

# Administrative Assessments – A Brief History



John McCormick

AOC

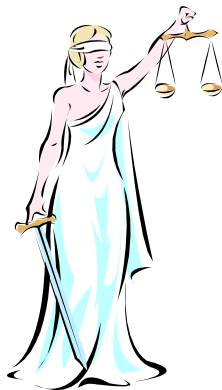
775-687-9813

[jmccormick@nvcourts.nv.gov](mailto:jmccormick@nvcourts.nv.gov)

# Before Administrative Assessments

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- As a result of the Omnibus Crime Control and Safe Streets Act of 1968, the Law Enforcement Assistance Administration (LEAA) was created to distribute block grants (1<sup>st</sup> federal block grant program) to the states to improve their criminal justice systems.
- From the late 1960s to 1982 a significant portion of the costs for criminal justice system, including the courts, in Nevada were funded by these LEAA dollars.



# Before Administrative Assessments

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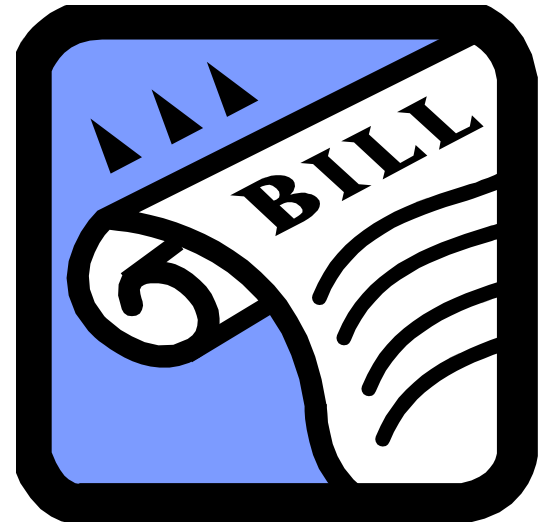
- During the early 1980's the U.S. was experiencing a recession, and as a result Congress cut roughly \$40 billion from the 1982 budget. This included the elimination of the LEAA and its grants.
- During the 1983 Session, the Nevada Legislature replaced the LEAA dollars by implementing administrative assessments to fund criminal justice programs; including the courts.



# Created in 1983

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- ❑ AB44 - Legislature authorized a \$10 administrative assessment (AA) on all misdemeanors.
  - \$1 for city/county juvenile court(s)
  - \$3 for muni/justice court(s)
  - \$5 to Supreme Court/AOC
    - \$2 AOC
    - \$2 USJR
    - \$1 Judicial Ed
  - \$1 for POST



# 1985

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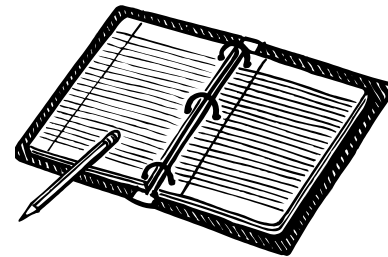
- ❑ AB301 - Legislature changed allotment by moving \$1 from local courts to Supreme Court, modifying the Supreme Court distribution:
  - \$1 AOC
  - \$1 USJR
  - \$1 Judicial Ed
  - \$3 Supreme Court
- ❑ This legislative action was the beginning of funding the Supreme Court's operations with AA funds.



# 1987

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- ▣ AB579 - Legislature created an assessment schedule from \$10 to \$100:
  - \$1.50 for city/county juvenile court(s)
  - \$2.50 for muni/justice court(s)
  - \$6 Supreme Court
    - ▣ \$1 AOC
    - ▣ \$1 USJR
    - ▣ \$1 Judicial Ed
    - ▣ \$3 Supreme Court
  - \$1 POST
  - Remainder of funds collected (up to leg. authorization) go to support:
    - ▣ Criminal History repository
    - ▣ NDI
    - ▣ Computerized NHP switching system
    - ▣ Victims of Crime Fund



# 1989

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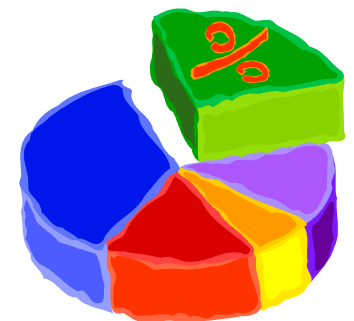
- ▣ AB963 - Legislature changed distribution of Supreme Court portion as follows:
  - \$1.50 AOC
  - \$.80 USJR
  - \$.70 Judicial Ed
  - \$3 Supreme Court



# 1991

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- AB395 - Legislature revised distribution from dollar amounts to revenue percentages:
  - 51% to Supreme Court as follows:
    - 18.5% AOC
    - 9% USJR
    - 9% Judicial Ed
    - 60% Supreme Court
    - 3.5% Senior Judge Program
  - 49% to Executive Branch for:
    - Criminal History repository
    - POST
    - Computerized NHP switching system
    - Victims of Crime Fund





# 1993

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- ❑ No non-technical changes were made during the '93 Legislative Session.



# 1995

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- AB364 - NRS 176.0611 authorizing county/city to enact facility fee AA of \$10 for court facilities (AB102).
- NRS 206.340 imposes a \$250 AA on graffiti crimes to be paid to the State for the 'graffiti reward account'.



# 1997

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- ▣ AB425 - Assessment schedules increased by \$5 (\$15 to \$105).
- ▣ AB425 - Increased county/city portion:
  - \$2 Juvenile Court(s)
  - \$7 Justice/Muni Court(s)
- ▣ Battery-Domestic Violence AA of \$35 to fund programs related to DV (AG's Office).



# 1999

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- ❑ No non-technical changes.



# 2001

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- ❑ SB139 changed the following language in NRS 176.059 and added a new section to Chpt. 2:
  - Removed language relating to legislative authorization regarding Supreme Court Budget's 51%.
  - Chapter 2 of NRS is amended with a new section:
    - ❑ The Supreme Court may receive AA revenue which exceeds the amount of the legislative authorization, however, those funds supplant any general fund appropriation, and the amount by which the general fund appropriation is replaced must be reverted to the general fund at the end of the fiscal year.

# 2001 Continued

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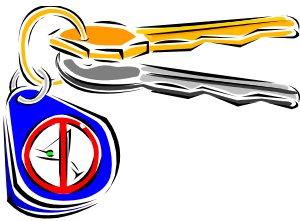
- ▣ Advisory Council for Prosecuting Attorneys (AG's Office) added to executive branch recipients of AA funds.



# 2003

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- ▣ AB29 adds \$7 specialty court AA
- ▣ AA schedule increased by \$10 (\$25 to \$115).

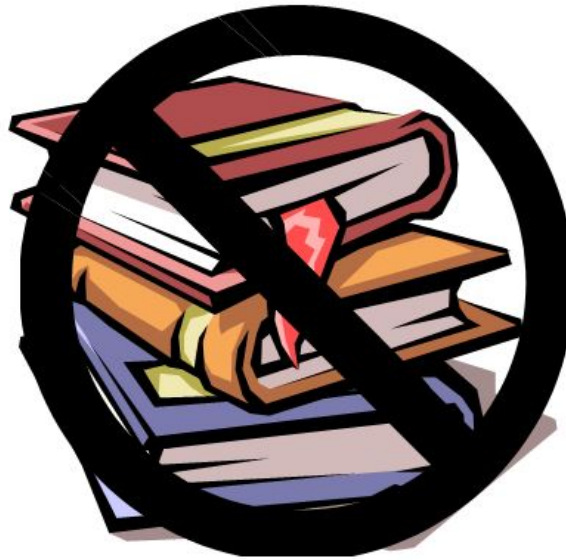


## Rehabilitation

# 2005

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▣ No changes

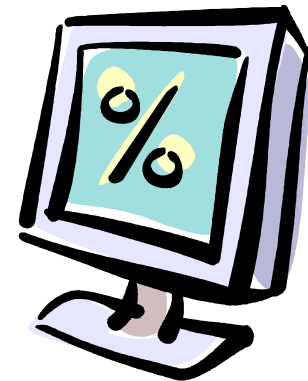




# 2007

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- AB30 changed 'NHP computerized switching system' in executive branch uses to 'DPS computerized system for information related to law enforcement'.
- AB625 changed the percentage of judicial branch AAs devoted to the Supreme Court to 48% and applied the other 12% to funding specialty courts.



# 2009

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- AB531 changed the AOC portion of Supreme Court's 51% to remove the breakdown for AOC accounts statute:
  - 36.5% to AOC to fund:
    - AOC
    - USJR
    - Judicial Ed
- AB531 also added program related to DV in the AG's Office as executive branch recipient, and created requirement that any of the executive branch's 49% not legislatively dedicated to one of the permitted uses must be returned to the general fund.



# 2010 Special Session

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- ▣ AB6, Section 34 increased the assessment schedule in NRS 176.059 by \$5 (\$30 to \$120) and required that the funds generated by the increase be sent directly to the State general fund:
  - The \$5 follows the \$2 for local juvenile court(s) and the \$7 for local justice/muni court(s) in the distribution hierarchy for AAs.



# 2011

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- ▣ No changes



# 2013

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- SB224 created a \$100 fee on misdemeanor DUI offenses that is included in statutory collection order. Fee was to sunset in June of 2015 but was continued in 2015 and again in 2017. Funds specialty court programs.
- SB243 created NRS 176.0623 imposing a \$3 AA on all offenses to fund DNA testing of felony arrestees (Brianna's Law).



# 2015

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- ▣ SB469 appropriated \$558,000 to the Supreme Court to cover a shortfall in administrative assessment revenue.



**REVENUE SHORTFALL**

# 2017

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- ▣ No changes

**NO ACTION REQUIRED**

# Proposed and Failed AAs

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- ❑ 2005 - \$25 traffic AA to fund emergency medical services and the treatment of trauma.
- ❑ 2007 - \$5 traffic moving violation AA in counties w/ population under 100,000 to fund volunteer emergency medical services.
- ❑ 2007 - \$25 of every DUI AA that is in executive branch 49% goes to DUI related programs.





# Proposed and Failed AAs (Continued)

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- ❑ 2009 - \$100 AA on reckless driving, driving suspended/revoked, DUI, felony traffic, and traffic violation resulting in death/injury/property damage to go to the State Highway Fund for transportation programs in the jurisdiction in which the violation occurred.
- ❑ 2011 - \$5 increase in felony AA for child abuse and neglect offenses to fund truancy programs.



# Proposed and Failed AAs (Continued)

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- ❑ 2011 - \$2.50 AA on all offenses to fund DNA testing of felony arrestees.
- ❑ 2011 - \$2 AA and \$4 AA schedule increase on misdemeanors, and a doubling of gross and felony AA (\$25 to \$50) to fund county provision of indigent defense services.
- ❑ 2011 – Temporarily redirected executive branch AA share from specific programs to the general fund for the biennium.



## Proposed and Failed AAs (Continued)

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- ▣ 2013 - \$500 AA on solicitation of prostitution (adult) and \$2,500 AA on solicitation of prostitution (child) for specialty courts and county programs for the prevention of commercial sexual exploitation of children.



# AA Case Law

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## ▣ *Board of County Commissioners v. White*, 102 Nev. 587 (1986)

1. Monies generated by surcharge constituted a source of funds for court improvement and capital acquisition;
2. Fund so generated was in addition to general funds for operational budget of courts; and
3. Such funds earmarked for but unused by courts were transmuted into general fund monies.



# AA Case Law (Continued)

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## ■ *McKay v. City of Las Vegas, 106 Nev. 203 (1990)*

1. The statute creating the municipal courts does not give them authority to declare a state statute unconstitutional; and
2. Statutory scheme whereby courts are required to collect assessment against guilty misdemeanor defendants which increases with the amount of their fines and which earmarks the amounts assessed in excess of the first \$10 for general law enforcement purposes as opposed to court operations or improvement is a reasonable assessment and not a tax and is not unconstitutional.

■ “We have, however, unequivocally stated that the surcharge revenues are to be used primarily for the improvement of the court system.” - *Per Curiam*

