subcommittees' attention to page 33 of Exhibit C, and said he was requesting again, as he had requested in past sessions, that the Legislature follow the law and the *Constitution of the State of Nevada* regarding unclassified positions in the Pay Bill. The Judicial Branch was a branch of government, not a state agency. The determination of how to allocate funds that were appropriated was a decision that rested with the Supreme Court under the *Constitution of the State of Nevada* and under the *Constitution of the United States*. Justice Hardesty said the Legislature had recognized this in statutory authority. He said he had met with legislators over the years about Court positions being included in the Pay Bill, and recently, some had asked for historical information regarding the Pay Bill statute, and he had prepared the schedule on page 33 as follows:

- In 1963, *Nevada Revised Statutes* (NRS) 284.013 was added to statute in Assembly Bill 225, Section 5, and provided a specific exemption from the Unclassified Pay Bill for employees of the Legislative and Judicial Branches.

- In 1971, NRS 284.013 was amended by Senate Bill 91 to include the Gaming Control Board in the exemption, but it made no substantive changes regarding the Judicial Branch.

- From 1965 through 1975, there was no mention of the Supreme Court or its staff in any of the Unclassified Pay Bills adopted by the Legislature when funding salaries at the end the session.

- In 1977, Senate Bill 233, which at that time was the Unclassified Pay Bill, included for the first time the Supreme Court's central staff and various employees in the Unclassified Pay Bill. It has continued to do that since 1977 over the objections of the Supreme Court.

Justice Hardesty stated that once again, with the authority of the Chief Justice and the Associate Justices, the Court registered its objection to the Legislature funding the Judicial Branch, relying on a Pay Bill statute that did not allow for Court autonomy and, in the view of the Court, was in violation of the constitutional appropriation to the Supreme Court.

Justice Hardesty returned to the positions that were reclassified and said when the Court of Appeals was enacted in January 2015, there was an opportunity for efficiencies. The Court

had approximately 24 central staff attorneys who were overseen by two supervisors. Justice Hardesty said 8 positions were transferred to the Court of Appeals along with a supervisor over those attorneys who reported to the Court of Appeals judges. The remaining 16 attorneys in the Supreme Court were placed under one supervisor's position and one of the positions was transferred to the Clerk's Office to develop case-screening techniques and for the development of the *Nevada Reports*. Justice Hardesty remarked that it had been frustrating for the legal community, the Supreme Court, and the Legislature in combination not to be able to get the *Nevada Reports* published annually on a timely basis. *Nevada Reports* was a compilation of all of the decisions of the Supreme Court, both published and unpublished. The *Nevada Reports* had been five or six years behind because there had not been available staff to complete all of the *Nevada Reports*. Justice Hardesty said that under the authority of the *Nevada Constitution* and the statute, positions were realigned and reconfigured, and in the process, money was saved. Some positions were vacated that were no longer needed at the present time, which helped achieve reductions.

Senator Ford said he was not speaking for anybody but himself, but he understood the position Justice Hardy was taking and noted that the Supreme Court had ruled recently on a case from Sparks [*City of Sparks v. Sparks Mun. Court*, 129 Nev. Adv. Op. No. 38] that concerned jurisdictional authority. Senator Ford requested an explanation of that case as well as any information about why the Supreme Court had been included in the Unclassified Pay Bill in 1977.

Justice Hardesty said he believed it would be speculation as to why the Supreme Court was included in 1977, but some had been of the opinion that maybe this was an issue that was addressed through the Court's appropriation. He said the City of Sparks case precisely outlined the legal principles that applied with respect to the separation of powers. The case recited extensively the authority that existed with respect to the judges in that municipality to make allocation decisions. Justice Hardesty said the case itself was specifically dealing with two employees and salary decisions or transfer decisions in positions. He maintained that employee classifications were a decision that was made by the head of a branch of government, which was the point that was being made here.

Assemblywoman Benitez-Thompson said her question was regarding the electronic systems that were going to be coming with the new document management system. She requested an idea of what could be expected regarding additional requests from the General Fund to support the contract with a new vendor and associated costs to support bringing the new system on line.

Justice Hardesty said that perhaps he had not been clear: the requested document management system was not a new system, but was intended to maintain the existing one. He requested that Rick Stefani, IT Manager, address the question more specifically.

Rick Stefani, Information Technology Manager, Administrative Office of the Courts, Supreme Court of Nevada, informed the Subcommittees that the cost projected was the total cost for the purchase and integration into the existing systems. He noted there would be a maintenance cost going forward, but that had been true in the past as well.

Assemblywoman Benitez-Thompson asked for clarification as to whether the new documents management system coming online being referred to as the DMS was a replacement software system for the old one, or just a new license.

Mr. Stefani said it was a replacement for the existing system that was no longer supported or upgraded and was a core component of the Court's major case-management system.

Chair Swank noted the 11.3 percent salary increase for a nonclassified position in decision unit Enhancement (E) 848, the moving of a nonclassified executive assistant 1 to an executive assistant 3 position, and asked how that increase had been determined.

Emily Rahmeyer, Manager of Budgets, Administrative Office of the Courts, Supreme Court of Nevada, explained that the executive assistant position in budget account (BA) 1494 for decision unit E-848 was a promotion of an executive assistant in the Central Legal Staff to an executive assistant 3 at a grade 35. The promotion applied to one specific position and was part of the reorganization of the Central Legal Staff from two divisions to a single division. The paralegal positions in the Central Legal Staff were transferred to the Clerk's Office, so the executive assistant 3 position would actually take on some additional responsibilities for the paralegal side.

Justice Hardesty added that part of the reason for the change was that two paralegals served 24 attorneys in the Central Legal Staff, and it was decided that one paralegal was all that was necessary to support the 16 Central Legal Staff attorneys. However, it was not fair to pay paralegals at a salary that was substantially below the responsibilities of that grade.

Chair Swank asked Justice Hardesty to confirm that the recommended salary increase for judicial employees was not in addition to the Governor's recommended increase for all state employees. Justice Hardesty stated that was correct.

Assemblywoman Diaz asked what recruitment and retention difficulties the Judicial Branch had experienced.

Justice Hardesty stated that the Court was not competitive with salaries for attorneys. For example, attorneys' salaries in the counties were higher, and the Court had lost staff attorneys because they transferred to the Office of the Attorney General or some other state government office to receive higher salaries. He maintained the Court could not retain staff who could receive $5,000 to $10,000 salary increases from other employers.

Justice Hardesty said one of the reasons the Court wanted to perform the study about employment was to demonstrate that the salaries paid to the employees in the Judicial Branch were not competitive. He said the Court already knew it was not competitive with private practice or local governments when employees would work for the Supreme Court for short periods of time, be trained, and then move on to other employment. Justice Hardesty acknowledged that while the Supreme Court's retention problem was not as serious as the Department of Corrections or the Department of Public Safety, it still created a difficulty.

Assemblywoman Diaz asked about deliverables for the market salary analysis survey and when that survey would be completed.

Justice Hardesty asked Robin Sweet to address that subject.

Robin Sweet, Director and State Court Administrator, Administrative Office of the Courts, Supreme Court of Nevada, said the expectation was that after the contract was signed, the report would be completed in 12 to 18 months. Ideally, the report would be ready in time to make recommendations for the next budget cycle.

Chair Swank commented about the three full-time unclassified positions. She knew a conversation about unclassified and nonclassified positions had been held for the last two legislative sessions, and last session that proposal was not approved by the Legislature. She was concerned that the Supreme Court had three full-time unclassified positions that were approved by the Legislature, and those unclassified positions were eliminated, and three new positions were placed in nonclassified service. Chair Swank said that appeared to be going around the intent of the 2015 Legislature. She wanted a good, open relationship going forward and understood the Legislature and the Supreme Court might be coming from different perspectives, but she hoped that both branches of government would be able to work together.

Justice Hardesty said no disrespect was intended, and the Supreme Court wanted to work closely with the Legislature by identifying the appropriation that was necessary for the Judicial Branch to operate effectively and efficiently. He noted that even under the approach the Supreme Court had taken, there was no restriction on the Judicial Branch from creating new nonclassified positions. The Supreme Court had not acted outside its authority and welcomed the opportunity to have good communication on both sides.

Justice Hardesty referred to page 10 of Exhibit C, the Las Vegas Building. The Supreme Court was moving into the building next week, and it hoped to be operational by the first week of March. Justice Hardesty said it had been an enormous undertaking for staff, and he was grateful for all of them.

ELECTED OFFICIALS
JUDICIAL BRANCH
COURT OF APPEALS (101-1489)
BUDGET PAGE JUDICIAL-18

James W. Hardesty, Associate Justice, Supreme Court of Nevada, referred to page 11 of Exhibit C, Court of Appeals, budget account (BA) 1489. The Court of Appeals had 19 personnel. Justice Hardesty wanted to emphasize that those personnel had not caused a fiscal problem because funds were transferred from the Supreme Court budget to the Court of Appeals budget.

Justice Hardesty noted a question Senator Ford had about statistics regarding the Court of Appeals, and said although the assigned cases were lower than originally contemplated, in fiscal year (FY) 2016 the Court of Appeals produced 725 dispositions. Projections were for 784 cases in FY 2017 and 823 cases in FY 2018 and Justice Hardesty believed caseload would be higher than projections, which would make a big difference in the overall pending caseload.

Assemblyman Edwards said he was curious about the workload for the Court of Appeals because it appeared that each judge received about two cases per day, and it did not seem there were enough judges on the Court of Appeals to handle the load. Assemblyman Edwards asked Justice Hardesty how he saw the Court of Appeals dealing with the need for growth.

Justice Hardesty said the proportion of cases to judges was far greater in Nevada than it was in Iowa and Mississippi, but he believed the Court of Appeals should continue to walk before it ran. He anticipated that if filing statistics met projections in 2019, the Court would ask the Legislature to exercise its authority under the *Nevada Constitution* and consider adding another panel of three judges to the Court of Appeals.

Justice Hardesty stated that approaching the Legislature this session with the caseload problem had been considered. When comparing the number of judges with the number of filings in the Court of Appeals, more judges were clearly warranted, but Justice Hardesty said he was aware of the fiscal issues in Nevada, and the Court of Appeals was a work in progress.

Chair Swank asked Justice Hardesty to explain why the numbers the Supreme Court had for cases pending in FY 2017, FY 2018, and FY 2019 were different from those in The Executive Budget.

Justice Hardesty said that was a direct result of the calculations made to provide the Legislature with as hard data as possible for the filings in the Supreme Court. When the

filings in the Supreme Court were adjusted, there was a corresponding adjustment of filings in pending cases in the Court of Appeals.

Justice Hardesty referred to page 14 of Exhibit C, Enhancements, in budget account (BA) 1489. It had been assumed that the Supreme Court's case management system would integrate with the Court of Appeals. When the Court of Appeals was approved and a case-management system was needed, the vendor estimated a cost of $250,000. To avoid that cost, the Court of Appeals was asked to use the Supreme Court's old case-management system. Justice Hardesty said it was completely inappropriate under the Judicial Code for the Court of Appeals judges to have access to the Supreme Court's case-management data. It was equally inappropriate for the Supreme Court to have access to the Court of Appeals' legal research and deliberations. Justice Hardesty said there needed to be a firewall between the two, and the only firewall that could be acquired without spending $250,000 was to have the Court of Appeals operate under the Supreme Court's old case-management system. The old management system was slow and ineffective, and decision unit Enhancement (E) 721 requested a case-management integration system for the Court of Appeals. Justice Hardesty pointed out that the $250,000 price that the vendor quoted was vastly higher than the $146,000 proposed in E-721.

Assemblywoman Spiegel asked whether Justice Hardesty was saying that the current case-management system did not have the kind of technology in place where authorizations could be generated on the user level.

Justice Hardesty stated he would let Mr. Stefani address the question, but under the current system, it was the difference between separating courts and deliberations and the material in the system as opposed to blocking out limited users within the same system.

Rick Stefani, Information Technology Manager, Administrative Office of the Courts, Supreme Court of Nevada, said Justice Hardesty was correct: both systems boasted the case-management system (CMS) for the Supreme Court, and the CMS for the Court of Appeals and had its own user authentication. However, the systems still needed to be kept separate to avoid the appearance of impropriety. The user levels were set: on the Supreme Court side, each user was granted access to what was needed, and on the Court of Appeals side, those users were granted the same access. The Court of Appeals CMS did not have workflow features or integration with e-filing because that system was developed approximately 20 years ago and was run on a very old client server base technology. Mr. Stefani said the proposal was to upgrade the CMS to web-based and integrate it with e-filing as well.

Justice Hardesty said one other feature was the ability to put the Court of Appeals cases on the public portal just as the Supreme Court. The old CMS would not support that function.

ELECTED OFFICIALS
JUDICIAL BRANCH
ADMINISTRATIVE OFFICE OF THE COURTS (101-1483)
BUDGET PAGE JUDICIAL-33

James W. Hardesty, Associate Justice, Supreme Court of Nevada, referred to page 16 of Exhibit C, budget account (BA) 1483, Administrative Office of the Courts (AOC).

The AOC provided budget, accounting, audit, human resources, payroll, and information technology (IT) support. There were 31 employees in the AOC, and 100 percent of BA 1483 was provided by administrative assessments. If there was a decline in the administrative assessments, it affected the reserves of the Supreme Court, and according to Justice Hardesty, by the end of fiscal year (FY) 2019, the AOC would be "operating on fumes." He said there was no way the AOC could be supported unless the participation in the administrative assessment revenue was increased. The Court's policy was enough reserves for three months of operation, and reserves of $115,000 would not pay one week of salaries.

Page 18 of Exhibit C showed the AOC's share of the replacement of the document management system in decision unit Enhancement (E) 712. Justice Hardesty said a backup network storage device was necessary as shown in decision unit E-720, and a payroll clerk position had been eliminated through reorganization as shown in E-490. The position had been kept vacant since 2014 and was determined to no longer be necessary, and as a matter of efficiency, the position was eliminated. The Court had requested a budget adjustment for some IT positions as shown in decision unit E-671.

Assemblywoman Diaz noted that the Supreme Court's reserves were decreasing because collection of administrative assessments had declined, and the state would probably have to subsidize those funds. She asked whether there were measures the Judicial Branch was taking to ensure maintenance of an adequate level of reserves.

Justice Hardesty said some positions were kept open because there was no money to fill them, and when the Court's budget was presented to the Fiscal Analysis Division, its staff did not concur with that decision. The argument was that the Court apparently did not have enough work for the open positions. Justice Hardesty emphasized that there was work for the positions, but the Court did not have the money and had not come to the Legislature to ask for funding from the General Fund.

Justice Hardesty directed the attention of the Subcommittees to page 31 of Exhibit C, which outlined administrative assessments. The fundamental problem was not just collection, but that tickets were not being written. Law enforcement made decisions in the past four years not to pursue some law enforcement strategies. Justice Hardesty maintained that if tickets were not written, there would be dramatic drops in revenue in addition to collection problems. Under *Nevada Revised Statutes* (NRS) 176.059, several things had happened to

the administrative assessments that had influenced collectability. In the 26th Special Session (2010), the Legislature decided to take $5 off the top for the General Fund. He said if there was difficulty collecting $50 from someone and the most they could pay was $5, that $5 would go to the General Fund and not to the Supreme Court. Over the past two legislative sessions, the Supreme Court had presented analyses that showed that decision alone affected the amount of money made available to the Supreme Court. The Supreme Court urged in 2015, and Justice Hardesty had urged at the Legislative Commission's Budget Subcommittee hearing this year, the removal of that preference so the Court would be equal in participation for the administrative assessment.

According to Justice Hardesty, the order of collection was as follows:

- $2 to the County Treasurer for Juvenile Court
- $7 to the Municipal/Justice Court
- $5 to the General Fund
- Not less than 51 percent of the remainder to the Judicial Branch
- Not less than 49 percent of the remainder to the Executive Branch

Justice Hardesty stated administrative assessments were a threefold problem: fewer tickets being written; collections being frontloaded for different purposes than the Supreme Court; and the recession had impaired collections and the ability to pay fees. Judges had replaced those fees with either incarceration or simply forgiving the fees. He said it was a multifaceted problem, and the Judicial Branch wanted to cooperate with the Legislature to find a solution.

Chair Swank commented that there were frustrations all over state government. Nevada had been through a terrible recession, and she believed it would be a while before the state recovered completely.

Senator Ford said there was a lot of complexity associated with the administrative assessment approach, one of which was whether it was the right way to fund the Supreme Court. He said he wanted to be certain he understood administrative assessments and asked whether they were only fees associated with traffic violations.

Justice Hardesty replied that was correct, but administrative assessments were also levied against individuals convicted of first-degree murder and sentenced to the death penalty.

Senator Ford said that while he was not impugning the judiciary, he wondered why a budget would be funded by imposing as many fines as possible on the citizenry, and he did not like the fact that the state could provide that incentive. He believed the real question was whether the Legislature wanted to find another way of funding the courts, because he foresaw problems in the future if a better funding stream was not found.

Senator Ford asked why three positions were left open when assessments fell short by one position and that position was eliminated.

Robin Sweet, Director and State Court Administrator, Administrative Office of the Courts (AOC), Supreme Court of Nevada, explained that when the AOC received a request for filling a position, a budget analysis was prepared for this fiscal year and the next biennium. If that analysis showed that the new position would affect reserves to the point that someone would have to be laid-off because of hiring another one, Ms. Sweet said the new position would not be hired. Because administrative assessments were so unpredictable and on a decline, a decision had been made not to fill some of the positions because of the uncertainty of funding to avoid any layoffs. Senator Ford suggested that did not obviate the need for those three positions, and Ms. Sweet said that was correct.

Justice Hardesty commented that, in his opinion, it would be immoral to hire someone and then dismiss him or her within a short period of time because there was no funding to support the position. He said this problem was not unique to the Supreme Court, and he saw state employees performing extraordinary services for the citizens of Nevada. He noted the hours that Mark Krmpotic and Jay Kriebel of the Fiscal Analysis Division, Legislative Counsel Bureau, and others worked because they were extraordinary public servants. It did not mean that the work was not there, it meant that employees were going over and above what anyone would reasonably expect for them to get the job done.

Justice Hardesty referred to page 32 of Exhibit C, which illustrated a bar graph of statewide drop in administrative assessments. The problem was not unique to the Supreme Court: the decline in administrative assessments affected eight or nine other budgets in state government. Justice Hardesty said for the Supreme Court to achieve its budget, it had requested an increase in administrative assessments, which was authorized by statute. The Supreme Court had been receiving approximately 52 percent of administrative assessments and was requesting an increase to 60 percent. Justice Hardesty acknowledged that should the Court receive the requested increase, it would take money away from the other agencies that depended on administrative assessments.

Senator Parks commented that he had a strong objection to the administrative assessments, primarily because they adversely affected people who could least afford to pay them. He wondered whether administrative assessments were something unique to Nevada or whether other states used fees and fines as a standard revenue generator for courts and other programs.

Justice Hardesty told Senator Parks that was the case nationwide, and it raised the appearance that there was an improper relationship between the imposer of fees and the receiver of those fees. When administrative assessments were the funding source, it gave the impression that judges were motivated to press for fees and fines to provide an adequate budget. He commented that the Conference of Chief Justices, in collaboration with the

U.S. Department of Justice, had undertaken a national study of the matter. Additionally, Justice Hardesty had been asked by former Chief Justice Ron D. Parraguirre to chair a committee to study the issue in Nevada, and that study was currently in progress. He said that many legislators had been approached by limited jurisdiction judges requesting that the Legislature not raise administrative assessments because the judges could not get the fees collected. He said, more importantly, the amount of the administrative assessment was sometimes higher than the fine itself.

Justice Hardesty, as a footnote to Senator Ford's comment about studying the issue of assessments, urged the Legislature to study what happened to the fine money. Constitutionally, the money collected from fines went into a pool that was to be used for education, and Justice Hardesty suggested the legislators look at how that money was being used and invested.

Assemblyman Edwards commented that it seemed as though funding of the judiciary was harder than it needed to be. He suggested that it would be better for administrative assessments and fines to go directly to the General Fund and have funding for the courts be allocated from the General Fund. Assemblyman Edwards asked whether all states operated the same way as Nevada.

Justice Hardesty said the state of Utah funded its judiciary out of its general fund, and there were a few other states where the judiciary budget was not dependent upon fines and fees. In those states, the judiciary was not involved in the collection process either, and he added that the most effective collection systems were those that were developed in the Executive Branch where collection agencies bid for the work. When courts performed collection of delinquent fines and fees, it often required more staff to have repeat hearings, issue bench warrants, or ultimately put offenders in jail because of failure to pay a fine or fee.

Chair Swank reminded everyone that if funding the Judiciary came directly out of the State General Fund, it meant more money would be needed in the General Fund, which was another issue. She said states with a similar tax structure should be considered when examining how other states funded the Judicial Branch.

ELECTED OFFICIALS
JUDICIAL BRANCH
JUDICIAL PROGRAMS AND SERVICES DIVISION (101-1484)
BUDGET PAGE JUDICIAL-40

James W. Hardesty, Associate Justice, Supreme Court of Nevada, presented budget account 1484, Judicial Programs and Services.

Justice Hardesty explained that BA 1484 managed programs and projects to assist trial courts in providing access to justice through the Nevada judiciary. Decision unit Enhancement (E) 848 was principally a position upgrade for a research analyst 3 position to a court research analyst 4, at a grade 39. The work of this group was critical to the development and understanding of the research and statistics that the Supreme Court attempted to develop to share with the Legislative Branch and the Executive Branch. Judicial Programs and Services also provided statistics to assist a variety of programs helpful to the Legislature and the public.

ELECTED OFFICIALS
JUDICIAL BRANCH
UNIFORM SYSTEM OF JUDICIAL RECORDS (101-1486)
BUDGET PAGE JUDICIAL-45

James W. Hardesty, Associate Justice, Supreme Court of Nevada, presented budget account 1486, Uniform System of Judicial Records.

Budget account (BA) 1486 addressed standardized advances in support technology available to all 79 trial courts throughout the state. Justice Hardesty said the Supreme Court had been, over time, providing a number of technology support systems to the trial courts in the state. The program had been very effective and had helped reduce the overall cost to each individual jurisdiction to acquire technology that the courts otherwise could not access. On page 21 of Exhibit C were enhancements associated with that particular area.

Chair Swank commented there was another reserves issue in this budget account, so at some point it was going to be necessary to plan how to replenish those reserves. In addition, Chair Swank said she would like to address in-state travel for the JWorks when BA 1493 was reviewed.

Assemblywoman Diaz asked whether Justice Hardesty could indicate the number of courts that were anticipated to transmit dispositions electronically to the State Criminal History Repository through the enhanced interface.

Justice Hardesty requested that Robin Sweet address the question, but said that the Court was much further ahead than it was in 2013.

Robin Sweet, Director and State Court Administrator, Administrative Office of the Courts, Supreme Court of Nevada, said the enhancement would allow the Supreme Court to provide the ability for more courts to transmit dispositions electronically.

Assemblywoman Diaz acknowledged that the Supreme Court did not have access to all courts in Nevada, but she asked how many were currently using the system.

Ms. Sweet explained that the monitoring queue for the Multi-County Integrated Justice Information System (MCIJIS) was the intermediate place. The MCIJIS connected courts on one side and it connected with the Department of Motor Vehicles (DMV), Department of Public Safety (DPS), or whichever state agency was needed, on the other side. The interfaces had to be made between the systems and MCIJIS. When the connection between MCIJIS and the agency was made, the connection was continued with different court case-management systems. Ms. Sweet said there was not one case-management system because it was not a unified judiciary. The counties paid for their management systems and the Supreme Court paid for the sponsored case-management system. Ms. Sweet explained that as a court installed a new system or upgraded its system, the systems could talk, but the integration had to be made first.

ELECTED OFFICIALS
JUDICIAL BRANCH
FORECLOSURE MEDIATION PROGRAM (101-1492)
BUDGET PAGE JUDICIAL-64

James W. Hardesty, Associate Justice, Supreme Court of Nevada, presented budget account (BA) 1492, Foreclosure Mediation Program.

Page 22 of Exhibit C referred to the Foreclosure Mediation Program, which was set to terminate effective June 30, 2017, pursuant to Senate Bill (S.B.) 512 of the 78th Session (2015). Under legislation adopted in 2015, the Supreme Court could no longer take requests for mediation beyond the end of 2016. Justice Hardesty stated the termination of the program would leave many documents that would be stored and under the Supreme Court's records retention schedule eventually destroyed. Provisions had been made for funds to be retained to accomplish the storage and destruction process. Justice Hardesty noted that projections showed that at the end of this fiscal year, the Supreme Court would revert about $518,000 to the State General Fund.

Justice Hardesty said that since the inception of the program, out of a total of 9,167 agreements, 5,240 participants reached agreements to retain their homes. There had also been 2,228 modifications and 1,601 permanent modifications. He wanted to provide this statistic because there had been some interest among some legislators to continue the program. Page 23 of Exhibit C showed the number of foreclosure notices in Nevada in the first seven months of fiscal year (FY) 2017. In Clark County foreclosures totaled approximately 400 per month, Washoe County had 50 to 60 per month, and the rural counties had about 65 to 70 every month.

Chair Swank said she believed everyone knew someone who lost their home in the recession. She asked Justice Hardesty to talk about how the successes matched with the expectations for the program.

Justice Hardesty remarked that it would be difficult to answer that question because different people had different expectations. The hope had been that eligible homeowners would be connected with lenders to try to resolve the difficulties borrowers were having making payments. He said one person's perspective might be that if one home was saved and one person received a modification, that was a success. He offered different categories of successes and said the Foreclosure Mediation Program operated completely without the General Fund and did not cost the taxpayers of Nevada a cent. The funding mechanism was entirely fee-based, and administrative costs incurred by the Supreme Court to operate the system were paid for by fees paid by the lenders that were seeking foreclosure. All the mediation fees were paid by the homeowners and by the lenders. Therefore, the cost of the program was borne by the program itself. Justice Hardesty also believed there was success because a number of homeowners managed to save their homes or achieve mortgage modifications.

Justice Hardesty believed much was learned about lending practices and foreclosure proceedings from the program and in the cases that the Supreme Court decided on this subject. It was his hope that what was learned from prior lending practices would help guide the Legislature in adopting legislation that would make improvements to the banking process and avoid a similar type of problem in the future. Not as many homes were saved through negotiation as had been hoped, but that was not from lack of effort from the program or from the mediators who participated. Justice Hardesty said homeowners were so far "underwater" in Nevada, that it would have been understandable that a lender could not discount an $800,000 loan to $200,000. He did not think anyone appreciated in 2008 just how serious the foreclosure problem would become.

Chair Swank agreed and said the state and its citizens had been through some very rough years, and this program helped some homeowners. There were still a good number of homes in Nevada that were underwater, and Chair Swank believed the state would be struggling with the problem for quite a while.

Senator Harris said the Senate Judiciary Committee was going to introduce a bill regarding the Foreclosure Mediation Program and clean up some of the challenges that Justice Hardesty was speaking about. The bill would make it clear that commercial lenders did not have to apply to the program, which would eliminate a considerable amount of work for those who administered the program. An online portal was being considered, and making everything electronic would remove some of the record-keeping issues that the program would be dealing with over the next several years.

Senator Harris said she would like to believe that there would be more participation from homeowners who were really struggling. She said some of the challenges in getting homeowners to accept the Foreclosure Mediation Program as legitimate was because of private organizations that were advertising to help homeowners. Those homeowners had to pay outrageous sums of money to sign up to save their homes, and the programs turned out

to be offered by unscrupulous individuals who did not provide any kind of help. Later, when the state provided the Foreclosure Mediation Program, people were very skeptical and did not want to participate.

Senator Harris said she hoped that some of the changes made to the program in 2013 were going to better serve homeowners and help people understand the context and meaning of the program. She had found the program to be beneficial to stabilize families, keep children in their schools, and help the community.

Justice Hardesty commented that it was reasonable for the Foreclosure Mediation Program to continue because as the economy improved, the ability to negotiate improved, and there were no longer widespread differences between the value of a home and what was owed against it. An argument could be made that if there was a mediation process available, a number of homeowners could still be saved.

ELECTED OFFICIALS
JUDICIAL BRANCH
SPECIALTY COURT (101-1495)
BUDGET PAGE JUDICIAL-56

James W. Hardesty, Associate Justice, Supreme Court of Nevada, presented budget account (BA) 1495, Specialty Courts.

Justice Hardesty said specialty courts was an area that was particularly affected by the administrative assessment problem and referred to page 24 of Exhibit C. The majority of the enhancement was a continuation of the $3 million per year that the Legislature began in 2015. It was hoped that the current Legislature would fund a base budget going forward, rather than renew it every year. It was difficult to begin programs when there was uncertainty about whether the money would be available a year and a half or two years later. If funds were constant and part of a dependable base, it would be easier to develop and expand the Drug Court and Mental Health Court programs. The courts had reverted $1,347,466 to the General Fund in the first year because funding had been authorized, but the programs were not ready to begin providing services to clients. Justice Hardesty said the specialty courts had a slower start than anticipated, but he expected to see higher program participation in the final year of the current biennium and going forward. He added that the Legislature's Advisory Commission on the Administration of Justice was unanimously recommending the Legislature continue this funding for the next biennium.

Justice Hardesty commented that when the funds were appropriated, the Administrative Office of the Courts and Justice Michael Douglas and Justice Mark Gibbons, as cochairs of the Specialty Court Funding Committee, made it clear to the programs that this money had to be used exclusively for provider needs to enhance enrollment. What was not fully appreciated was that some of this money needed to be used to help the backbone of the

system and provide staffing that was needed for those programs to be successful. He wanted to clarify on the record that this budget included a request that the Specialty Court Funding Committee be authorized to evaluate, on a program-by-program basis, whether there was a staff or backbone problem that needed to be addressed.

Assemblyman Edwards said he had seen the results of the Veterans Treatment Court and it was phenomenal. He believed specialty courts changed lives in ways that the traditional court system could not, and he also believed there was a large return on investment for every dollar put into these programs.

Justice Hardesty added that much had been learned about specialty courts. The programs focused on veterans who often had unique issues, but those problems were treatable, and there were successes for veterans.

Assemblyman Edwards noted that the programs were not easy, but in the case of the Veterans Treatment Court, in particular, it had strong support from the veteran community.

Senator Ford agreed that specialty courts in general were working, and they needed to be funded. He wanted to acknowledge the success alternative courts had provided for participants.

Senator Ford said he had a question regarding participants in the specialty court program. An increased number of participants were projected for the 2015-2017 biennium in The Executive Budget, but the number of participants and graduates was projected to decrease in the Court's projections in fiscal year (FY) 2017.

Justice Hardesty said he did not have a copy of the schedule to which Senator Ford was referring and asked Emily Rahmeyer to answer the question.

Emily Rahmeyer, Manager of Budgets, Administrative Office of the Courts, Supreme Court of Nevada, said this was another case where the budget needed to be submitted before the actual numbers were available. She offered to provide updated projections to Senator Ford.

Senator Ford asked Justice Hardesty to speak to some of the challenges that the specialty courts were experiencing regarding graduates. He noticed that less than half of the active participants had graduated from the specialty court programs, but clearly that did not mean the courts were not successful.

Justice Hardesty said the challenges for the participants were the same challenges that had existed since specialty courts began, and not all specialty courts were the same. The drug courts had challenges because they focused on addiction and substance abuse, but what had been learned was a substantial number of participants had co-occurring disorders. In the mental health courts, participants might graduate, but the issues affecting their mental

stability could return. Justice Hardesty said it was an ongoing problem, and if the state did not have a sound, well-funded support mechanism in place for those who suffered from mental deficiencies, participants would be using a revolving door through the mental health courts.

According to Justice Hardesty, the challenge for the specialty courts was always the same, and it was usually a matter of getting resources, such as beds, providers, and the kinds of support mechanisms that were necessary to achieve as many successful graduations as possible.

Justice Hardesty referred to the Eighth Judicial District Veterans Treatment Court in Clark County. He said that court operated on a shoestring, and it was doing its work largely through volunteers in the court staff. It was not just the money to develop providers and staff that could conduct the counseling and have the hearings; there had to be an underlying infrastructure. He said there could be all the specialty courts in the world, but if additional support services were not available to those courts, the percentage of success would be low.

Senator Ford said he was an ally and a staunch advocate for these programs, and he believed they were successful and necessary. He looked forward to working with the Supreme Court as the session progressed to see how its' requests could be accommodated.

Assemblywoman Diaz asked for a description of the process the Specialty Court Funding Committee used to determine how much funding each specialty court program received.

Justice Hardesty explained that the structure of the Specialty Court Funding Committee, as co-chaired by Associate Justice Michael Douglas and Associate Justice Mark Gibbons, included representatives of specialty courts throughout the state. One of the first things that Justice Hardesty did as chief justice in 2015, when the Legislature approved this funding, was to have the Specialty Court Funding Committee develop a process to allocate the funding. The Committee voted unanimously to allocate funding based upon the population of Nevada, with roughly 18 percent of the money going to Washoe County and over 70 percent going to Clark County. The judges on the Committee from each of those districts made the decisions about what programs could be funded right away and divided up the money that had been allocated to each district. In the case of Clark County, some new programs were initiated, existing programs received support services, and it was an impressive collaborative effort. Justice Hardesty believed local control was a successful effort.

The other thing the Committee did was to adopt national criteria that would measure specialty courts. Each court was required to account for the money allocated, and if it had not been spent for that quarter, it was forfeited, and the money either reverted to the General Fund or was allocated to other programs within that county. There was a high level of

performance expectation developed in the criteria that the Specialty Court Funding Committee established.

ELECTED OFFICIALS
JUDICIAL BRANCH
JUDICIAL SUPPORT, GOVERNANCE AND SPECIAL EVENTS (101-1493)
BUDGET PAGE JUDICIAL-60

James W. Hardesty, Associate Justice, Supreme Court of Nevada, presented budget account (BA) 1493, Judicial Support, Governance and Special Events.

Justice Hardesty said that BA 1493 was funded primarily through preemptory challenge fees that were assessed according to Supreme Court rule 48.1. If someone exercised a preemptory challenge against a judge, they were required to pay a fee as a condition of doing so, and that fee was deposited with the Supreme Court. He explained that those fees were used to advance any number of programs, but currently the fees were available to assist in the move to the new Supreme Court Building in Las Vegas. If those funds had not been used for that purpose, they would have been used to fund the establishment of the offices for the Court of Appeals.

Chair Swank referred to the reserves in this budget account and questioned the 979-day reserve level. She wondered whether some of the reserves could be used to cover the travel for the JWorks program in budget account 1486. Chair Swank asked Justice Hardesty to discuss the plans the Judicial Branch had for spending down the reserves in BA 1493.

Justice Hardesty said the principal concern of the Court had been to build up reserves as much as possible in BA 1493 because there was no way of knowing what costs would be incurred to outfit the Court of Appeals offices, and later, the Supreme Court and Court of Appeals offices. In ordinary circumstances, the Court would have made a number of decisions to use the discretionary funds available for a variety of programs. That was how the funds had been used historically before the Court began saving reserves to address the needs for the move. He now expected that the Court would consider a number of other programs to bring down the reserves balance. For example, the Court had begun studies of the guardianship system this past year and produced a 235-page report with 16 legislative recommendations for changes to the guardianship system in Nevada. In addition, a commission had studied the absence of compliance with federal law dealing with child-support guidelines. Justice Hardesty said Nevada was out of compliance and had been for 20 years. There was a commission that was studying the process of pretrial release and another commission studying the problems concerning fines and fees. All of those matters required staff support, and the Court would be looking at this funding source to improve the judicial system.

Justice Hardesty stated that JWorks should be a General Fund-budgeted item because it was an information technology requirement. This enhancement was not for discretionary travel, but travel that was necessary to either train or get more courts on the system. Justice Hardesty said using these discretionary fee dollars for what was an infrastructure support mechanism was inappropriate, and he said he would object.

Chair Swank thanked Justice Hardesty for his presentation.

Chair Swank requested public comment and, hearing none, adjourned the meeting at 10:04 a.m.

RESPECTFULLY SUBMITTED:

_____
Anne Bowen
Committee Secretary

APPROVED BY:

_____
Assemblywoman Heidi Swank, Chair

DATE: _____

_____
Senator Aaron D. Ford, Chair

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a copy of a PowerPoint presentation titled "Judicial Branch Budget Hearing, James W. Hardesty, Justice, Assembly Committee on Ways and Means and Senate Committee on Finance Subcommittees on General Government, February 15, 2017."