JUDICIAL DEPARTMENT BILL DRAFT REQUEST FOR THE 2023 LEGISLATIVE SESSION

Authority: NRS 218D.190

Deadline: BDRs from the Judicial Department must be submitted by the Supreme Court by no later than **September 1, 2022**.

Person Submitting Request:

John McCormick

Person to Contact for Clarification or Additional Information:

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1. **Intent of Proposed Bill or Resolution** (Describe the problem to be solved, intended effect, and/or the goal(s) of the proposed bill or resolution – may be attached as separate document):

This proposal is a budget implementation bill for the Supreme Court's budget request. It repeals and replaces the provisions of NRS 2.185 and creates a State Judicial Fund, eliminates the obligation for money in this Fund to be reverted, and establishes an emergency fund for the Supreme Court. Additionally, it removes the percentage distribution of administrative assessment revenue that goes to the AOC. Finally, it clarifies that a Department of State Government may request an advance in the amount of 25% of the total authorized amount for fee-funded accounts.

2. **If known, list any existing state law that is sought to be changed or which is affected by the measure (NRS Title(s), Chapter(s) and Section(s) affected, Statutes of Nevada Chapter(s) and Section(s) affected and/or Nevada Constitutional provision):**

Title 1, NRS 2.185; Title 14, NRS 176.059; Title 31, NRS 353.359

3. **Any additional information that may be helpful in drafting the bill or resolution** (May include any relevant legislative measures, cases or federal laws or other supporting materials – may be attached):

Suggested language is attached. See NV Constitution, Article 3, Sec. 1, NRS 218A.150, and Supreme Court Budget Request.

4. **Effective Date:**

- ☐ Default (October 1, 2023)
- ☒ July 1, 2023
- ☐ January 1, 2024
- ☐ Upon Passage and Approval
- ☐ Other

5. **Description of any known cost to the State or a local government that would result from carrying out the changes in the bill if enacted:**

This is a budget implementation bill and will impact expenditures from the General Fund and the usage of administrative assessment revenue.

REQUIRED PREFILING:

A bill draft requested by the Supreme Court is required to be prefiled on or before November 16, 2022. By statute, such a measure that is not prefiled on or before that date is deemed to be withdrawn. There is no authority to waive this requirement.

Please submit the completed Bill Draft Request form by mail to: Bryan Fernley, Legislative Counsel, Legislative Building, 401 South Carson Street, Carson City, Nevada 89701; by e-mail at Bryan.Fernley@lcb.state.nv.us; or by fax at (775) 684-6761.

Section 1. NRS 2.185 is hereby amended to read as follows:

2.185 ~~**[1. Any amount appropriated by the Legislature from the State General Fund for the support or operation of the Supreme Court during a fiscal year must be reduced to the extent that the amount of any administrative assessments distributed to the Office of the Court Administrator for allocation to the Supreme Court pursuant to NRS 176.059 exceeds the amount which is authorized by the Legislature for expenditure from those assessments for that fiscal year**~~.

~~**2. The Supreme Court shall reserve for reversion each fiscal year the amount by which an appropriation from the State General Fund must be reduced pursuant to subsection 1, and that amount reverts to the State General Fund upon the close of that fiscal year by the State Controller.]**~~

1. The Judicial Fund is hereby created as a special revenue fund for the use of the Supreme Court for purposes authorized by the Legislature and purposes that fall within the Court's inherent authority.

2. Support for the Judicial Fund must be provided by legislative appropriation from the State General Fund; authorizations made by the Legislature; and any gift, donation, bequest, grant, or other source of money. Money in the Judicial Fund does not revert to the State General Fund at the end of the fiscal year, and the balance in the Judicial Fund must be carried forward to the next fiscal year.

3. Expenditures from the Judicial Fund may be made for, but are not limited to:

(a) The payment of expenses of the Supreme Court;

(b) The payment of expenses of the Court of Appeals;

(c) The payment of salaries for the justices, court of appeals judges, and district court judges;

(c) The payment of improvements to the Supreme Court, other buildings used by the Supreme Court, and all Supreme Court grounds;

(d) The payment of expenses for the operations, activities, and programs of the Administrative Office of the Court; and

(e) The payment of expenses of the Law Library.

4. Expenditures from the Judicial Fund for purposes other than those specified in subsection 3 or authorized specifically by another statute may be made only upon the authority of the Supreme Court.

5. All money in the Judicial Fund must be paid out on claims approved by the Director of the Administrative Office of the Courts or the Director's designee.

6. There is herby created a special revenue fund in the State General Fund for the use of Supreme Court in the event of an operational interruption due to an emergency condition existing with the physical or information technology infrastructure of the Court.

7. This emergency account shall be funded through direct legislative appropriation equal to five percent of the total appropriation made for the Supreme for each biennium.

8. The Supreme Court must authorize expenditures from the account upon determining an emergency exists and must account for the use of the fund using generally accepted government accounting principles.

Sec. 2 NRS 176.059 is hereby amended to read as follows:

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

Fine	Assessment
$5 to $49	$30
50 to 59	45
60 to 69	50
70 to 79	55
80 to 89	60

90 to 99..... 65
100 to 199..... 75
200 to 299..... 85
300 to 399..... 95
400 to 499..... 105
500 to 1,000..... 120

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

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

(a) An ordinance regulating metered parking; or

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

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

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

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

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

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

(c) Five dollars to the State Controller for credit to the State General Fund.

(d) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund for distribution as provided in subsection 8.

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

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

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

(c) Five dollars to the State Controller for credit to the State General Fund.

(d) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund for distribution as provided in subsection 8.

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

(a) Training and education of personnel;

(b) Acquisition of capital goods;

(c) Management and operational studies; or

(d) Audits.

8. Of the total amount deposited in the State General Fund pursuant to paragraph (d) of subsection 5 and paragraph (d) of subsection 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

(a) Not less than 51 percent to the Office of Court Administrator for ~~[allocation as follows]~~:

~~[(1) Forty-six and three-quarters percent of the amount distributed to the Office of Court Administrator for:~~

~~(I)]~~ *(1)* The administration of the courts;

~~[(II)]~~ *(2)* The development of a uniform system for judicial records; ~~[and]~~

~~[(III)]~~ *(3)* Continuing judicial education ~~[.]~~ *;*

~~[(2) Thirty-seven and three-quarters percent of the amount distributed to the Office of Court Administrator for]~~ *(4)* the Supreme Court ~~[.]~~ *;*

~~[(3) Three and one-half percent of the amount distributed to the Office of Court Administrator for]~~

(5) ~~[t]~~ *T*he payment for the services of retired justices, retired judges of the Court of Appeals and retired district judges ~~[.]~~ *; and*

~~[(4) Twelve percent of the amount distributed to the Office of Court Administrator for]~~

(6) ~~[t]~~ *T*he provision of specialty court programs.

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

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

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

(3) The operation by the Department of Public Safety of a computerized interoperative system for information related to law enforcement;

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

(5) The Advisory Council for Prosecuting Attorneys; and

(6) Programs within the Office of the Attorney General related to victims of domestic violence.

9. Any money deposited in the State General Fund pursuant to paragraph (d) of subsection 5 and paragraph (d) of subsection 6 that is not distributed or used pursuant to paragraph (b) of subsection 8 must be transferred to the uncommitted balance of the State General Fund.

10. As used in this section:

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

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

Sec. 3 NRS 353.359 is hereby amended to read as follows:

353.359 1. The State Controller shall draw his or her warrant, upon application by ~~[an]~~ ***a department or*** agency responsible for the administration of an account which is wholly or partially supported by administrative assessments pursuant to NRS 176.059, for not more in the aggregate in any fiscal year than ~~[1/12th]~~ ***one-quarter*** of the portion of the total money received in the previous year which represents the share of administrative assessments presently allocated to the account.

2. An agency shall not apply for an advance pursuant to subsection 1 unless the application is first approved by the Director of the Office of Finance.

3. Any money which is advanced from the State General Fund to an account pursuant to subsection 1 must be repaid as soon as the money which the advance replaced is deposited in the account. If the money deposited in the account in any fiscal year is insufficient to pay back the money advanced, an amount equal to the shortfall is hereby contingently appropriated from the State General Fund to the account.

4. The Director of the Office of Finance shall notify the Fiscal Analysis Division of the Legislative Counsel Bureau if:

(a) The Director approves an advance pursuant to subsection 2.

(b) The money deposited in an account in any fiscal year is insufficient to pay back the money advanced pursuant to subsection 1.