MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS

Seventy-Third Session
February 28, 2005

The Committee on Ways and Means was called to order at 8:05 a.m., on Monday, February 28, 2005. Chairman Morse Arberry Jr. presided in Room 3137 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Morse Arberry Jr., Chairman
Ms. Chris Giunchigliani, Vice Chairwoman
Mr. Mo Denis
Mrs. Heidi S. Gansert
Mr. Lynn Hettrick
Mr. Joseph M. Hogan
Mrs. Ellen Koivisto
Ms. Sheila Leslie
Mr. John Marvel
Mr. Richard Perkins
Mr. Bob Seale
Mrs. Debbie Smith
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

Ms. Kathy McClain (excused)

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Mark Krmpotic, Senior Program Analyst
Linda Smith, Committee Secretary
Carol Thomsen, Committee Secretary

Chairman Arberry said the Committee would be reviewing the Nevada Department of Transportation's (NDOT) budget.

TRANSPORTATION ADMINISTRATION (201-4660)
BUDGET PAGE NDOT-1

Jeff Fontaine, P.E., Director, Department of Transportation (NDOT), said he was pleased to present the Department's biennial budget. He stated that the Department's projects and programs were intended to improve safety, enhance mobility, and provide economic development throughout Nevada.

Mr. Fontaine said many of the statistics he would be citing were contained in the Department's handout (Exhibit B), "State of Nevada Transportation Facts and Figures, January 2005." The Department had responsibility for maintaining 5,500 miles of centerline highways, including 560 miles of interstate highways, which represented 21 percent of Nevada's 20,000 miles of improved roads. The state roads carried 11.5 billion vehicle miles of traffic every year, 59 percent of all vehicles in the state, and 89 percent of all the heavy truck traffic. The Department also maintained 1,015 of the state's 1,679 bridges. Nevada had two of the heaviest freight corridors in the nation, Interstate 80 and Interstate 15. Mr. Fontaine referred to the growth in southern Nevada and said between 1990 and 2003 Nevada's population increased by 85 percent, the fastest in the nation; during the same time period, vehicle miles traveled on Nevada roads increased 91 percent, the greatest rate of traffic increase in the nation.

Mr. Fontaine continued his presentation and directed members to a document titled, "Nevada Department of Transportation, Statewide Construction Projects, 2005 and Beyond" (Exhibit C), an overview of the Department's Capital Improvement Program (CIP), which included major projects currently under construction, major projects completed in 2004, major projects scheduled to start in 2005, and future projects and studies. The NDOT was in the midst of the largest highway construction program in Nevada's history. Mr. Fontaine said there were $640 million for projects under construction, and in FY2005, the NDOT planned to have over $700 million in new projects under construction. The construction program was funded in part by bonds, which enabled acceleration of the delivery of the super projects, projects that would otherwise have taken years to complete on a pay-as-you-go basis. The $487 million in bonds issued to date were sold at very good interest rates, some as low as 2.7 percent. The Department estimated needing to sell another $535 million in bonds over the next three years to complete the current programs.

Mr. Fontaine said State Highway Fund revenue included motor vehicle fuel taxes collected by the Department of Motor Vehicles (DMV), registration fees, and other fees collected by the DMV. In addition, the NDOT received federal funding from the federal highway trust fund; Nevada received approximately $215 million in FY2004 from the trust fund. Mr. Fontaine stated that the NDOT also entered into cooperative agreements with the local governments and the private sector for various projects. The Department was authorized to sell bonds backed by future federal and State Highway Fund revenues. While no bonds were issued in FY2004, the Department had issued $478 million in bonds since FY2000 to support the current program.

Mr. Fontaine said appropriations were made from the State Highway Fund to the Department of Motor Vehicles, Department of Public Safety, and other state agencies. Disbursements were made to NDOT for maintenance, administration, and to repay the bonds. Mr. Fontaine pointed out that the Department monitored the cash flow through the State Highway Fund continually to ensure that projected revenues were sufficient to cover highway construction contracts and other obligations.

Mr. Fontaine referred to the four Department goals included in the strategic plan:

- Improve safety
- Deliver beneficial projects in a timely manner
- Communicate effectively
- Manage the Department's assets

The NDOT had developed 15 performance indicators to measure how well the Department was doing in meeting those goals, and 6 of the indicators were included in The Executive Budget:

- Fatal crash rate per 100 million vehicle miles of travel, obviously a measure of highway safety; 401 people lost their lives on Nevada's highways and roads in 2004. The Department wanted to do everything possible to improve the state's roadways.

- Portion of daily vehicle miles of travel on congested urban roads. Congestion in urban areas continued to increase.

- Traffic-weighted International Roughness Index, a measure of the condition of the roads. Mr. Fontaine said the condition of Nevada's highway pavements was rated as the best in the nation because of the proactive system that maintained highways.

- Employee injuries requiring medical attention. Highway work was inherently dangerous.

- Percent of state bridges in fair or better condition. Nevada's bridges were rated as second best in the nation.

- Percent of equipment needing replacement. The NDOT owned in excess of 2,600 pieces of equipment.

Mr. Fontaine referred to the base budget which included the resource components, including the Highway Fund Authorization, federal aid, and bonds; there were no General Funds. The authorization was based on close coordination with the DMV on revenue projections, as well as all the other Highway Fund agencies. The federal aid was based on the reauthorization of the six-year federal highway and transit bill, also known as the Transportation Equity Act for the 21st Century (TEA-21). Mr. Fontaine said TEA-21 expired on September 30, 2003, and was in its fifth extension. The latest news from Washington, D.C., indicated there was an effort to move a bill before the expiration of the current extension at the end of May 2005. To date, the delay had been the overall funding level of the bill and the minimum guarantee to so-called donor states, states that returned more gas tax to Washington, D.C., than received in revenues. The current level of funding being discussed was a $284 billion program over the next six years.

Mr. Fontaine pointed out that the bonds were an important part of the Department's program. The Department had received Interim Finance Committee (IFC) approval for the 2006 bonds and wanted the Legislature to approve the bonds prior to the Department requesting bids for the super projects for construction. The Department estimated it would need an additional $200 million in bonds in 2007.

Mr. Fontaine referred to the expenditures included in the base budget and said the largest line item in the Department's budget was building improvements, followed by salaries and operating expenditures. Funding was included for engineering consultants, right-of-way acquisition, and contractor payments. Mr. Fontaine referred to the personnel services line item and said there were 333 engineers at NDOT, making the Department the largest employer of engineers in the state; 763 employees, 40 percent of the Department's workforce, were involved in maintenance activities. The operating line item included office supplies, asphalt for pavement repairs, and salt and sand for winter operations. The biggest items in operating were the electric bills for street lights and Department buildings, maintenance contracts, replacement parts, and traffic supplies.

Mr. Fontaine referred to the maintenance items included in the budget:

- M-100 included adjustments for general inflation.

- M-101 requested agency-specific increases in operating for maintenance contracts and certain materials, such as guard rails, salt and sand, and for hazardous waste disposal.

- M-300 reflected the salary adjustments for retirement, group insurance, and other assessments.

- M-304 and M-305 reflected the recommended 2 percent per year cost-of-living adjustment (COLA) for classified and unclassified employees.

- M-502, a federal mandate for bike path planning, covered by a 50-cent fee on each driver's license.

Enhancements included:

- E-250 recommended 22 new positions, the associated equipment, and travel funding; 11 positions would be located in Las Vegas, 9 in Carson City, 1 in Reno, and 1 in Tonopah. Of the 11 positions proposed for Las Vegas, 9 would be in the project development design and permitting area.

- E-275 included requests for the Storage Area Network System (SANS) and Internet connections and computers that would be connected to the Department's 39 maintenance stations.

- E-325 included a request for the NDOT to participate in and maintain the Freeway and Arterial System of Transportation (FAST) center in Las Vegas, scheduled to open in May 2005. The FAST was a $35 million effort to improve the traffic flow on major highways in Las Vegas through the use of technology to maximize the efficiency of the existing system and technology to manage the freeways. The center would also house the southern command of the Nevada Highway Patrol. All the highway information would be managed at the center and all the local street signals in the Las Vegas Valley would be controlled through the center. The FAST would be operated as a seamless, integrated system, operated under an agreement by the Regional Transportation Commission of southern Nevada. The costs included in Decision Unit E-325 were for the Department's participation in the FAST and management of the center.

- E-710 included a request for replacement vehicles and other equipment. The replacement schedule was based on mileage, hours of use, cost of repair, overall life cycle costs, and other factors.

- E-720 included a request for new vehicles and equipment, including $1.5 million in each year of the 2005-07 biennium for operational equipment, such as computers, compressors, safety equipment for the field, and $823,000 in FY2006 for additional equipment for the Las Vegas maintenance operations.

- E-730 provided funding for the construction and maintenance of NDOT's buildings and grounds, including administrative buildings, maintenance buildings, and rest areas. Funding was also included for an addition to the headquarters building located in Carson City. The request included funding for a new Las Vegas office to accommodate new staff.

- E-735 recommended funding for the Department's two airplanes, including fuel and routine and major maintenance for the ten-passenger Cessna Citation.

Mr. Marvel asked why the Budget Division included the airplane operations as an enhancement rather than in the NDOT operating budget. Andrew Clinger, Deputy Director, Budget Division, explained that historically the Division had removed the airplane operations costs out of the base and placed them in enhancements.

Mr. Perkins agreed with Mr. Marvel that funding for the Department's airplanes should be included in the base budget, rather than an enhancement, unless the agency planned on not keeping the airplanes. In response to a question posed by Mr. Perkins related to the age of the aircraft, Mr. Fontaine pointed out that the Department had looked at the life cycle of the Cessna and, for the time being, the Department believed the Cessna could serve the Department well for the short-term future. Mr. Fontaine said at some point, the Cessna would become more costly to operate because of new requirements, the age of the aircraft, and the maintenance needs. The Aero Commander, a pre-owned specialty airplane used for aerial photography, was completely refurbished approximately six years ago and had a great deal of life remaining. Mr. Perkins said he thought the Cessna, as a backup, would last many years into the future if "you are not cycling it almost everyday."

Mr. Fontaine continued discussing the enhancements:

- E-811, recommended changes to the unclassified positions.
- E-850, recommended funding for Phases 5 and 6 of the integrated right-of-way information system (IRWIN), which would automate all of the department's right-of-way information.
- E-851, recommended an increase in the bonds to cover the CIP projects.
- E-901, E-902, E-903, and E-904, recommended various interagency transfers for technology.

Chairman Arberry asked Mr. Fontaine to briefly address the project to widen U.S. 95 and the status of the appeal to be heard before the United States Courts for the Ninth Circuit (9th Circuit Court of Appeals). Mr. Fontaine said the widening of U.S. 95 in Las Vegas from the spaghetti bowl to Rainbow Boulevard was the highest priority project in the state; the Department had made great progress and expected to open the highway to traffic in early 2007. Mr. Fontaine noted that the Sierra Club had filed suit against the Federal Highway Administration and the U.S. Department of Transportation; NDOT was not a defendant in the lawsuit. The Sierra Club claimed that the freeway expansion would have an impact on the health of residents adjacent to the freeway due to mobile source air toxics. The Sierra Club also had concerns related to transit and other miscellaneous issues in Las Vegas. The federal district court judge in Las Vegas denied the appeal, so the Sierra Club went to the 9th Circuit Court of Appeals in San Francisco, which issued an immediate stay. The Department was awaiting a decision. In the meantime, work continued on U.S. 95; the Rainbow-Summerlin interchange was expected to be completed by May 2005. The Department was soliciting bids to complete work on U.S. 95 between Martin Luther King Boulevard (MLK) and Valley View, which would include reconstruction of the Rancho interchange. The only project area the NDOT could not complete because of the appeal was the addition of lanes. Mr. Fontaine pointed out that the court decision might not be made for many months; however, the Department hoped a decision would be reached within the next two to three months. Mr. Fontaine said the contract currently out to bid was for the project that was out to bid when the stay was issued, an approximately $52 million project. The Department planned to build a major piece of the project, which represented approximately 95 percent of the original construction planned for U.S. 95 between MLK Boulevard and Valley View. The new contract would provide funding for the remaining work of adding lanes to the freeway. Mr. Fontaine acknowledged that the Department had lost time, but believed the time could be made up. He could not give the Committee a definitive time schedule for completion, however, the Department was doing everything it could to move forward with the project.

Chairman Arberry asked about the impact on the cost of the state's highway construction projects as a result of the increased cost of materials. Mr. Fontaine said there was no doubt that inflation would increase the costs of the contracts, which was one of the arguments against the stay that the NDOT had made to the 9th Circuit Court of Appeals. The cost of steel was one of the major increases experienced by the NDOT over the past few years and resulted in the agency including adjustment clauses for steel in some of the contracts.

Chairman Arberry asked about the issue of bonds for highway construction projects and the $1 billion maximum threshold. Mr. Fontaine said the bonding program began in 2000 and, at that time, the plan was to sell approximately $1 billion in bonds to cover the cost of constructing the super projects, including the widening of U.S. 95, Interstate I-15 from Stateline to Las Vegas, the Reno to Carson City freeway extension, and the Carson City freeway. In addition, Hoover Dam and the interchange in Henderson connecting I-515 and extending the beltway was also a bonded project. The projects were large with each contract in excess of $100 million. If the NDOT waited and saved the money to cover the projects, the projects would take many years to complete. The NDOT believed the projects could be accelerated with the sale of bonds. Mr. Fontaine said it was a good deal for the state in terms of getting the public benefits of those projects sooner, as well as taking advantage of very low interest rates. The Department had sold about $487 million in bonds to date, and reviewed the bond sales carefully. The Department worked with the State Treasurer's Office and State Board of Finance. The last bond issuance was in FY2005, a 15-year bond, almost $200 million with an effective rate of 4 percent; in FY2003, a 10-year bond, for almost $200 million at an effective interest rate of 2.7 percent, which was less than the rate of inflation in the construction industry. Mr. Fontaine said the NDOT had a cash flow that monitored bond payments and the program 20 years into the future.

Mr. Seale asked if the bonds were fixed rate, variable rate, or a mixture of each. Mr. Fontaine said the bonds were fixed rate. Mr. Seale asked if the bonds were competitive, negotiated, or a combination of both. Mr. Fontaine said the bonds were competitive. Mr. Seale asked if the NDOT had ever considered negotiated sale. Mr. Fontaine replied that the Department worked through the Treasurer's Office and their bond counsel and he was not certain if the NDOT had ever been presented with the negotiated sale option. Mr. Fontaine indicated the agency would discuss the sale option with the State Treasurer.

In response to a question asked by Mr. Marvel related to arbitrage, Mr. Fontaine said the Department was not prohibited from paying arbitrage, but had not paid arbitrage on their bonds. Mr. Marvel then asked about the Department's new legal counsel, and Mr. Fontaine replied that Joe Ward had assumed the position of Chief Deputy Attorney General for the Department.

Ms. Giunchigliani suggested it would be better to have more mass transit. She pointed out that adding more highway lanes resulted in more traffic and poorer air quality. Mr. Fontaine agreed, and said it was not realistic to think that constructing more highways and adding more lanes would alleviate traffic congestion. He noted that the Department worked closely with the Regional Transportation Commission (RTC) in Washoe County and southern Nevada. The RTCs were working diligently on developing alternative modes of transportation, and transit was one option. The RTC of southern Nevada had introduced Metropolitan Area Express (MAX), its Bus Rapid Transit (BRT) service, and there was also a new French Civis bus that would operate on North Las Vegas Boulevard. Mr. Fontaine said the Department had given one lane of North Las Vegas Boulevard, a state highway, to the RTC for dedicated use to the BRT and was reviewing other corridors, including the Boulder Highway and South Las Vegas Boulevard. When considering new roadway projects, the Department attempted to incorporate additional width for future light rail or other transit systems. Mr. Fontaine said the RTC had developed a Transit Master Plan for the Las Vegas Valley and the NDOT and the RTCs worked together on corridor studies for specific highway corridors in the state.

Ms. Giunchigliani said she felt there were far better light rail systems than the antiquated monorail system used in Las Vegas. She asked if Department staff was ever contracted to conduct transportation studies for local governments. Mr. Fontaine said most of the urban studies were completed by outside consultants. The NDOT did have a small planning division that worked primarily on rural planning efforts. Ms. Giunchigliani asked if Tropicana and Sahara were state highways. Mr. Fontaine said Tropicana was a state highway and portions of Sahara were on the state highway system. Ms. Giunchigliani said it would make more sense, as more casinos were constructed along some of the corridors, to create incentives for businesses to have their employees park off-site and commute to work. Mr. Fontaine said the Regional Transportation Commission's Transportation Demand Management (TDM) program had considered some of the incentives addressed by Ms. Giunchigliani. The Commission operated a program called Club Ride that provided transportation for workers throughout the Las Vegas Valley. Mr. Fontaine stated that the Department had been looking at opportunities for park and ride facilities on the state's freeways. Ms. Giunchigliani asked if the NDOT was considering lanes for car pooling, and Mr. Fontaine said, "Yes." He noted that the first high occupancy vehicle (HOV) lanes would be on U.S. 95. The NDOT "had a bill in" that would allow imposition of certain penalties for violation of car pool lanes. The Department was working on a study to look at HOV lanes throughout the Las Vegas Valley. In response to a question posed by Ms. Giunchigliani related to stop lights at freeway entries, Mr. Fontaine said ramp meters were already installed at numerous locations, and the ramp meters would be activated on U.S. 95 at Lake Mead and Cheyenne at the end of February 2005.

Ms. Giunchigliani asked for additional information on the expansion from the downtown corridor. Mr. Fontaine said there were a couple of major studies and projects underway for the center of the Las Vegas Valley. There was a corridor study along the entire I-515, and that project was in the environmental study phase. Ms. Giunchigliani asked if the environmental study considered the amount of soot that "flies over the edge of the highway onto properties." She then asked if the Department had determined a way to purchase adequate property for highway projects to alleviate the problem of private property being too close to the freeways. Mr. Fontaine pointed out that the Department was in the middle of a major noise wall retrofit program on the East Lake Freeway. He noted that the days of building a freeway through the middle of a downtown or populated area and purchasing the minimum amount of needed right-of-way would no longer work. The Department looked at a number of issues, including air quality, and could not build any roadway without conforming to the Air Quality Plan. The Department offered dozens of public workshops for residents and the community to determine the best way to complete a project. In some areas, public housing, senior housing, schools, and other public facilities were built right up to the right-of-way line. Ideally, remaining right-of-way would be used for such things as storage units, industrial uses, or even a green belt.

Ms. Giunchigliani commended the NDOT for the rates received on the bonds and said she was not comfortable with the idea of the Department changing to a variable rate.

Chairman Arberry referred to the monorail system and pointed out that prior to the completion of the freeway connection to Henderson, the freeway dead-ended in downtown Las Vegas. He asked about the possibility of completing short legs of "above-ground people movers" along the freeway and increasing the distance to outlying areas of Las Vegas as the population increased, rather than waiting 20 years and then building the complete system. Mr. Fontaine reiterated that the NDOT looked at those types of opportunities when reviewing corridor studies and considering major freeway expansions. Generally, it was not cost-effective to combine transit options, with the possible exception of buses, with freeway facilities because there were many structural components and projects that needed to be considered. A light rail or transit system placed high on a freeway viaduct would not be accessible; the key to a transit system was accessibility. Mr. Fontaine said the NDOT, along with the RTC, had been attempting to identify alternative corridors.

Mr. Perkins said he felt that a transit system had to be appealing to be used and not be viewed as something needed only by low income people. He referred to the "huge releases of BLM property in Clark County" and the continued building, and asked if the NDOT, RTC, and others were making sure appropriate right-of-way was available. Mr. Perkins asked, "Are we ensuring that we have the proper right-of-way without having to go out and perhaps acquire it later at higher costs?" Mr. Fontaine said Mr. Perkins' question was excellent. The Department did not want to be in a situation where BLM property was sold, a builder developed the property, and then the agency had to go in and widen the freeway or build a new facility and acquire right-of-way that at one time was in the public domain. The Department did address the right-of-way issue to the best of their ability. On the major freeways, particularly Interstate 15, the Department had a fairly good right-of-way. Mr. Fontaine indicated that there would be right-of-way discussions with local entities prior to any approval of development agreements.

Assemblyman Hogan said he thought all the members were pleased with the very low interest rates for the bond issuances. In order to have a full understanding of the costs of the program, Mr. Hogan asked for information on the other costs involved in terms of fees and commissions related to bonds being issued. Mr. Fontaine said the fees and costs associated with the bonds were included in the NDOT budget and were reimbursable by federal funds.

Robert Chisel, Assistant Director for Administration, NDOT, said a bond closing required the State Treasurer's Office to identify the bond counsel and bond advisors who charged the Department a prorated fee. He said, "Usually we are doing a general obligation issue at the same time so we can reduce our costs. Depending upon the size of the bond, it is running probably about $800,000 to $900,000 per bond issue." Mr. Hogan asked if the percent of the amount floated at any one time was less than 1 percent of the cost. Mr. Chisel answered in the affirmative; a $200 million bond would have less than $1 million of cost.

Mr. Seale asked if, given the current rising interest rate environment, the Department was pre-selling any of the bonds for future projects. Mr. Fontaine said the agency was not pre-selling bonds and did not want to be in a position of selling bonds and having the money sit there and not be used. At some point arbitrage would be a factor. Mr. Fontaine pointed out that the NDOT monitored their cash flow closely and would not sell bonds until there was a need, typically just before advertising a project for construction. He added that when the Department was ready for the next round of bonds, and if the interest rates increased dramatically, or there was some other change in the bonding market, the agency would return to the Legislature to advise the members.

Mr. Denis asked Mr. Fontaine to have a technology staff member contact him at his office to provide additional detail on the Department's technology requests included in The Executive Budget. Mr. Fontaine agreed to the request.

Chairman Arberry pointed out that there were uncertainties related to the level of federal funding that would be approved by the Congress, yet the NDOT's budget included an increase in federal funding revenue. He asked how a reduction in the funding would impact the Department's maintenance and construction projects.

Mr. Fontaine said the Chairman was correct, the federal aid portion of the Department's revenues was extremely important to the NDOT, representing approximately one-third of the overall budget. There was uncertainty about a highway bill. Mr. Fontaine said he believed the agency request for the biennium was a conservative estimate. The Department's cash flow model assumed that every six years federal funding would increase 20 percent to account for the population growth in Nevada. The federal revenue included in the Governor's budget was less than 20 percent growth. If the Congress approved the latest proposal of $284 billion, Mr. Fontaine thought the Department would receive the $225 million in federal aid included in The Executive Budget. He said there were two components to federal funding: the base funding, or the apportioned funds that each state received through the formula distribution, and the discretionary portion.

Over the years, with Nevada's congressional delegation, including Senator Reid and two members of Congress who sat on the Transportation Infrastructure Committee, the NDOT had been able to get earmarks in the annual appropriations process for various projects above and beyond the apportioned funds. Mr. Fontaine acknowledged that if the projected federal aid was not received, there would have to be adjustments to the Department's programs and projects. Chairman Arberry asked if the Department had a plan if Congress did not provide the funding. Mr. Fontaine said, "We are still getting money, it is not as if the $200 million was going away, even without a bill." He continued and said, "It would be highly unlikely that Congress would not do something to keep highway funds flowing to the states. The money is there, it is just how much more are we going to get."

In response to a question posed by Mr. Marvel on the balance in the Highway Fund, Mr. Fontaine said the latest estimate for the Federal Highway Trust Fund was $14 billion in reserves. Mr. Marvel asked why it was difficult to get funding released from the Federal Highway Trust Fund, and Mr. Fontaine said the Department believed that money should be spent down, but said he was not in a position to tell the members why that was not happening.

Chairman Arberry asked for additional information on the implementation of the 800 MHz radio system. Mr. Fontaine said the radios were "talking to each other," and the system, even though it was fragile, was functional. The system was operating at least as well as it was before the conversion to the 800 MHz system. The Department was continuously working on trying to improve the system, and, most importantly, the system was compliant with the Federal Communication Commission's (FCC) regulations. Mr. Fontaine said he was pleased and was appreciative of Mr. Chisel, who was the individual responsible for conversion to the radio system.

Chairman Arberry asked if additional funding was needed for ongoing support of personnel expenses to address the communication issues between Las Vegas and Reno. Mr. Fontaine said he did not believe there were any additional funding requests.

Mr. Denis referred to Mr. Fontaine's earlier comment that the 800 MHz radio system was fragile, and asked for further explanation on the meaning of "fragile." Mr. Chisel explained that as part of the conversion process, the Highway Patrol radio system was converted from an existing system, which was unauthorized by the FCC, to the NDOT's 800 MHz radio system. As part of the transition, a number of things were put in temporarily to handle the transition so that the agency would be in compliance, including additional channels. The programming was primarily the biggest area being addressed. Mr. Chisel pointed out that the radios were almost minicomputers in themselves. Fine tuning was needed to address all the mountain top radio sites so the program would work to its highest potential, probably the biggest area of fragility. There had been no issues with wait times or the mountain sites. The microwave system had failed occasionally, but that was irrelevant because both systems used the same microwave system. Mr. Denis asked about a permanent fix. Mr. Chisel said "this is the permanent fix." The permanent fix would be to have a fine-tuned program so that the radios worked better. He said the agency was waiting for the installation of additional radio sites on mountain tops, primarily in the Elko region, in order to transition the Elko command onto the NDOT system. The Reno command, part of the Elko command, and the Las Vegas command were on the 800 MHz system. However, the rurals out of the Elko command were not yet transitioned and were on the old 150 MHz radio system; the Department was able to find enough 150 MHz frequencies in the rural areas so that the rurals were also compliant with FCC regulations.

Mr. Denis asked if at some point the rural areas would be switched to the 800 MHz system and, if so, when. Mr. Chisel replied that the rural areas would all be on the 800 MHz system as soon as the mountain top sites were constructed. Mr. Chisel explained that completion of the mountain top sites included constructing buildings, AC power and/or solar sites. He said the facility needed to be "bulletproof." Once the mountain top sites were completed and the microwave connections were developed back to the network, the transition would occur, hopefully by the summer of 2005. The Department of Information Services (DoIT) had responsibility for building the mountain top sites and had assured the Department that the sites would be completed in the summer of 2005.

Mr. Marvel referred to the Legislative audit of the NDOT which recommended that the Department have an inventory of lands and a listing of properties that might be disposable. Mr. Marvel recognized that excess property had a potential for generating other revenues. Mr. Fontaine thought the Department had been doing a better job in trying to assess and document the right-of-ways and looking at right-of-ways that could be disposed of. As a result of the audit, the Department had made a decision to automate the right-of-way information. At the time of the audit, there were literally thousands and thousands of right-of-way documents throughout the Department that dated back decades. One of the enhancements included in the Governor's budget would continue the development and completion of the IRWIN system, resulting in automation, better tracking, and management of all the right-of-way information. The budget request was to complete the project in 2006-2007. The functional requirements study had been completed and the design phase was occurring. Mr. Fontaine indicated that the design phase would not be difficult, but scanning a million plus documents into the system would be quite time-consuming.

Chairman Arberry asked if the Department had talked to the cell telephone companies to see if some of the cell transmitters could be attached to the mountain top transmitters. Mr. Chisel said in a number of locations throughout the state, the NDOT partnered with cell companies, power companies, and the Air Force to provide additional coverage. The Department, locals, power companies, and telephone companies participated in most of the mountain top sites. Mr. Chisel said the entities were all welcome to go to the sites and share in the sites as long as they leased the space. He explained that many of the cellular companies had problems because "their holes are a lot bigger and they don't want to spend the money to build the infrastructure for an area where there are not that many users."

Mr. Hogan said in the past the Legislature had shown an interest in ensuring there was some diversity in the contractor workforce that constructed the highways statewide, mainly in the urban areas. Four years ago there was a resolution that passed both Houses asking the Department to form a task force to determine how to improve the diversity in the representation of women and minorities. Mr. Hogan indicated he had participated in the task force and there were some good efforts discussed, but he thought realistically there was little in the way of results. Mr. Hogan wondered if, in order to achieve the legislative intent, the Department would be willing to consider a slightly more aggressive stance, such as including specifics for stronger measures to achieve diversity in the transportation master plan. He noted that a bill would be introduced within the next weeks to address large construction contracts.

Mr. Chisel affirmed that the Department was committed to diversity in construction contracts and pointed out that he and Mr. Hogan had discussed the diversity issue on a couple of occasions. The Department met or exceeded the federal "DD" goals and supported an apprenticeship program with the Las Vegas Urban Chamber. Mr. Chisel said the Department's interest was seeing the agency's efforts result in more diversity on the contracts, rather than merely throwing money into training and other aspects of the program.

Mr. Chisel noted that he had not seen the bill referenced by Assemblyman Hogan.

Chairman Arberry interjected that he had received many complaints from minority contractors who felt they had been discriminated against by the Department.

Ms. Giunchigliani recognized that there were some women and minorities now operating heavy equipment, but she thought contractors had found a minimal way to comply with the federal requirements, rather than looking at the requirements "in a more progressive way." Ms. Giunchigliani said she looked forward to the Department working with Mr. Hogan and his legislation.

Chairman Arberry asked the Committee to consider introduction of the following bill draft request:

- BDR 34-1065 - Requires a payment of registration fees and costs at the University and Community College System of Nevada for certain persons formerly in foster care.

  ASSEMBLYWOMAN LESLIE MOVED FOR COMMITTEE INTRODUCTION OF BDR 34-1065.

  ASSEMBLYMAN DENIS SECONDED THE MOTION.

  THE MOTION CARRIED.

  (Assemblywoman McClain was not present.)

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Chairman Arberry called for a ten minute break.

Chairman Arberry called the meeting back to order and said he had received letters in opposition to A.B. 40. He requested that the letters be included as an exhibit (Exhibit D) in the minutes of the meeting.

Chairman Arberry opened the hearing on A.B. 40.

Assembly Bill 40: Makes various changes concerning community triage centers. (BDR 40-905)

Assemblywoman Shelia Leslie, District 27, Reno, said she would be presenting A.B. 40, a bill co-requested by Senator Hardy. Because the bill was pre-filed, Senator Hardy's name was not included. A.B. 40 provided immediate funding for the triage centers, which were intended to be "single point of entries" for individuals having urgent, but not acute, mental health, substance abuse, detox, or minor medical care needs. An individual would be stabilized for up to 72 hours, and the triage center staff could then connect the individual with the appropriate long-term substance abuse or mental health services. The bill was re-referred to Ways and Means from the Health and Human Services Committee, where it was reviewed. Section 1 of the bill created a new licensing category for community triage centers. Ms. Leslie pointed out that in the past it had been difficult to fit the community triage center model within the existing licensing structure.

Ms. Leslie suggested deleting Section 4 of A.B. 40, a section that had caused quite a bit of confusion. She explained that the only medical screening needed for individuals experiencing substance abuse or having mental health problems was if they were going to be committed to an inpatient psychiatric facility (legal 2000). Ms. Leslie thought the inclusion of Section 4 was an error on the part of the bill drafters; the wording appeared to require medical screening before a person could be transported by ambulance service or a law enforcement agency to a triage center. Ms. Leslie said, "That is not the way it currently operates in Las Vegas and that is not the intent of the bill."

Ms. Leslie said Section 5 included the appropriation. During the past year, Clark County had come before the Interim Finance Committee two different times to request the one-third funding from the state to match the hospital and local government funding. Wording in Section 5 needed to clarify that A.B. 40 related only to the existing triage center in Clark County. Ms. Leslie said that going forward, if the Legislature agreed to continue the program into the next biennium, there would be a request for proposal (RFP) process. Ms. Leslie said A.B. 40 was intended to make up for the state funding not provided during the last interim.

Ms. Leslie said the only other change she recommended in A.B. 40 was in Section 6. Staff had pointed out that the year should be 2005, not 2006, because the bill was intended more as a supplemental appropriation for the current year.

Ms. Leslie said she was surprised to see the 16 letters received in opposition to A.B. 40 and said none of the testimony included in the letters had been presented to the Health and Human Services Committee. Ms. Leslie noted that the letters seemed to be from individuals having connections with the substance abuse treatment field and appeared to recommend funding for substance abuse and mental health treatment, rather than funding triage centers. Ms. Leslie said the Human Resources Subcommittee was carefully reviewing The Executive Budget in terms of funding both areas and enhancing treatment services; the question was whether to fund the triage centers or fund the treatment services. She understood the concerns expressed in the letters, but indicated her frustration that the concerns were "taking it out on this bill." Ms. Leslie explained that WestCare came forward and offered to help when Clark County was in the midst of an emergency room crisis, and said she was disappointed in the tone of many of the letters that appeared to infer that A.B. 40 was just WestCare "doing a money grab." She reiterated that there would be an RFP process and noted that no other agency had come forward to run the triage center. Ms. Leslie pointed out that the triage center proposed in Washoe County had nothing to do with WestCare; the triage center concept was independent of any particular nonprofit agency.

Ms. Giunchigliani asked for further clarification of a triage center. Ms. Leslie said the definition included in A.B. 40 was more about health-care licensing. She said there had been confusion between the definition of a community triage center and a crisis unit. Community triage provided services for up to 72 hours and was intended to be a place where law enforcement could take a person found on the street who clearly had a substance abuse issue and/or a mental health issue, rather than taking the individual to a hospital emergency room. A triage center was a very short-term monitoring facility intended to find the problem and then place a patient in an appropriate long-term treatment facility. The crisis unit was a mid- to long-term facility that provided treatment for individuals with acute mental health psychiatric needs who posed a danger to themselves or others and could not be released onto the street.

Ms. Giunchigliani suggested making the definition more clear, otherwise there might be a misunderstanding in the future.

Ms. Giunchigliani asked about the funding included in A.B. 40. She said last session the Assembly had not received the legislation for funding the triage center. Ms. Giunchigliani noted that a former state senator indicated he would move the bill, but that did not happen. Legislators, especially from southern Nevada, were "blasted" for not approving funds for the "diversion portion." Ms. Giunchigliani noted that Chairman Arberry, through the IFC, asked both she and Ms. Leslie to attempt to find funding during the interim for the triage center. She said,

> We felt that the policy was that it would have been inappropriate because the Body in the other House had voted down the bill, we never heard it, and we would have been opening up the door for any other group that lost a bill in one House or the other to come back to Interim Finance and go around the policy of the Legislature.

Ms. Giunchigliani thought A.B. 40 would at least address the short-term problem and noted that the issue was being heard publicly.

Ms. Leslie said A.B. 40 was intended to present the triage center issue completely out in the open. Ms. Leslie then pointed out she was a Reno legislator presenting the bill on behalf of Las Vegas and said she had looked at the bill very carefully. She firmly believed that triage centers were an important part of the continuum to solving the emergency room crisis in Clark County.

Mr. Denis asked if an individual who might harm himself or others would receive services through the triage center. Ms. Leslie said an individual coming from the street would typically be assessed by a law enforcement officer; many times the officer would know the individual. Officers had to make judgments every day for the individuals having problems. If an officer determined that the individual was not a danger to self or to others, the individual would be taken directly to the triage center. If triage center staff determined that the individual was a danger to self and others, staff would send the patient to the emergency room for medical clearance. Mr. Denis said one of the biggest problems he had seen in the past in trying to help people was that an individual who was not a harm to himself or others would not receive help. Ms. Leslie noted that the triage center filled that gap.

Assemblywoman Smith commented that there were concerns that somehow funding would be diverted. She thought there would be funding support provided in all the areas of concern, which should rectify some of the concerns. It was really not a matter of A.B. 40 being wrong, but funding needed to be provided across-the-board for mental health and substance abuse issues, so that after the "hold" is over, that person had a place to go and be treated. Ms. Leslie agreed and said substance abuse treatment, in particular, had been grossly underfunded for decades. However, the concerns included in the letters seemed to indicate that a triage center was an added bureaucracy Ms. Leslie viewed the triage center as a collection point where individuals could receive attention. The triage center would allow tracking of waiting lists, determine gaps in services, and should help build the infrastructure of the system. Ms. Leslie noted that even if the money being requested for the triage centers was diverted to substance abuse treatment it would only be a "blip" in the overall funding and would not solve the problem of chronic underfunding of the treatment system. Mrs. Smith said the triage centers would also help solve the emergency room problem, a huge issue. Ms. Leslie pointed out that having methamphetamine addicts and people hallucinating in the hospital waiting room next to a child with a broken arm was not a good situation.

Dan Musgrove, representing Clark County and the University Medical Center, said he appreciated all the testimony and concurred with the fact that the Assembly during the 2003 Legislative Session did not get the opportunity to fully look at community triage centers. He appreciated the efforts of the Chairman to hear A.B. 40 so quickly and the efforts over the past biennium by Assemblywoman Giunchigliani with the subcommittee she chaired to try to find a resolution to the problem. Mr. Musgrove said, "We came to WestCare because they were the only vehicle out there that was even willing to step up." There was a community group that early in 2003 began looking at the problem of both emergency room overcrowding and the problems in the detention centers where people were repeatedly cycling through the centers. Mr. Musgrove said the community triage model was adopted, and then there was a search for an agency to operate the facility; WestCare was the only agency that came forward. In July 2004, WestCare was about ready to shut down due to lack of funding; the City of Las Vegas and Clark County stepped up and provided additional funding to keep the center open. Mr. Musgrove said he then began a process to develop a user-driven funding formula to assist the hospitals and local governments.

For the period January 2003 to January 2005, approximately 15,000 individuals had gone through the center, individuals who would normally be in the jails or emergency rooms taking up valuable space and not receiving needed treatment. A.B. 40 included a request for $500,000. It cost $229,000 a month to keep the community triage center operational, a 52-bed facility for adults and an additional 15 beds for youth. Mr. Musgrove said the only money received at this point from the state was through the Bureau of Alcohol and Drug Abuse (BADA), approximately $35,000 per month. The hospitals contributed approximately $108,000 per month and the local governments contributed approximately $85,000 per month to keep the community triage center operating.

Mr. Musgrove said he had emailed members a copy of a Memorandum of Understanding (MOU) and the center's annual budget of $2.7 million. The funding provided for three contract medical physicians, a psychiatrist, a nurse practitioner, 24-hour nursing care, social workers, case managers, emergency medical technicians, drivers, and client technicians. The center would, at the end of this MOU that carried the center through June 2005, put out an RFP to determine if there were other providers in the community willing to adopt the community triage model. The hospitals and local governments had been "pulled kicking and screaming to the table" to keep the center funded. Mr. Musgrove said he appreciated the advocacy of Assemblywoman Leslie, Senator Hardy, and the Committee, and noted that without state funding he was not certain how long the triage center would remain open. Mr. Musgrove said between 650 to 700 individuals were being served at the center and the hospitals set a record in January 2005 with 210 people transported out of hospitals to the triage center, the highest number to date.

Ms. Giunchigliani asked for information on recidivism and asked if there was a tracking system. Mr. Musgrove believed the individuals served by the triage center were tracked for recidivism but was not certain the center had all the information because of privacy issues. Because the rest of the system was overloaded, there continued to be a recidivism rate due to appointments not being made in a timely fashion, medications not lasting, or patients electing not to use the medications. Ms. Giunchigliani said the tracking process would be helpful for the budgeting process.

Ms. Giunchigliani asked about the funding for the center. Mr. Musgrove said because of the funding formula, some of the hospitals, as well as some local governments, were paying much more for services resulting in some entities electing to no longer fund the center. All 12 of the hospitals and all 5 of the local governments in the Las Vegas Valley signed the MOU and committed to funding the triage center at least through April of 2005, contingent upon whether the state would provide funding. Ms. Giunchigliani said she thought the Metropolitan Police Department (Metro) should be a player. Mr. Musgrove explained that both the City of Las Vegas and Clark County helped fund Metro. He said a lot of people, when the funding formula was being developed, talked about the formula helping the ambulance providers because they were able to "off load," however, it was amazing how much the providers wrote off and how much money they spent transporting the individuals to the triage centers. Mr. Musgrove said he felt good about the way the funding formula worked. The City of Henderson's police and emergency medical services transported at a small rate, even though the center was not a convenient location. They were billed for actual usage because the center could now track the facility of origin when a patient entered the triage center.

Mr. Denis thought, from a financial standpoint, that it would be cheaper to have the triage center versus sending patients to the emergency rooms even if there was no facility to send them to after the 72 hours of service provided by the triage center.

Ms. Leslie agreed with Mr. Denis's assessment. She said the triage center staff was very committed to the population served by the center and knew what to expect, versus a physician who served all the patients coming into an emergency room. Ms. Leslie stated that the center provided services for very severe and chronically mentally ill, substance abusing individuals, whose problems would not be solved with one visit to the triage center. It was important to keep trying and eventually, with the right support system, including housing supports, out-patient treatment, proper medication, and sometimes court involvement, many of the individuals could be returned to the community to live successfully. Ms. Leslie said she did not want anyone to be misled that one visit to the center would solve the problems of a chronically mentally ill homeless person. She did feel there was a much better chance of solving problems through the triage center model rather than through the emergency room. In addition, the triage center was much cheaper.

Mr. Denis said he thought the money saved through the center could be used to make certain there were facilities available for individuals leaving the center. Ms. Leslie pointed out that The Executive Budget included a significant increase in funding for mental health, not as much on the substance abuse side, which she thought was why the letters were submitted, letters which showed the frustration of the substance abuse community.

Chairman Arberry asked for clarification of line 1, Section 3, page 2, of A.B. 40, a surgical center for ambulatory patients. Ms. Leslie said the only change in Section 3 was the addition of line 16, a community triage center, to the list of medical facilities. A special category was being added for licensing because the community triage centers were unique facilities.

Carlos Brandenburg, Administrator, Division of Mental Health and Developmental Services, testified that the Division and the state supported

A.B. 40. It was extremely important to understand that two separate groups of individuals were being discussed. The first group was the "form 2000" individuals, the ones the Division was currently tracking in emergency rooms, averaging around 62 individuals waiting an average time of 95 hours. The second group included the public inebriants clogging the emergency rooms. It was important to have a triage center to work with those individuals who were non-acute individuals, non-form 2000, but still were taking up valuable resources. The Division had noticed that 70 percent of the individuals coming into the Division's system currently had what the Division called co-occurring disorders and had the component of mental illness and the component of substance abuse. Mr. Brandenburg said the Division concurred with the recommendation to eliminate Section 4 of A.B. 40. He thought medical clearance contaminated and complicated an issue that currently was not even occurring in the triage system. Section 5 included funding for the ongoing triage center in Las Vegas that later would be submitting a request for proposal (RFP). The funding included for Washoe County was earmarked for the establishment of a new community triage center in Reno. Mr. Brandenburg said the Division was in complete support of the changes to the language included in A.B. 40 as recommended by Assemblywoman Leslie.

Nicole Lamboley, representing the City of Reno, conveyed the Reno City Council's support of A.B. 40 and interest in working with the community in Reno and the Truckee Meadows that had been working on establishing a triage center in Reno for the past few years. She said the City had a facility and had broken ground on a 150-bed men's drop-in center. There was 10,000 square feet of unfinished space on the first floor of the facility, and the City Council had granted the use of the unfinished space for a community triage center.

Anne Cory, President and Chief Professional Officer, United Way of Northern Nevada and the Sierra, said she represented a coalition of substance abuse treatment providers, hospitals, mental health providers, emergency medical services, law enforcement, and local government in northern Nevada, all working together to develop a triage center in the Reno area so that clients could be treated with greater effectiveness and at lower costs. She said the coalition hoped to avoid the type of crises that developed in southern Nevada. The facilities startup cost estimates for the triage center were:

- $100,000 for equipment and furnishings
- $600,000 to finish out the empty space on the ground floor of the shelter facility

Ms. Cory said the City of Reno had granted space on the first floor of the new men's shelter, part of the new community assistance center. The State Housing Division provided funding to help expand the facility to accommodate the center. The location would ensure coordination with a broad array of services so that concerns about ongoing treatment of clients coming into the center could be specifically addressed. If A.B. 40 was approved, the coalition would propose to spend $100,000 on architect fees and plans for tenant improvements, estimated at $50,000. Project management services were in addition because the plan was being developed and coordinated by a group of community entities.

Wade VanConant, representing Human Resources Development Institute (HRDI), said the HRDI had supported the community triage center from the beginning. The concept was not new to HRDI, which had been operating similar triage centers since 1987. The Institute had found that the centers did reduce the numbers of mental health crises within the community, particularly when offered with supportive and community-based services. The HRDI had been providing behavioral health human services and substance abuse programs for 31 years, offering services in Illinois, Indiana, Alabama, Kentucky, Mississippi, Pennsylvania, and Nevada. The Institute's first contract in 1974 addressed the mental health issues for African American males being released from prison. Mr. VanConant said the Institute was poised and prepared to move forward immediately and he offered the agency's assistance in triage and crisis intervention. The HRDI was listening to the needs and could address both the mental health and substance abuse areas.

Pamela S. Graham, B.S., R.N., LNC, Bureau Chief, Bureau of Licensure and Certification, Health Division, Department of Human Resources, read from prepared testimony:

> I am here today to provide fiscal information on A.B. 40 which would create a new medical facility licensure category for community triage centers to provide medical assessment and short-term monitoring of mentally ill persons and/or abusers of alcohol or drugs. The costs associated with this bill are those borne by the Heath Division of the Department of Human Resources.
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> The Health Division will need to establish regulations. Costs for initial licensure fees will need to be established for this facility type through the State Board of Health under NRS 439 authority. For estimation purposes, the Modified Medical Detox facilities were used as a point of reference with anticipated time of survey which is approximately thirty-two hours on average. The initial survey and renewal fees are determined by an analysis of time and effort for this facility type. The Bureau of Licensure and Certification calculates all rates based on actual number of hours worked divided by 1,412 productive hours per FTE. The amount of hours for each facility type varies based on complexity and size. Annual renewal fee will apply, however surveys will be completed once every three years and are estimated to be approximately eight hours in duration and complaint investigations are estimated to be minimal. This is based on the amount of time for similar facilities for initial survey and renewal. This is for the Health Division's oversight of the facilities with regard to licensure and certification only. The Bureau estimates this will add 64 hours to the annual workload so no new staff resources would be requested.

Ms. Leslie referred to her earlier request to eliminate Section 4 of A.B. 40, and said in rereading the bill she thought subsection 6 of Section 4 needed to be retained for purposes of developing the regulations. Ms. Graham said the Bureau believed that subsection 6 and subsection 7 of Section 4 needed to be included in A.B. 40.

Bill M. Welch, President and CEO, Nevada Hospital Association, said on behalf of the association he wanted to express the Association's support for A.B. 40. He concurred with Assemblywoman Leslie, that the bill was not the solution to all the issues, but was a very important step toward what needed to be done to address the current mental health crises being experienced throughout the state of Nevada.

Gary Milliken, representing American Medical Response (AMR), an ambulance company located in Clark County, said in 2004, AMR transported

2,645 psychiatric patients and averaged 6 to 10 transports daily. When there was a shortage of staff and a shortage of hospital beds, the average wait time was often 6 to 12 hours at emergency rooms to unload the patients. Psychiatric patients were always moved to the end of the line, resulting in a long wait time. The AMR billed approximately $1.53 million in transporting psychiatric patients and collected only 2.5 percent of the $1.53 million. In 2004, the AMR wrote off $1.49 million in bad debt in transporting psychiatric patients. Mr. Milliken said there was another private ambulance company in Las Vegas that transported a similar number of patients, in addition to the local fire departments transporting patients. The important thing for the AMR was medical clearance. If there was no other facility other than the emergency room to take psychiatric patients for medical clearance, the AMR would continue to transport the patients to the emergency rooms, resulting in the same problems as the problems now experienced.

Jennifer Lazovich, representing the Focus Property Group, said Focus continued to provide support to A.B. 40, an important bill.

Chairman Arberry closed the hearing on A.B. 40, and opened the hearing on A.B. 94.

Assembly Bill 94: Makes supplemental appropriation to State Department of Conservation and Natural Resources. (BDR S-1194)

Allen Biaggi, Director, Department of Conservation and Natural Resources (DCNR), said A.B. 94 provided a supplemental appropriation to the DCNR for unanticipated costs associated with the operation of three of the Department's programs. Mr. Biaggi said he had provided members with a copy of his testimony (Exhibit E) and additional backup information.

Mr. Biaggi said the first allocation of $42,460 included in A.B. 94 would cover the costs of terminal leave for two long-term employees who retired in July 2004. Those costs, as were the retirements, were unexpected and had already been covered in FY2005 by BA 4150, DCNR Administration. In accordance with the *State Administrative Manual* (SAM), the statutory allowance of $12,000 for each employee was applied toward the costs. The dollar figure was the remaining balance of payoff for the sick leave and annual leave of the two former employees.

The second allocation was to pay for tort insurance premiums of $36,532 for the Division of Conservation Districts, contained in BA 4151. In 2004 a decision was made by the Attorney General's Office that found the Conservation Districts qualified as state agencies. As a result of the determination, the districts were required to pay into the fund for insurance premiums for tort coverage in accordance with NRS 331.187.

The third allocation included $14,980 to update a joint funding agreement between the U.S. Geological Survey and the Division of Water Resources for water gauging stations near the South Fork Dam on the Humboldt River. Due to timing differences in state and fiscal year payments, the state had historically been making the payments nine months in arrears. By providing the funds through A.B. 94, the two fiscal years would be synchronized and all future payments would be made on the state fiscal year, rather than the federal fiscal year.

Mark Stevens, Assembly Fiscal Analyst, said staff had discussions with the DCNR related to the amount of funding allocated for costs of terminal leave.

Staff wanted to investigate whether the salary adjustment funds were included or excluded in the amount; the dollar amount might be able to be reduced somewhat. Mr. Stevens said staff would investigate and come back to the Committee. There was also a question on the $14,980 included in the third item. Mr. Stevens pointed out that in the last three years the Division of Water Resources reverted over $100,000 each year. Staff wanted to make certain there would not be a supplemental appropriation and then have a large reversion at the end of the fiscal year. Mr. Stevens said staff would report back to the Committee as soon as the investigation was complete and let the members know if staff felt an amendment to A.B. 94 was appropriate.

Mr. Perkins asked about any possible legal costs anticipated by the DCNR on water resource issues throughout the state. Mr. Biaggi said there was a budget included in the Division of Water Resources for legal costs. He said A.B. 106 included an additional $150,000 for the Division of Water Resources Litigation Fund for issues related to the Walker River/Walker Lake problem. Additional resources were requested in the event mediation failed and the Division had to go to litigation. Other than that, Mr. Biaggi thought the Division had adequate dollars in the Fund to cover legal costs. Mr. Perkins asked how much the Division was involved in the water issue in eastern Nevada, including Lincoln and White Pine Counties. Mr. Biaggi said the Division was very involved. The Division of Water Resources would be the primary agency which would determine the amount of water that would be moved from one area of the state to another; the Division would be conducting those activities in association with the applicants, the Bureau of Land Management, and the federal government.

Chairman Arberry closed the hearing on A.B. 94 and opened the hearing on A.B. 95.

Assembly Bill 95: Makes supplemental appropriation to Department of Business and Industry for unanticipated shortfall in money for Fiscal Year 2004-2005 resulting from reclassification of positions in Nevada Athletic Commission. (BDR S-1195)

Bill Maier, Administrative Services Officer, Department of Business and Industry, said A.B. 95 requested a supplemental appropriation to cover a shortfall for both years of the 2003-05 biennium that resulted from a reclassification of staff. The Department consisted of the director and three support staff and had been fully staffed for FY2004 and FY2005 and, as a result, savings were not generated to cover the additional costs. A revision had been submitted to adjust the total listed in the bill to $15,480. Mr. Maier pointed out that LCB staff had concerns related to the additional costs, and the Department would be working with staff and the Budget Division to finalize the estimated balance for FY2005 and the final total amount.

Mr. Stevens said A.B. 95 would have to be amended and said the dollar amount included in the bill was actually for FY2003-04, not FY2004-05, as referenced in the bill. There was also an additional supplemental need in FY2005, and staff was currently discussing the required amount and would return to the Committee with the appropriate amount as soon as it was available.

Chairman Arberry closed the hearing on A.B. 95 and opened the hearing on A.B. 107

Assembly Bill 107: Makes supplemental appropriation to University and Community College System of Nevada for matching money for National Direct Student Loan Program for Fiscal Year 2004-2005. (BDR S-1189)

Daniel J. Klaich, Vice Chancellor of Legal Affairs, University and Community College System of Nevada, requested approval of A.B. 107, which requested a supplemental appropriation of $1,400 for matching money for the National Direct Student Loan Program, or Perkins loans, to cover a shortfall in FY2004-05.

Chairman Arberry closed the hearing on A.B. 107.

Andrew Clinger, Deputy Director, Budget Division, referred to his handout (Exhibit F), which included all the budget amendments that the Division was aware of to date. Mr. Clinger said he hoped additional amendments would not be required, however, if an agency notified the Division of a significant problem, he would certainly bring any budget amendment to the attention of the Committee.

Mr. Clinger said Items 1 and 2 of Exhibit F had already been presented to the Committee. He then provided a brief description of the remaining budget amendments:

> Item 3: Included a General Fund appropriation to the Millennium Scholarship Fund. This was a proposal put forward by the Governor and Legislative leadership and appropriated $13.275 million in FY2006 and $20.270 million in FY2007 to the Fund. Mr. Clinger pointed out that The Executive Budget also included $7.6 million in each year of the 2005-07 biennium from unclaimed property funds that would also be transferred to the Millennium Scholarship Fund. Based on projections made by the Treasurer's Office, the amount would be $8 million beginning in FY2008.
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> Item 4: Public Employees' Benefit Program, a revised estimate of claims costs. Mr. Clinger indicated he would have to work with LCB staff on the details because the adjustment would impact every budget having positions. The amount included in the handout was the aggregate savings.
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> Items 5 and 6: Addressed the $8 million appropriation included in the Governor's budget in FY2005 for White Pine County Court House, and that appropriation was being moved to FY2006 in order to move $8 million in capital improvement funds to FY2005 to help the Public Works Board begin some of the CIP projects early.
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> Item 7: Adjustment to the Distributive School Account based upon PEBP projections for group insurance. Typically, the Division had funded the DSA budget consistently, the same way other state budgets were funded. There was a projected increase from PEBPs for group insurance and that same increase was built into the DSA. Because the PEBP numbers were being revised, the amount included in the DSA was reduced by the same amount allocated for inflation originally included in the budget.
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> Item 8: Provided a rate increase for Personal Assistant Services in the Division of Child and Family Services budget but the Division failed to include the rate increase in the Medicaid budget and in the Aging Services

budget (Item 25). The choice was either to delete the rate increase or add it to Medicaid and to the Aging Services budget—Administration elected to add the two items back in.

Item 9: Adjusted the Corrections Budget to fund 18 correctional officers currently funded through the Washington and Wyoming contracts for dealing with increased inmate population.

Item 10: Added electricity and natural gas inflationary adjustments to the DSA for caseload growth. Item 10 tied back to Item 1. Mr. Clinger said when he originally presented the first two adjustments, staff pointed out that there was a calculation error; this item corrected the error. He said Item 13 also corrected a small calculation error.

Item 11: Adjustments to the Secretary of State's Office, an aggregate of all the adjustments requested.

Item 12: Information Technology Projects. Withdrew the E-application recommendation for the Welfare Division based on the Division's request.

Item 13: Addressed previously under Item 10.

Item 14: Added replacement equipment funding and made technical adjustments to the SWCAP (Statewide Cost Allocation Plan) and Attorney General's cost allocations for the Department of Taxation.

Item 15: Eliminated M-502 in the Welfare Field Services budget. The Division had requested 11 positions associated with the Medicare Modernization Act. Based on completed regulations the Department indicated they did not need the new positions.

Items 16 through 18: Mr. Clinger said the three items were related. When the Department of Conservation and Natural Resources completed the deferred maintenance list, the amount included in the second year of the 2005-07 biennium included less critical items that could not be completed within the biennium. The Department had withdrawn the request.

Item 19: Corrected funding mechanism for the Health Insurance Flexibility and Accountability (HIFA) waiver. In lieu of General Fund, this would be a transfer from the Medicaid budget.

Item 20: Rather than reclassifying a position, E-811 actually added a position. This amendment corrected the technical error.

Item 21: Added two additional staff members to the Parole Board's budget, an Administrative Assistant II and an Administrative Assistant IV. The positions were in addition to E-250.

Item 22: Would allow the state records center to microfilm backlog. The center was required to maintain all the records for the constitutional officers and anticipated a significant increase in workload.

Item 23: Technical adjustment to correct funding for the SWCAP and the AG cost allocations.

Item 24: Technical adjustment to correct funding allocation; more federal funds were included in the budget than the Homeland Security Division would be able to receive.

Item 25: Provided a rate increase for Personal Assistant Services.

Item 26: Added 6 positions to the Welfare Field Services budget, positions approved by the 2003 Legislature and were not included in the base budget.

Item 27: Corrected funding for the SWCAP and the AG cost allocations, Commissioner for Veteran Affairs.

Item 28: A supplemental for the Education for Handicapped Act budget within the Department of Education to cover FY2005 projected expenditures; a new item.

Item 29: Added 1 FTE Management Analyst II and .25 FTE administrative assistant to the Division of Mental Health and Developmental Services Administration budget. The positions would handle the Division's centralized billing system.

Item 30: Eliminated a position inadvertently added to the base budget. The position was included in the M-200 Decision Unit in BA 3648 and was also included in base.

Item 31: Corrected funding for the SWCAP cost allocation.

Item 32: Continued funding of a .51 FTE intake coordinator at the North Neighborhood Service Center.

Item 33: When the Department of Cultural Affairs submitted the budget for the State Railroad Museum, the agency believed the revenue that would be generated from the ridership would be greater than what was now projected. E-451 would change the percentage of General Funds appropriated to BA 4216 from 50 percent in FY2006 to 75 percent in FY2006 and from 30 percent in the FY2007 to 50 percent of General Fund appropriation.

Item 34: Added two Psychiatric Caseworker II positions and a .51 FTE administrative assistant to convert the Mental Health Court in Washoe County from contract positions to permanent state positions.

Item 35: Restored the Consumer Affairs revolving account to $7,500 per NRS 598.0966.

Item 36: Amended supplemental request to cover projected shortfall in FY2005 due to reclassification of a position. A.B. 95 addressed FY2004 and the amendment would add FY2005 as well.

Item 37: A technical adjustment that trued up the transfer in funding from the Department of Information Technology into UNITY.

Item 38: The Ethics Commission supplemental appropriation that had been withdrawn.

Item 39: A $100 appropriation in each year of the 2005-07 biennium for the Public Safety Narcotics Control Unit that allowed them to have access to the IFC contingency fund in the event the agency did not receive federal Byrne Grant funds.

Item 40: Added 6 new positions to the Public Works Board paid for through the inspection fees.

Item 41: Eliminated Decision Unit E-600 that eliminated positions twice in BA 4470.

Item 42: Added inflationary increases of 4 percent each year for electricity and 8 percent each year for natural gas in the Department of Transportation budget. The Budget Division failed to include the inflationary increases in the DSA budget and the Department of Transportation budget.

Items 43 and 44: Transferred the Head Start Program from the Child Assistance and Development Budget to the Department of Human Resources, Director's Office. The federal government required the Head Start Program to be administered at a higher level within the DHR.

Item 45: Added a consumer council position to the Bureau of Consumer Protection Account, BA 1038.

Item 46: Added a position approved by the Interim Finance Committee to the base budget in Department of Transportation. The position was excluded from the base budget.

Item 47: Added funding for the Nevada Attorney for Injured Worker's share of a security guard contract in a facility currently shared with the Hearings Division. Funding for the other half of the position was included in the Hearings Division's budget.

Item 48: Added inflationary increases to the Department of Employment Training and Rehabilitation budgets; items not included in the Governor's budget.

Item 49: Eliminated Decision Unit E-805 in the Taxicab Authority budget that would reclassify Airport Control Officers.

Item 50: Corrected a reclassification error related to a Health Program Specialist 1 position.

Mr. Clinger pointed out that the totals for General Fund and other funds for FY2006 and FY2007 were included at the bottom of page 2 of the handout (Exhibit F). The third page of the handout included the revised statement of projected unappropriated General Fund balances and displayed the effects the adjustments had on the ending fund balance for each of the fiscal years.

Ms. Giunchigliani referred to approximately $34 million in each year of the 2005-07 biennium that was not included in the budget for the Distributive School Account. Mr. Clinger said the Budget Division was notified by the Department of Education that the Clark County School District and the Washoe County School District believed there were keying errors at the district level in the data submitted for the "387" report, the base document the Budget Division used to build The Executive Budget. The Budget Division was reviewing the data and was not, at this point, convinced that an adjustment to the DSA was required, but would notify the Committee once a determination was made.

Ms. Giunchigliani referred to Item 3, the Millennium Scholarship Fund, and said the funding for the scholarship fund would be considered in future legislative hearings; one-shot money rather than ongoing appropriations would be considered for the fund. She then referred to Item 4, and pointed out that the ACR 10 Interim Committee on Health Care was actually considering a recommendation to possibly prefund health care to alleviate the long-term liability. Ms. Giunchigliani indicated she did not see a budget amendment for the Secretary of State's request for funding for voting machines. Mr. Clinger said there was not a recommendation to adjust the Governor's budget for the request.

Mr. Marvel said he shared Ms. Giunchigliani's concerns related to the Public Employees' Benefits Program. He asked if the PEBP would be returning in the future indicating the large reserve was depleted. Mr. Clinger explained that part of the rate reduction over the biennium was due to the sizable reserve, approximately $22 million, and by lowering the rates over the biennium, the PEBP was spending down the reserve. In the next biennium there would not be a large reserve, resulting in a need for increased rates.

Mrs. Gansert referred to Item 9 and asked if the funding included for 18 correctional officers was sufficient; the numbers did not change year to year. Mr. Clinger agreed to look at the calculation. Mrs. Gansert then referred to Item 34, which included 2.51 FTE positions, but the funding was low. Mr. Clinger explained that there was an off-setting savings to contract expenditures to fund the positions.

Ms. Giunchigliani referred to Item 7 and said she did not see the adjustments for the PERS reduction in salary included in the Distributive School Account. Mr. Clinger said the Budget Division was not recommending an adjustment. The Division had reviewed the PERS issue; the 2003-05 biennium included an increase in the retirement rate, which was fully funded with no adjustment to salaries. Because the retirement rates were going down for the 2005-07 biennium, the Division removed 100 percent of what that adjustment was. Ms. Giunchigliani said there was a late adjustment in the budget closings for the 2003-05 biennium. Mr. Clinger explained that last biennium, when the Governor's budget was originally submitted, the Budget Division had only recommended funding for 50 percent of the increase, and the amendment submitted by the Division added in the other 50 percent, resulting in a 100 percent increase in funding. Mr. Clinger said "now we are not funding the decrease; we are consistent with the way we did it last biennium." Ms. Giunchigliani said she did not believe that was the case, and indicated that the PERS issue would be discussed in greater detail in future meetings.

Chairman Arberry asked that the record reflect that Ms. McClain was excused. He then requested that Committee members carefully review the documentation provided by staff prior to each meeting.

Chairman Arberry adjourned the meeting at 10:35 a.m.

RESPECTFULLY SUBMITTED:

Linda Smith
Committee Secretary

APPROVED BY:

Assemblyman Morse Arberry Jr., Chairman

DATE:

EXHIBITS

Committee Name: Ways and Means

Date: February 28, 05 Time of Meeting: 8:00 a.m.

Bill #	Exhibit ID	Witness	Dept.	Description
	A			Agenda
	B	Jeff Fontaine, NDOT		State of Nevada Transportation Facts and Figures, January 2005
	C	Jeff Fontaine, NDOT		CIP overview
	D	Chairman Arberry		Letters in opposition to A.B. 40
	E	Allen Biaggi, CNR		Copy of testimony
	F	Andrew Clinger, Budget Division		Summary of budget amendments