

**MINUTES OF THE
LEGISLATIVE COMMISSION'S BUDGET SUBCOMMITTEE**

**Seventy-Seventh Session
January 28, 2013**

The meeting of the Legislative Commission's Budget Subcommittee was called to order by Chair Debbie Smith at 8:38 a.m. on Monday, January 28, 2013, in Room 4100 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4401, the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE COMMITTEE MEMBERS PRESENT:

Senator Debbie Smith, Chair
Senator Joyce Woodhouse, Vice Chair
Senator Moises (Mo) Denis
Senator David R. Parks
Senator Pete Goicoechea
Senator Ben Kieckhefer
Senator Michael Roberson

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblyman William C. Horne, Vice Chair
Assemblyman Paul Aizley
Assemblyman D. Paul Anderson
Assemblyman David P. Bobzien
Assemblyman Andy Eisen
Assemblywoman Lucy Flores
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblywoman Marilyn Kirkpatrick
Assemblyman Randy Kirner
Assemblyman Michael Sprinkle

COMMITTEE MEMBERS ABSENT:

Assemblyman Steven J. Brooks (Excused)

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Cindy Jones, Assembly Fiscal Analyst
Sarah Coffman, Senior Program Analyst
Adam Drost, Program Analyst
Jennifer Gamroth, Program Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Karen Hoppe, Program Analyst
Kristen Kolbe, Program Analyst
Leslie Sexton, Committee Secretary

OTHERS PRESENT:

James G. (Greg) Cox, Director, Nevada Department of Corrections
Mel Rosenberg, Chief IT Manager, Nevada Department of Corrections
Chuck Schardin, Medical Administrator, Nevada Department of Corrections
Chris Perry, Director, Department of Public Safety
James Wright, Deputy Director, Department of Public Safety
Mark Teska, Administrative Services Officer, Director's Office, Department of Public Safety
Julie Butler, Records Bureau Chief, Department of Public Safety
Connie S. Bisbee, State Board of Parole Commission, Department of Public Safety
Troy L. Dillard, Interim Director, Department of Motor Vehicles
Rudy Malfabon, P.E., Director, Department of Transportation
Scott K. Sisco, Assistant Director, Administration, Department of Transportation
The Honorable Kristina Pickering, Chief Justice, Nevada Supreme Court
Deanna Bjork, Administrative Office of the Court, Office of the Court Administrator, Nevada Supreme Court
The Honorable James W. Hardesty, Associate Justice, Nevada Supreme Court

Chair Smith:

We will begin with a presentation from the Nevada Department of Corrections (NDOC).

James G. (Greg) Cox, (Director, Nevada Department of Corrections):

I have submitted a written outline of my presentation, "Nevada Department of Corrections, Budget Presentation, FY 2013 -2015, January 28, 2013" ([Exhibit C](#)). We have based our budget on priorities and performance criteria. For fiscal year (FY) 2013-2014, the safety, secure confinement and health care services for inmates comprises 88.46 percent of our budget request; support functions comprise 6.7 percent; and Department infrastructure comprises 4.8 percent of our budget from the General Fund. Further details on those functions are on pages 3 and 4 of [Exhibit C](#).

The mission of the NDOC is to protect the public by confining convicted felons according to law while keeping staff and inmates safe. *Nevada Revised Statutes* (NRS) 209 provides for the administration of the NDOC by the Board of Prison Commissioners. Under NRS 209, the Director of the NDOC is required to administer the operations of the Department and carry out its vision, mission and goals while constantly evaluating changing business, political and legal environments.

Fiscal services include purchasing, contracting and managing approved funding for programs and responsibilities.

Medical, dental and mental health services for inmates comprise a large part of our budget. We provide these services at all of our major facilities. When our infirmaries are unable to treat serious problems, we transfer inmates to provider hospitals in the local communities.

Human resources, payroll and training functions include staffing, recruitment, retention, background investigations, and mentoring and training of staff.

Information and technology functions are critical to our ability to analyze data regarding our core functions and programs in order to gauge effectiveness and efficiency within our budget.

We provide basic services to inmates, including banking, stores, recreational activities, law libraries and opportunities to participate in religious activities. Federal and case law govern the latter.

The NDOC Office of the Inspector General conducts official investigations and inquiries on behalf of the Department, the Board of State Prison Commissioners and the Governor. Investigations include, but are not limited to, allegations of

misconduct by staff or administrators, administrative matters and criminal investigations.

The mission of Prison Industries, also known as Silver State Industries, is to reduce operating costs of government, provide inmates with the skills necessary to reenter society successfully and to enhance the safe operation of our facilities.

Other core activities, as defined by the Priorities and Performance Based Budgets (PPBB), are our programs, the safe and secure confinement of convicted felons in medium-, close-, maximum-, and minimum-security facilities and supervision of parolees.

Our PPBBs are depicted graphically on pages 5, 6 and 7 of [Exhibit C](#). The majority of our funding for core projects comes from the General Fund. Other funding comes from grants, room and board and utility reimbursements. The State Criminal Alien Assistance Program is a federally funded program to cover the cost of incarcerating certain criminal alien inmates. Working inmates offset the costs of their room and board from their wages. Inmate services and prison industries core activities are self-funded. Program core activities receive some grant funding, but operate primarily through the General Fund. The Inspector General tries to secure grant funding when possible. The fiscal/human resources, payroll and training, information technology, and administrative core activities operate entirely on General Fund money.

Senator Hickey:

How will the expansion of Medicaid under the Affordable Care Act (ACA) affect your budgets?

Mr. Cox:

For approximately 1 year, we have been tracking instances of inmate hospitalizations eligible for Medicaid reimbursements, specifically female inmates and inmates over age 62 who are sent to a hospital for over 24 hours. We are just now seeing reimbursements from \$40,000 to \$45,000. Corrections departments across the country have been discussing the expansion of Medicaid under the ACA and the type of medical services they will be able to provide. Our medical budget is a large portion of our budget, \$45 million to \$46 million. There will be ongoing talks about whether or not the ACA will cover inmates.

Assemblyman Hickey:

A former Director developed co-payments or premiums for inmates. Has that been working or would it be acceptable under new Medicaid policies?

Mr. Cox:

For several years, we have been charging co-payments of \$8 per inmate for either medical or dental services.

As indicated on page 7 of [Exhibit C](#), the two core functions of the Department are to confine convicted felons and to provide health care for inmates. These two core functions comprise 81 percent of our budget each fiscal year of the 2013-2015 biennium. Fifteen percent of our budget covers the support services of programs for inmates, the Inspector General, inmate services, prison industries and supervising parolees each fiscal year. Four percent of our budget covers fiscal, human resources, payroll and training, information technology (IT) and administration core activities each fiscal year.

We have itemized our PPBBs by activity on page 8 of [Exhibit C](#), and by staff full-time equivalents (FTE) on page 9 of [Exhibit C](#) for both fiscal years of the 2013-2015 biennium. We expect payroll costs to be constant except for the possible reduction of two staff due to the expiration and nonrenewal of the grant for the reentry program. We expect to be able to fund this program.

Page 11 of [Exhibit C](#) outlines our calculations for statewide caseload projections. We track inmate populations on a daily basis. I also receive information on population trends from Clark and Washoe Counties' detention centers. We receive our population numbers from Jim Austin of the JFA Institute (JFA). For example, today's total population is 12,611 inmates.

Page 12 of [Exhibit C](#) explains the need for population forecasting.

The JFA consulting firm projects the official 10-year monthly forecast. We project the demand for inmate beds by estimating the inmate population at all of the NDOC locations. Our plan anticipates needed building programs and opening or closing of housing units. We use our projections to build the biennial budget that the Legislature approves for funding.

The Southern Nevada Correctional Center in Jean, Nevada, is not operating. We have one maintenance staff member assigned there. We are keeping the 712 beds

available for any future expansion needs so that the State does not have to build another prison. Our forecasts indicate no need to build any new prisons for approximately 10 years.

Page 13 of [Exhibit C](#) explains how the accuracy of population forecasts are tracked and factors that affect the size of populations and the accuracy of information. Our forecasts have been running true to actual experience. Many of the bills that will come before this Session will have an impact on population. Our Department will speak to those issues, as they arise, with fiscal notes. With the assistance of JFA, we will be able to provide any data you might request in order to make decisions.

We study national trends in relation to trends in Nevada. According to the U.S. Department of Justice, Office of Justice Programs and Bureau of Justice Statistics, in calendar year (CY) 2010 there was a decline of 5.6 percent in corrections budgets nationwide. Corrections budgets as a percentage of total state budgets went from 25 percent in 1982 to 21 percent through the present. Most state governments support their corrections departments with state general funds.

Pages 14 and 15 of [Exhibit C](#) show the growth of our inmate population, which generally follows increases and decreases in the State's general population. Nationwide, for the first time in 30 years, we have seen a 1.1 percent drop in prison populations. The JFA can provide more information to you on the reasons for this decrease. From 2000 to 2012, Nevada's yearly average prison population went from 9,598 to 12,564, for an overall average of 11,640. This is a 2.51 percent increase. My conclusion is that we are tracking closely to our population forecasts.

Chair Smith:

I recall from testimony in the 76th Session that statistics showed more women committing crimes and those crimes were of a more serious nature.

Mr. Cox:

After looking at current statistics for Clark County, it appears that those numbers are decreasing. However, crimes by females nationwide appear to be more violent in nature. The Florence McClure Women's Correctional Center (FMWCC) in North Las Vegas has over 200 vacant beds. The Jean Conservation Camp is also not full to capacity. This is further evidence of my conclusion that we will not have to build new facilities for at least 10 years. It is critical that we use our resources and programs to reduce the population over time.

In a 13-year period, the in-house offender population increased by approximately 3,000 due to the growth of the State. The peak year was CY 2007; CY 2008 was the second highest. Although nationwide statistics showed increases at the same time, Nevada statistics rose at a faster pace. In CY 2006, the population increased by 1.8 times the increase in CY 2004. From year to year, the number of offenders grew by an annual average of 262. The increase represents one medium- and multi-custody prison. High Desert State Prison is an example of such a facility where there are approximately 3,004 inmates. This represents a yearly increase of 2.51 percent. Proactively applying that average to the populations of other facilities is another indication that we have the capacity to cover future needs for at least 10 years.

According to NDOC Deputy Director Deb Reed and the information you have before you, A.B. No. 510 of the 74th Session is clearly working as intended to decrease and manage our inmate population.

Pages 16 and 17 of [Exhibit C](#) show the fluctuation in female and male inmate populations respectively from January 2007 through April 2012. The actual numbers closely follow the forecasts.

Page 18 of [Exhibit C](#) shows our annual average prisoner projections and biennium plans.

Assemblyman Aizley:

Do you have a breakdown of the reasons for incarceration? I am interested in marijuana-related crimes, i.e., use, sale or possession.

Mr. Cox:

We will see if our data system can produce such a report, by code and crime, prior to actual budget hearings.

The JFA projections, published in the spring, will update the projections on page 18 of [Exhibit C](#). The projections are the basis of budget requests. The projections legislatively approved for FYs 2007-2008, 2008-2009, 2009-2010, 2010-2011 and 2011-2012 are compared to actual population figures. Before A.B. No. 510 of the 74th Session, inmate population projections were inflated compared to actual experience. This page also shows the inmate population projection for FY 2013-2014 and FY 2014-2015 contained in the 2013 Executive Budget.

Pages 19 and 20 of [Exhibit C](#) show population projections compared to actual experience for male and female populations respectively. Our population is flat.

Pages 21 and 22 of [Exhibit C](#) show admission and release trends, respectively, from 2009 through 2012. Admission trends have been nearly flat, but falling overall. Actual admissions declined by a negative 0.13 percent, less than the projection of 0.05 percent. The decreases can be attributable to the implementation of A.B. No. 510 of the 74th Session. Due to sentence structures and the type of crime committed, we cannot release some inmates.

Page 23 of [Exhibit C](#) shows average length of incarceration by gender from 2009 through June 2012. The annual average for paroled females went from 15.5 months in CY 2009 to 15.3 months in CY 2012. The annual average for discharged females went from 14.8 months in CY 2009 to 12.6 months in CY 2012. The annual average for paroled males went from 21.6 months in CY 2009 to 21.7 months in CY 2012. The annual average for discharged males went from 23.6 months in CY 2009 to 21.8 months in CY 2012.

Page 24 of [Exhibit C](#) shows parole grant rates from 2009 through June 2012. Pages 25 and 26 of [Exhibit C](#) further refine those numbers by female and male respectively. Overall parole rates for men are higher than the national average.

Senator Kieckhefer:

Do you track recidivism due to parole violations?

Mr. Cox:

Yes. I will provide those statistics to the committees.

Assemblywoman Carlton:

I would like to see statistics on the practice of "dumping" and how this practice affects your costs. I also would like to see any written guidance or regulations used by the State Board of Parole in this regard.

Mr. Cox:

I will provide that information to the committees.

Assemblyman Hickey:

Have states considered liberalizing parole standards for those they deem to no longer be a threat to society by virtue of their advanced age?

Mr. Cox:

The cases I have studied, some in response to communications received, have involved violent and horrendous crimes, including sex acts. I see this situation in others states I have studied. The senior inmate population has increased medical costs in Nevada and nationwide. Generally, the senior inmate population causes very few problems in our system. We look at moving them to lower-custody facilities. Seniors have a calming effect on inmate populations and housing them all in separate facilities is not a good idea.

Page 28 and 29 of [Exhibit C](#) outline in detail our inmate-driven costs. We base cost projections on actual expenses incurred in CY 2012.

Food is a major consideration. Our culinary managers look for opportunity buys at substantial savings to the State. This accounts for approximately 20 percent of our food costs. Our contractors tell us this percentage is too high, although our contracts with them do not limit us.

A factor in our budget is kosher common fare, which I will be prepared to discuss in a subcommittee meeting. There is ongoing litigation and a decision is pending in the U.S. Court of Appeals, Ninth Circuit, regarding the State's responsibility to provide religious diets. The kosher common-fare menu that we have instituted following the initial decision in District Court has caused an increase in food costs of \$61.06 per inmate, per year, over our regular food costs. I expected the decision in November 2012. Religious diets are affecting every corrections department nationwide. I will be able to offer more information on this issue when the Appeals Court makes a decision. That decision may be further appealed.

Senator Kieckhefer:

Why have the costs of food at the Ely State Prison increased while the inmate population has decreased?

Mr. Cox:

A substantial portion of that population is on the kosher common-fare menu. Some of the increases are due to the remote location and cost of transportation.

The cost of the kosher menu is \$15.17 per day. Taking into consideration caloric intake, the requirements of a kosher diet, all of the consideration required by the Court, the kosher common-fare menu is \$8.76 per day, compared to less than \$3 per day for the regular diet served to a majority of the inmate population.

Assemblyman Hogan:

Is religious affiliation of the inmate consistent with the inmate's request for a religious diet or is it just a matter of personal preference?

Mr. Cox:

Generally, inmates have the right, under case law, to change religious preference at will. Case law also requires that a process be in place to change religious affiliation. Nevada has an effective process. We have hired chaplains from various denominations. Each one must have knowledge of all faiths. I will have more detailed information in this regard for the subcommittee.

Pages 30 through 33 of [Exhibit C](#) contain information on our Community Services Division. This Division has responsibilities from entry through parole supervision in the community. They assist inmates with entry and with developing a reentry plan and a midlevel correctional plan that helps inmates take advantage of the programs and services they need. The Division communicates those needs to the Parole Board and works with the Parole Board to provide those programs and services. Michigan and Missouri, states that have parole divisions within the departments of corrections, are the highest performing states in reducing recidivism.

I have asked the National Institute of Corrections (NIC) to assist us in moving the parole function from the Division of Parole and Probation (P&P), Department of Public Safety (DPS), to the NDOC. North Carolina, Tennessee and Connecticut have successfully done this. We have access to their detailed plan. Pew Charitable Trusts (Pew) information shows that the nationwide recidivism rate is 60 percent. Removing California from that figure, the nationwide rate is 40 percent. Nevada's rate is 26.9 percent. There is data to support the fact that moving the parole function from the DPS to the NDOC will eliminate redundancy in services. This means that the separate Parole Division will coordinate with the Community Services Division reentry team, the Casa Grande Transitional Housing (CGTH) unit in Las Vegas and the Northern Nevada Restitution Center in Reno with the goal of reducing recidivism. This will lead to reduced crime and reduced costs to the State. Recidivism will become the yardstick for defining our success.

Page 33 of [Exhibit C](#) lists specific benefits of moving the parole function from the DPS to the NDOC as the Community Services Division. With NIC assistance at no cost to the State, we can develop a plan and strategy to do that. Once we implement the plan, they will return to Nevada for continuing consultation.

Pew has identified several strategies to achieve reductions in recidivism. We should define measureable goals for reduction. We should reward progress toward those goals. We should begin preparation for inmate release upon the inmate's entry into the system. We should optimize the use of the supervision resources of the Parole staff. We should impose swift and certain sanctions for parole violations within our transitional housing facilities to avoid sending offenders back to jail or prison.

This will allow an inmate to maintain his job and to remain in the community. These sanctions would not apply to new felonies. Actions that would warrant these swift and sure sanctions would include failure to attend substance-abuse training or not finding employment. The Community Services Division is geared to provide those types of services. We want our offenders to succeed in the community. The largest reductions in recidivism occur when evidenced-based programing and practices are implemented. In the past, we have not done a good job in measuring success. We are making a better effort to improve today.

Chair Smith:

In the past, inmates were having difficulty finding employment and thus being unable to meet their rent obligations in our transitional housing. Has that situation improved?

Mr. Cox:

The employment rate at the CGTH averages 60 to 70 percent because of the work of our job developers. The ability to earn a living wage and provide for a family is critical in keeping people out of prison. Some employers will not hire a person with a criminal record. Our job developers work with employers who are willing to offer a "second chance," an opportunity to gain full employment at a living wage. When setting rent rates, we look at several factors and allow occupants enough time to gain employment before charging rent. We certainly do not want to add to an occupant's debt burden because we want to prepare him for reentry into the community. It does not make sense to cut budgets for services that keep people out of prison. We provide supervision for that offender population while they are in transition to assure public safety.

Assemblywoman Carlton:

Missouri does not separate parole and probation from their Department of Corrections. Is that what you are proposing?

Mr. Cox:

Missouri does not separate the three. Our proposal is to move only the parole function into the NDOC, leaving the probation function as it is. Michigan followed Missouri's model. Nevada could do the same and we could develop a plan for that. Phase one of our strategy is to bring parole into the NDOC. This idea has been discussed in Nevada since at least 1993. Before now, we did not have a plan.

Assemblywoman Carlton:

When there are bifurcated systems, separating parole from probation functions, how many probation functions fall to the counties? I would like to know the costs of implementing the plan to move parole to the NDOC, as well as the costs that were incurred by counties when probation functions were transferred to the counties. Those figures may have to be broken down by classifications. I also want to know how current employees will be treated with respect to pay grades, reclassifications, replacement through attrition, and wage and benefit changes when employees move from the State to the county. I am happy to discuss other questions with you when this budget comes up for hearing.

Mr. Cox:

We can look at providing that kind of information. Several states have the parole function under the department of corrections, keeping the probation function separate. Several states have both the parole and probation functions under the department of corrections. The field of corrections is moving toward the latter model. Oregon, a high-performing state according to Pew, places parole functions with the department of corrections and probations functions with the counties. Good communication, developing good inmate plans for release and services are critical. We will provide detailed information. It is not our intent to adversely affect the pay or pension of any person from parole functions moving to the NDOC. It is not our intent to affect the locations of any of our buildings. It was important to us to have a good plan with regard to costs and treatment of employees because our employees are critical for us to be able to manage the inmate population and advance the goals of our Department.

Assemblywoman Carlton:

The separation of the Department of Motor Vehicles (DMV) from the DPS took a lot of time. I learned valuable lessons during the procedure. I have a unique perspective on the process. I look forward to discussing the details involved in this transfer during the budget hearings.

Assemblyman Hogan:

In your opinion, how should the NDOC relate with parole and probation functions more effectively and efficiently?

Mr. Cox:

The nationwide data supports the fact that moving the parole functions to the NDOC is a fundamental method to reduce recidivism, provide programs and services to the inmate population and reduce departmental costs. The NIC brought nationally known corrections directors and other professionals to Nevada to assist in developing our plan. We had the assistance of staff on all levels from throughout the State. Moving the parole function to the NDOC will be challenging, but it is the right thing to do. We are capable of implementing this plan. Our plan is as cost-neutral as possible.

Assemblyman Hogan:

I am pleased with your approach. Are you planning to move P&P as a unit?

Mr. Cox:

If it is the will of the Legislature to move both functions to the NDOC we can do that. I made the decision to develop a plan to move only parole functions as a first step.

Assemblywoman Kirkpatrick:

Have you met with local governments to discuss the impact this plan will have on them? I want to make sure that communication takes place to avoid an adversarial relationship with local governments. I want to ensure that the State fulfills its responsibility to the people. I want those details discussed further.

Mr. Cox:

The Legislature could transfer probation functions to the counties, if desired. We can develop a plan to do so. I am not proposing that. Under our proposal, the probation function remains within the DPS. The challenge to which I referred is a challenge to our Department to get the job done.

Chair Smith:

Please be prepared for a thorough discussion regarding the training that you would need under your plan.

Mr. Cox:

We will move forward with our IT requests.

Mel Rosenberg (Chief IT Manager, Nevada Department of Corrections):

Our IT department must serve 20 facilities. Only the Carson City facility houses an IT staff member. This results in officers and maintenance staff needing to become IT problem solvers, which does not deliver an ideal level of timely support services. With the goal of achieving a greater level of support, we want to increase our IT staff and place them where we need them.

We recommend the addition of two IT technician VI positions at a pay grade 35. We would reposition a third IT technician VI from the Indian Springs facility to the FMWCC to achieve maximum coverage. Page 35 of [Exhibit C](#) outlines the benefits of that addition.

We recommend the addition of one IT professional II with a pay grade 37 for the software development team. We support the major automation system, the Nevada Offender Tracking Information System (NOTIS), and other smaller automation systems for the NDOC. At the beginning of FY 2012-2013, we started a data warehouse. We need additional staff to advance and maintain it at a required level. This is a major strategy to allow our internal user to obtain the same kind of data that this Subcommittee is requesting.

We recommend the addition of a half-time IT professional III at a pay grade 39, to provide support on the NOTIS system for the Parole Board.

Our computer operating system, Microsoft XP, is outdated and Microsoft will discontinue support for it in approximately 1 year. This will make us vulnerable to Internet attacks and threats. The Department of Administration, Enterprise Information Technology Services, has advised me that when Microsoft discontinues support, it will no longer allow our hardware to connect to the network. Therefore, we are recommending funding of hardware and software as outlined on pages 39 through 44 of [Exhibit C](#).

Chair Smith:

For the Subcommittee's larger discussion about future IT needs, please be prepared to discuss the issues related to retiring outdated hardware and software when the subcommittee meets.

Mr. Cox:

Our recommendations will only maintain our system, not enhance it.

Assemblyman Bobzien:

It would be helpful for the committees and subcommittees to have a statewide picture of future IT needs, not limited to the NDOC and what the strategy is for meeting those needs.

Chair Smith:

The focus of our discussion should be proactive, looking at more than short-term needs.

Mr. Rosenberg:

GangNET purchased our Microsoft Sequel Server License and granted it to us. They still own that license and have access to sensitive and confidential information. It is a security risk to have an outside entity with that access. This is the rationale for our request on page 40 of [Exhibit C](#).

With the upgrade from the XP operating system, our NOTIS system will need a software upgrade and associated training. The Governor has recommended the use of a one-shot appropriation to fill this need. Currently, the NDOC is one version behind the current version of the NOTIS software. We expect to be two versions behind within the next 9 months.

The NOTIS system relies on an Oracle program for production support and new development. We need to purchase additional licenses from Oracle to meet our needs. The alternative would be to discontinue all use of Oracle software.

Page 43 of [Exhibit C](#) outlines our request to upgrade our phone and videoconferencing infrastructure within the Department of Administration. It does not include maintenance and support funding. I have been advised to use the Contingency Account to support the phone system in the future. We will use the videoconference bridge for training in order to reduce travel costs.

Page 44 of [Exhibit C](#) lists computer hardware needs. Our current hardware is too old to support new operating systems. We purchased the desktop computers from MPC Computers. That company went bankrupt.

Mr. Cox:

We are intending to consolidate efforts and services in order to reduce costs.

Chuck Schardin (Medical Administrator, Nevada Department of Corrections):

My presentation begins on page 46 of [Exhibit C](#) and is a historical view of medical costs per inmate, per day, for the past 10 years. According to the Bureau of Justice Statistics, in December 2012 Nevada had the lowest cost for medical expenditures in the 11 Western states. Nevada is the seventh lowest in the Nation. A downward trend began in FY 2011-2012 primarily due to a reduction in catastrophic cases, defined as cases costing more than \$100,000. We have improved drug inventory management by decreasing our pharmacy turnaround time from 7 days to 1 day or less. This improvement involved a long and difficult process with many components. The result has been a decrease in on-site floor stock in each of our facilities. We also eliminated redundancy on our drug formulary based on medical evidence and equivalent therapeutics. Our providers begin treatment with formulary drugs and move to nonformulary drugs only when necessary. We instituted a drug program under Section 340B of the Public Health Service Act through which Renown Health in Reno provides lower cost HIV drugs for our patients. We encourage inmates with chronic health problems, such as hypertension or diabetes, to attend our free chronic disease clinic with the goal of reducing more serious hospitalizations in the future.

The projected increases in costs in subsequent years, shown on page 47 of [Exhibit C](#), are the results of anticipated inflation and caseload changes. They were computed by the Chief Economist from the Department of Employment, Training and Rehabilitation using the Consumer Price Index. The yellow-highlighted figures were used to compute our agency-specific inflation for hospitalization, outpatient care, drug costs and medical and dental supplies.

Page 48 of [Exhibit C](#) shows inmate-driven medical costs. The Budget Division of the Department of Administration and the Legislative Counsel Bureau agreed to the adjusted base rate calculation in FY 2011-2012. The inmate-driven rates for FY 2012-2013, FY 2013-2014 and FY 2014-2015 were calculated from that base to project costs for the third-party administrator (TPA) of our outpatient hospitalization care, pharmaceutical contracts, prescription drugs, and medical and dental supplies.

In summary, on page 49 of [Exhibit C](#) we project the caseload to increase by 302 inmates in FY 2013-2014 and 330 in FY 2014-2015. The financial impact of those changes is also shown for each fiscal year.

Assemblyman Hambrick:

What impact does implementation of the ACA have upon your costs?

Mr. Schardin:

State prison inmates are prohibited from receiving federal financial participation (FFP) such as Medicare or Medicaid. There is one exception. When an inmate is admitted to a medical facility for more than 24 hours, he or she is no longer considered an inmate for purposes of FFP. Very few states are taking advantage of this exception. We currently have pregnant inmates and inmates over the age of 65. When the ACA is implemented in CY 2014, Medicaid will only cover the inmates who meet that exception. It is possible that this exception could be repealed at any time. We have discussed this with federal officials in the Department of Health and Human Services, and the Centers for Medicare and Medicaid Services (CMS), who would apply the exception. We have also found confusion between the federal and regional CMS offices. According to the CMS, until they can obtain further guidance, we should proceed with applying the exception, beginning in July 2012. Initially, in CY 2014, Medicaid would provide 100 percent coverage for those newly eligible individuals.

Assemblyman Hambrick:

I will have follow-up questions for the Subcommittee.

Chair Smith:

Do you work with the Nevada Department of Health and Human Services (DHHS) on these issues?

Mr. Schardin:

Yes. We have an interlocal contract to govern the process.

Mr. Cox:

Nevada and other states have modeled the Washington state example for integrating inmates into the ACA. That state is currently under litigation and we are waiting for a decision following an audit in Washington.

Assemblywoman Flores:

What exactly does a TPA do? Who does it? This is a large line item in your budget.

Mr. Schardin:

The prison medical system contracts with a preferred provider organization (PPO) in the northern part of the State and one PPO in the southern part of the State. The rates we pay are according to contracts between providers and those PPOs. The TPA collects claims data from the PPOs. The TPA adjudicates the claims according to the contracts. The TPA repays the claims. The TPA submits to us a list of claims for which we must write checks. We have a separate bank account for these costs and we release checks after verifying authorization for the medical procedures and inmate eligibility. These costs are incurred outside of our facilities.

State employees provide primary care services inside of our facilities.

Assemblywoman Flores:

I am concerned about accountability. Several years ago, an audit showed approximately \$2 million was paid to contract physicians for services not rendered. In subcommittee meetings I would like to discuss, in detailed terms, how we examine the accountability of the TPA and outside providers to ensure that they are not billing for services not rendered and that inmates are getting the care they actually need.

Chair Smith:

To clarify, we are talking about two different issues: the TPA claims for outside medical services and in-house physicians addressed by the audit. Where do we stand with respect to that audit? We will want to discuss this further in subcommittee.

Mr. Cox:

We are looking at the issue of the delivery of medical services within our institutions, the status of the professional staff who are State employees delivering those services, and the scheduling and performance of those employees. We have worked with the DHHS regarding their audit and approaches we can use in performance standards. I have talked to national experts about caseloads and working hours for these exempt employees. We have included all medical professionals on staff in developing clarity in work performance standards, job specifications, scheduling requirements, and daily caseload standards that apply to intake processes and the general inmate population. The National Labor Relations

Act is very clear on the definition of an exempt employee. Performance, not hours, is the basis of that definition. We have a process in place to address the issues raised by the audit and a corrective action plan to resolve the issues.

Assemblywoman Flores:

The audit revealed that, at one time, inmates at the FMWCC had to wait 6 months for a dental appointment as well as instances where inmates had to be taken offsite for dental appointments because the facility did not have a dental chair. This caused additional expense.

Mr. Cox:

I assure you that there are dental chairs at the FMWCC as well as a new infirmary area built by the State 3 to 4 years ago. It is our intent to provide adequate dental care to inmates.

Chair Smith:

In subcommittee meetings, we will want further detail on everything you have presented today.

Mr. Cox:

Our equipment and our Prison Rape Elimination Act expenses are contained in separate budgets. We have submitted that information. We will discuss details in subcommittee meetings.

Chair Smith:

Please bring back to the subcommittee details on the cost to maintain the three closed facilities on an inactive status. I want to ascertain the cost to reactivate them gradually. What is the long-term plan for those facilities? Can you provide cost data on the DNA testing of inmates?

Mr. Cox:

I can provide the data you request.

Chris Perry (Director, Department of Public Safety):

My presentation is contained in ([Exhibit D](#)). Page 2 describes our mission statement. Page 3 shows our organizational chart. The green notations throughout [Exhibit D](#) refer to our PPBB objectives contained in the [Executive Budget](#). Page 4 shows the current civilian and sworn staffing levels and the number of FTE vacancies in those levels. We are working to reduce the sworn vacancies by

increasing our academy classes. We anticipate having 100 more sworn officers on the road within the next 12 to 14 months.

Pages 5 and 6 of [Exhibit D](#) list the Department's achievements.

Pages 7 and 8 of [Exhibit D](#) list our goals for the future.

Assemblyman Kirner:

You have increased the class size of the academy each year. Is this in response to a large turnover or an expansion?

Mr. Perry:

Many of our enrollees are veterans seeking employment. We have been holding some of our vacancies for the past couple of years. We are seeing a trend of sworn officers leaving the Department after 25 years to retire without a penalty. They move on to other careers.

Assemblyman Hambrick:

I would like information on your retention rate for subcommittee discussion.

Mr. Perry:

We can provide that to the subcommittee.

Pages 7 and 8 of [Exhibit D](#) list our goals for the future.

Senator Goicoechea:

I would like more specifics on the centralization of the management of the statewide dispatch center.

Mr. Perry:

Currently, the Nevada Highway Patrol (NHP) performs the dispatch functions. We want to centralize those functions within the DPS Director's Office. We would then bill users their fair share. It is a department function, not solely a division function. In the future, when we have enough room to do so, we are considering combining our dispatch centers into Reno. It will require the physical relocation of one of our centers in Carson City to the Regional Emergency/Operations Center (EOC) on Spectrum Boulevard in Reno. That building is also used by the Reno Police Department, Washoe County Sheriff's Office and the fire departments in the local area as an EOC. Some federal government agencies have expressed interest in

moving to that building as well. At some time in the future, the NHP dispatch center in Elko needs to be moved. That move is not on the agenda for this biennium. When it is proposed, we can work through the questions of a large facility dispatching for the rural areas.

Pages 9 through 13 of [Exhibit D](#) list the reductions DPS experienced in the 2011-2013 biennium and which have been proposed to continue in the Executive Budget.

Chair Smith:

When you return for the full budget hearing, please be prepared to discuss the effects of the staff reductions and office closing in Las Vegas.

Mr. Perry:

Pages 14 and 15 of [Exhibit D](#) list proposed organizational changes for the coming biennium. Our employees have been involved with the NDOC in developing the plan to transfer the parole function from the DPS to the NDOC. We want to assist the NDOC in this endeavor.

Assemblywoman Carlton:

I want to know about the conditions and the level of discussions you have had and how those discussions ended. Since the planning has been deep and appears to have been based on the assumption that the transfer would take place, I would like to know how much has been spent so far on the planning.

Mr. Perry:

Various levels of discussion began with directors and division chiefs. From there, the NDOC brought a group of experts from across the country to meet with us. I do not know the exact number of hours spent in developing this plan. I do not know if we are ready to implement the plan.

Assemblywoman Carlton:

We received very little information about this plan. Can you tell me who was involved in the higher-level talks?

Mr. Perry:

There were individuals from the Governor's staff, the NDOC and the DPS. Chiefs from the DPS were not involved in the initial conversation. The Chief, both deputy chiefs, captains and lieutenants were involved in subsequent conversations.

Assemblywoman Carlton:

In the past, we have had issues with people being instructed not to share information with Legislators. If we are to make tough decisions, everyone who has an opinion should be allowed to share with us. This does not need to happen at the testimony table if a person is not comfortable doing so. Everyone who is impacted by organizational changes should be allowed to have a voice.

Mr. Perry:

We will ensure that happens on a department level.

Assemblywoman Kirkpatrick:

Will you be able to tell what has already been spent on these high-level discussions, what it will cost to implement the plan and the necessary time frame for implementation? Employees have already experienced significant cuts since 2011. My concern is that the involved employees should not be adversely affected any further. Have we talked to employees to ascertain their abilities to make the transfer? I am concerned about moving people too quickly, without giving them the ability to do the job. I will want to discuss these issues in further budget hearings.

Mr. Perry:

Yes, we will do that. We are not taking this lightly. There will be 71 sworn officers and 34 unsworn staff transferred from the DPS to the NDOC.

Pages 16 and 17 of [Exhibit D](#) outline significant budget items with respect to the P&P contained in the [Executive Budget](#). The transfer of the parole function to the NDOC will benefit our goal of reducing recidivism and State costs within the DPS.

Assemblyman Horne:

The efficiency of the presentence investigation (PSI) process has been an ongoing debate and there has been suspicion that they have not been done expeditiously.

Mr. Perry:

We based these proposed reductions on JFA-projected needs. We will review and recompute that information, if necessary, when JFA issues new projections in March 2013.

Assemblyman Horne:

The numbers we receive from P&P about the length of time necessary for PSI completion are different from those received from public defenders. If the true

figures are somewhere between those two, will staff reduction improve the speed of those reports?

James Wright (Deputy Director, Department of Public Safety):

Pages 18 and 19 of [Exhibit D](#) outline significant budget items in the DPS Investigation Division. Six months ago, the Mesquite Police Department decided not to participate in the Southern Area Interdiction Narcotics Task Force (SAINT). This resulted in the elimination of that task force. Since then, we have reassigned two officers from that task force to the U.S. Marshal's task forces in Las Vegas. As one supervisory position was not reassigned, we need to eliminate the position.

Because we have fewer staff members, our remaining staff person travels more across the State. Vehicle replacements are necessary.

We have two polygraph examiners who serve our Department and P&P. Requests also come from other departments for their services. They need additional travel and training funds.

Two additional nonsworn positions in this Division will play a major role in our fusion process as we combat terrorism for the State.

Our current Tasers are approaching their 5-year serviceable life. We are requesting replacement of Tasers statewide.

The State Fire Marshal issues licenses to companies in the fire protection industry. When a license violation occurs, the Fire Marshal currently has one option—to revoke the license. In today's economic environment, businesses are important to the State. We want to find an intermediary sanction to address license violations without eliminating businesses. We submitted a Bill Draft Request (BDR) for the upcoming Legislative Session.

Senator Goicoechea:

How will we fill the void in the rural areas caused by the elimination of the drug task force?

Mr. Wright:

Although the Mesquite Police Chief made the decision to eliminate the SAINT, their task force efforts went beyond the city limits into rural areas. There is a lot of drug

activity in the eastern part of the State. We will have to mobilize the remaining task forces to go into other geographic areas to address drug problems.

Senator Goicoechea:

My concern is our ability to cover large areas with our available task forces.

Assemblyman Hardy:

The SAINT was one of the most productive task forces in the State.

Mr. Perry:

Pages 20 and 21 of [Exhibit D](#) list the budget requests for the NHP. Page 21 of [Exhibit D](#) lists the budget request in the Office of Criminal Justice Assistance and the Office of Traffic Safety (OTS) for a part-time federally funded position. The Moving Ahead for Progress in the Twenty-First Century Program, or MAP-21, is a new federal bill for surface-transportation funding. The OTS will administer part of that funding by transferring the grants and projects analyst position from the Director's Office back to the OTS.

Page 22 of [Exhibit D](#) lists budget requests for the Records Bureau of the Records and Technology Division, DPS.

Chair Smith:

If the Rap Back program will cause an increase in fingerprinting fees, we will need to ensure that all departments whose budgets might be affected by it will understand the impact. We will want to discuss this in subcommittee.

Mr. Perry:

Participation in the Rap Back program is optional. We will get the information you requested for the subcommittee.

Chair Smith:

Will the increase in the fingerprinting fee apply only to the Rap Back program?

Mark Teska (Administrative Services Officer, Director's Office, Department of Public Safety):

For agencies that decide to participate in the Rap Back program for fingerprinting services in background checks, there may be a different fee structure because the DPS would be providing additional services under the program.

Julie Butler (Records Bureau Chief, Department of Public Safety):

The \$2.50 increase under the Rap Back program would be an across-the-board fee to pay for the IT infrastructure and software needed to set up the program. Once the program is established, the program will be a subscription-based service. Employers can elect to enroll an employee, upon that employee's consent, to store his fingerprints. If that employee changes employers within a 5-year period, resubmission of fingerprints is not necessary. Notification of an arrested employee is a benefit to employers by helping the employer to limit that employee's contact with vulnerable populations.

Mr. Perry:

Page 23 of [Exhibit D](#) lists cost allocations in the Director's Office budget. We want to convert three part-time positions to three full-time positions for a total of seven full-time positions in the background staff. This will help us ensure full enrollment in the academies.

Pages 24 through 26 of [Exhibit D](#) list cost allocations in the General Services Division, which retain all existing functions of the Records Bureau as the Central Repository for Nevada Records of Criminal History (CHR). The CHR manages our compliance with the National Sex Offender Registration and Notification Act. Maintaining compliance is required to receive most federal dollars. At this time, we are unsure about the effects of any federal changes to the Brady Handgun Violence Prevention Act of 1993, otherwise known as the Brady Bill. We want to prepare ourselves for any changes.

The Nevada Criminal Justice Information System is over 15 years old and was developed on a platform that is no longer supported.

Assemblywoman Kirkpatrick:

Can you provide us with a copy of the report from MTG Management Consultants, LLC, mentioned on page 26 of [Exhibit D](#)?

Mr. Perry:

We will send that to staff.

Issues that will be useful when considering our budget requests are listed on page 27 of [Exhibit D](#).

Chair Smith:

What has been the impact on your Department of the recent tragedies involving gun violence?

Mr. Perry:

Our staff has been affected by responding to back-to-back incidents. We continue to discuss this subject in meetings with the chiefs. We formed a group composed of representatives from the Reno Police Department, Washoe County Sheriff's Department and the DPS who responded to the incidents. Counseling services were made available to them and proved to be beneficial. Many officers gained a different perspective on the job and more officers have decided to retire.

Court assessments are insufficient to fully support the functions of the CHR. Other user fees have been used to fully support it. The court assessments are pass-through monies for administrative fees attached to court actions. Current law requires that at least 51 percent must be used for the administration of the Nevada Supreme Court. The remainder is passed along to the CHR, POST and others. We have experienced a decrease of the assessments collected and an increase in the need for CHR support.

Chair Smith:

Does the DPS redirect court assessments to the General Fund?

Mr. Perry:

There have been sweeps. The fact that we are not seeing the pass-through of that money is our real concern.

Page 28 of [Exhibit D](#) lists requested supplemental appropriations for the NHP and the Investigation Division.

Connie S. Bisbee (Chair, State Board of Parole Commission, Department of Public Safety):

Our board comes under the category of administrative support of the DPS. Page 29 of [Exhibit D](#) lists the goals of our Commission. The main issue in our budget request is the upgrade of our IT hardware and software. None of our equipment is under 5 years old. Important enhancements are listed on page 30 of [Exhibit D](#).

Page 31 of [Exhibit D](#) lists our actual and projected parole hearing caseload of approximately 8,000 annually. The chart does not include the lifetime-supervision

cases we hear on a monthly basis for setting conditions, or the Board's participation on tier panel appeals. Including those numbers, our caseload would be closer to 8,500 annually.

Our grant rate is approximately 60 percent of other states'. Our recidivism rate is approximately 44 percent, compared to the national rate of approximately 26 percent.

Senator Kieckhefer:

Is the 26 percent national recidivism rate for inmates who are paroled, or for all offenders?

Ms. Bisbee:

That is the general recidivism rate. The parole recidivism, or true revocation rate, is 13 percent with new crimes. That is arrests, not necessarily convictions. Technical violations are at 14 percent.

Senator Kieckhefer:

What percentage of inmates is ultimately released through parole versus completion of sentence?

Ms. Bisbee:

We have a 60 percent grant rate. There is a greater chance of being paroled than not paroled, if one is eligible for parole.

Troy L. Dillard (Interim Director, Department of Motor Vehicles):

I have prepared the Budget Overview of the Nevada Department of Motor Vehicles ([Exhibit E](#)).

Page 2 of [Exhibit E](#) contains an organizational chart of the DMV. We have just under 1,150 staff in 18 offices and in selected county assessors offices who transact registration business for us.

Page 3 of [Exhibit E](#) outlines the DMV PPBB. It depicts how our functions relate to the Governor's core priorities and objectives. Most of the DMV functions relate to the customer service objective.

Page 4 of [Exhibit E](#) is a list of DMV budget requests by activity and the respective dollar amounts for FY 2013-2014 and FY 2014-2015. Over 50 percent of our funding is directed to customer service activities.

Page 5 of [Exhibit E](#) lists the six main goals of the DMV. Pages 6 and 7 of [Exhibit E](#) itemize specific objectives to reach those goals.

Page 8 of [Exhibit E](#) is a review of our projections for revenue from the Highway Fund.

Pages 9 through 12 of [Exhibit E](#) itemize our actual revenue sources for FY 2011-2012 and our projections for FY 2012-2013, FY 2013-2014 and FY 2014-2015.

The Nevada Liability Insurance Validation Electronically (NV LIVE) line item is on page 11 of [Exhibit E](#). This is the insurance verification and liability program. Revenues rose sharply in the last biennium due to S.B. No. 323 of the 76th Session. This bill established a tiered insurance fine and penalty structure for individuals who repeatedly failed to maintain vehicle insurance according to law. The previous structure of a flat fine of \$250 for each violation was less than the cost of insurance. We have now been through a full year under the new structure. We anticipate that revenues from this source will decline as consumers become educated on the graduated penalties. I will be glad to provide you with detailed statistics on the effect of the new structure.

The Motor Vehicles Records Division line item is on page 11 of [Exhibit E](#). We anticipate a decline of these revenues due to the availability of the same information from national sources.

Page 13 of [Exhibit E](#) describes proposed changes to the 22 percent spending cap and reduction of government services tax commissions and penalties.

Assemblyman Grady:

When this was done for the last budget session, was there a trigger mechanism for the second year? If so, how will you get around that trigger mechanism for the current budget? If you do not have any money in the first year, what will be the trigger mechanism to place more money into the budget for the second year?

Mr. Dillard:

I am not familiar with the trigger mechanism to which you refer. The Appropriations Bill allocated funding from the Highway Fund to supplement the difference for the funding that came out of the commissions and penalties structure for the entire biennium. That was to sunset at the end of FY 2012-2013. In our proposed budget, the sunset will remain in place for FY 2013-2014. We will revert to the conditions that existed prior to FY 2011-2012 until FY 2014-2015. You will hear a bill to enact the provision to change it back for FY 2014-2015. It would sunset at the end of that year, returning commissions and penalties back to the DMV in the following biennium, unless an alternative proposal should come forward.

Assemblyman Grady:

I would like further research on the trigger mechanism, if it exists. Are we on solid ground making the transfer?

Chair Smith:

We will have our Fiscal Staff do that and speak with you.

Assemblyman Sprinkle:

The calculation goes back to 22 percent when the provision sunsets. The need for FY 2014-2015 is due to a lack of an increased spending source within the Executive Budget. Is this to offset the latter need because it will be redirected in FY 2014-2015?

Mr. Dillard:

Yes. Overall, the Executive Budget contains many spending and revenue proposals. The Highway Fund balance is being closely monitored. It has been declining over the last several fiscal years. The initial year is to ensure that balance remains at a healthy level. In the second year, the budget priorities include keeping that balance healthy and being able to address other issues in the budget.

Assemblywoman Flores:

How has the collection of taxes on motor vehicle fuels been affected by the increased use of electric, hybrid and fuel-efficient vehicles and fuel-efficiency standards that are continuously upgraded? How do those factors affect your projections?

Mr. Dillard:

We project the decrease in fuel tax revenue to continue due to those factors. This will result in long-term funding issues. Many states are looking at other revenue models to replace the reduction in fuel tax collection. The Nevada Department of Transportation (NDOT) is leading the committee in Nevada on the exploration of that issue.

Assemblywoman Flores:

Do you maintain statistics on the types of vehicles that are registered in Nevada?

Mr. Dillard:

We do have categories for electric vehicles but not for hybrid and fuel-efficient vehicles.

Senator Goicoechea:

Are our gas tax revenues trending downward?

Mr. Dillard:

Yes.

Assemblyman Aizley:

Is there an appeal process in place for the \$250 fine for failure to maintain insurance which addresses unusual reasons for lapses in insurance?

Mr. Dillard:

Yes. The DMV will submit a bill to address the issue of "snowbirds" by giving the DMV more ability to consider special circumstances.

Assemblyman Hogan:

Will you consider adding to your objectives taking necessary steps to ensure that your growing workforce reflects the availability of women and minorities in all of your positions?

Mr. Dillard:

We follow Equal Employment Opportunity Commission guidelines in recruiting and hiring based on gender, race and even language in our customer service activities.

Assemblyman Hogan:

The NDOT has been successful in monitoring hiring statistics in relation to established goals. The DMV could do the same.

Mr. Dillard:

I do not know the percentage of minorities working in the DMV. We have in excess of 50 percent women.

Page 13 of [Exhibit E](#) lists several proposed changes to the Department's funding structure.

Page 14 of [Exhibit E](#) shows a breakdown of the 22 percent funding-cap scenarios. This is a comparison of the Executive Budget for FY 2013-2014, the Executive Budget for FY 2014-2015, without the Highway Fund backfill, and the Executive Budget for FY 2014-2015 with the Highway Fund backfill. In each of those years, we are below the cap at 18.53 percent for the first year and 19.5 percent for the second year, without the backfill. With the backfill in the second year, we would be at the 29.65 percent level. Page 15 of [Exhibit E](#) shows these figures graphically. On these two pages, the balance of the Highway Fund is only the revenue collected by the DMV that goes toward the calculation of that cap. That does not encompass the entire revenue that goes into the Highway Fund, only that part on which the cap is based. When Director Rudy Malfabon discusses the Highway Fund balances, keep in mind that fuel tax also goes into this. The calculation structure of the 22 percent cap does not account for this.

Page 16 of [Exhibit E](#) covers the most significant DMV enhancements. We have included budget account numbers for reference and the goals to which they apply.

Pages 17 through 21 of [Exhibit E](#) show a list of account numbers only and does not include dollar amounts.

Page 22 of [Exhibit E](#) begins our discussion of the IT needs of the DMV. Our main computer programming still uses the COBOL language. Although we are doing well with the system at present, ultimately we will need to address technology upgrades.

We view our Department as the "front door to State government" because, for most citizens, we are the only time they interact with a State agency. They often form their opinions about State government by interaction with us. That is why our

main mission is customer service. Rarely does a federally mandated State action for system modernization, or updates, not require programming of our DMV application. No "off-the-shelf" system can do this. The Governor has recommended the addition of four new programmers for our system. These positions are critical. Approximately 10 percent of the bills before the current Session affect operation of the DMV. New laws will require more programming hours to meet the needs and deadlines the bills will require. The fiscal notes attached to the bills the committees consider will reflect those needs. We will tell you the time frames and the staff required to meet those needs. We will tell you if we can use outside contractors. However, it is our primary goal to keep the talent and experience of our internal staff. They have the best knowledge of our system.

Chair Smith:

For budget hearings, I would like to have information on the number of programs we have not been able to implement because of the shortage of IT capacity.

Mr. Dillard:

We added only projects that had mandates to the priority list. There are many other projects needing attention. We have a seven and one-half year backlog of programming projects and we will provide you with statistics.

Assemblyman Anderson:

As we migrate to more modern programs than COBOL, you will be able to find more programmers to fill your needs. Have you experienced difficulty finding COBOL programmers?

Mr. Dillard:

Yes. We have been swapping COBOL programmers between State agencies. There is also the question of parity with higher wages in the private sector. Our staff wants to do new and exciting things. We venture into Web applications that some may consider out-of-the-ordinary. The direction of IT is toward mobile technology. Our staff wants to do these things to enhance customer service. We will upgrade four current IT employees in order to keep them on our staff. We will hire new employees with the skill sets we need.

We have had discussions for several years about veterans exemptions. Approximately 60,000 to 80,000 veterans in Nevada have exemptions. They have had to visit a DMV office to utilize that exemption. One of our primary goals is to reduce traffic in the DMV offices by using alternate technologies. Beginning in

February of this year, veterans and their families will be able to exercise their exemptions online. This will be available to all areas, except Clark County. Clark County will be online in the spring, upon the completion of their new IT system.

Assemblyman Bobzien:

For subcommittee considerations, we will need to hear DMV responses to various proposals related to voter registration and the impact on your Department operations.

Assemblyman Kirner:

In budget hearings, please provide an assessment of the effectiveness of the kiosks installed since 2011 to reduce costs and office traffic.

Mr. Dillard:

Pages 23 through 27 contain highlights of program initiatives being worked on by the DMV IT division. Numerous other initiatives are being pursued or are contained on a list awaiting their turn to reach priority status.

Page 23 of [Exhibit E](#) describes our new customer Web portal entitled "My DMV." The system will enable citizens to customize their interactions with the DMV; to choose options for electronic notifications for license and registration renewals, thus eliminating postage and printing costs for the department; and to conduct address changes online for the first time.

The Electronic Dealer Report of Sale (EDRS) is described on page 24 of [Exhibit E](#). The Legislature approved the pilot of this project 4 years ago. We are now ready to implement the mandatory submission by all dealers' reports of sale electronically. We have a bill before the Legislature to mandate this. The EDRS also allows customers to avoid a trip to a DMV office to conduct a new vehicle registration. Online, customers can request new plates, transfer ownership of existing plates, carry credits from a previous registration to a current one, order personalized plates, and obtain many other DMV services previously only available in a physical office. Smaller dealers who do not have sophisticated dealer management systems will be able to use the EDRS by March.

The Commercial Driver's License Information System Modernization Project, on page 24 of [Exhibit E](#), will begin in February. The purpose of this project is to

conform to federal mandates to avoid the loss of federal highway funds. We did not envision this program 7 years ago.

The 76th Session of the Legislature approved the Motor Vehicle Network (MVN) described on page 24 of [Exhibit E](#). We have contracted with NEMO Q Queuing Systems, to provide queuing software to assist in customer flow and mobile virtual queues for customer convenience. This is a 6-month pilot project provided by NEMO Q at no cost to the State for evaluation purposes. If the pilot is successful, there is a funding module within the Executive Budget to implement the system Statewide. The system will also provide statistical reports on trending issues as they relate to our customer base.

Chair Smith:

The pilot program ends after this Legislative Session, yet we will be asked to fund the implementation of the full program during the Session.

Mr. Dillard:

Three bids have been submitted. The level of funding required to run this program has been determined. With the authority in place, if we determine that the program is efficient and meets our needs, we will award the contract with approved funding. If the program does not meet our needs, we will move to the next bidder and pilot another project. The funding request covers a 2-year period so it is possible we will not use the total amount requested if we are not able to contract with the first bidder.

Chair Smith:

At the subcommittee level, we would like to have further discussion about this and how we can be helpful to you in using the pilot to be instructive. We will also talk to our Fiscal Staff about this topic in preparation for our subcommittee meeting.

The print on demand (POD) program for production of vehicle registration decals is described on page 25 of [Exhibit E](#). This is an antifraud, security and efficiency measure. It is the culmination of several years' analysis of funding mechanisms to support it. The current system of maintaining an inventory of decals in our offices is cumbersome and wasteful. The POD will allow office-issued decals to have a vehicle's license number imprinted, as is now done for online registration and renewals. We have had evidence of office-issued decals sold fraudulently on <http://www.craigslist.com>. This is difficult for law enforcement to trace. The

new system will give them an easy visual cue that the decal belongs to the correct vehicle.

The license plate factory, also known as the Tag Plant, is discussed on pages 26 and 27 of [Exhibit E](#). We propose to relocate the plant for the reasons and projected benefits listed. We propose to put the program on a self-funded basis through legislation to be submitted during the current Session. The plant will no longer need Highway Funds to operate. This proposal calls for a fee of approximately \$2.50 per-plate, or \$5.00 per-set, to be charged to plate holders. The final fee will be established by regulation and will consider fluctuations in the prices of commodities needed for production.

This is a major decision that we will consider. Fiscal Staff will schedule adequate time in which to have a significant discussion in subcommittee. This was not brought to our attention when we discussed the closure of the Nevada State Prison in Carson City in the 2011 Session.

Senator Kieckhefer:

What is the cost of producing driver's licenses? What percentage of that cost is borne by the license holder? Do only the license plates not meet the threshold?

Mr. Dillard:

We have looked at all of those issues. Historically, the 22 percent cap-funding model for the DMV has been a problem. It has not been enough to meet our needs. We invented stopgap measures. Currently, we do have room under the cap. Our proposal is the most viable and will have the most direct offset for the resources that are consumed to produce those plates. We will be able to tie the costs to commodities. The added benefit is a \$4 million savings to the Highway Fund over the biennium.

Assemblywoman Kirkpatrick:

How do you decide which options for cost savings are the best? What is the formula? If it is a typical cost-allocation formula, I want to see how you compute the savings. We want to know how you evaluate the options. Is it by an objective formula, rather than a staff meeting process? I want to see documentation in subcommittee meetings. I want to see prior costs of license plate manufacturing. The cost of license plates is a sore subject with constituents.

Chair Smith:

Did you not say that the user does not pay for the cost of the license plate now? How does this relate to the cost of specialty plates?

Mr. Dillard:

From the user cost of a standard license plate, only \$33 is allocated to the Highway Fund. All the other fees included in the registration cost are allocated to other tax purposes. Out of the \$33, the DMV is allocated up to \$7.36. On specialty license plates, fees are allocated directly to the sponsoring organization.

Chair Smith:

Does the \$33 remain the same for specialty plates?

Mr. Dillard:

Yes. We currently do not charge a specific fee for license plate production. We charge a fee of 50 cents per plate to support Prison Industries.

Chair Smith:

In subcommittee, we would like to see how other states recover the cost of license plate production.

Assemblywoman Carlton:

What portion of the cost of license plate production is for shipping costs? Was there consideration to move the manufacturing plant to southern Nevada to reduce those costs?

Mr. Dillard:

We did a thorough analysis of cost breakdowns to arrive at a fee to cover those costs. I will provide that information to the committee. There was a lot of discussion about moving the plant to southern Nevada.

Assemblywoman Carlton:

We will have that discussion again in subcommittee.

Mr. Dillard:

Pages 28 through 31 of [Exhibit E](#) discuss our Customer Service function. The chart on page 28 shows that our office wait times continue to decrease. The Interim Finance Committee (IFC) approved 20 additional customer service positions funded by reserves authorized in the previous biennium budget. These positions,

added in the DMV's Las Vegas metropolitan offices, had a positive impact on wait times during a period when those offices experienced an 8.5 percent increase in customer volume. During the same period, transaction counts on the Web, kiosks, emission inspection stations and mail-in processes also increased. I have received more customer feedback during that time than ever before about the high quality of our customer service.

We continue to face the challenge presented by the cash-based habits of Nevadans who prefer to conduct transactions in offices. We need to identify methods for those customers to utilize alternative services. We are exploring a partnership with our kiosk vendor and Albertsons markets to establish cash-based kiosk transactions in those grocery stores. This will lead to decreased office traffic and better customer service for those who have no choice.

Page 31 of [Exhibit E](#) contains a list of potential issues in the 77th Session that could affect office wait times.

Page 32 of [Exhibit E](#) contains a discussion of prior budget reductions the DMV has experienced from the 76th Session and the 75th Session.

In the 75th Session, we lost 93 FTEs in the Field Services Division, 85 of which were window technician positions. This reduction increased customer wait times. We moved drive test examiners to window positions. The result was increased drive test times while window transactions remained flat. We have redirected those drive test examiners back to conduct drive tests. The 20 additional positions approved by the IFC in the interim are now assisting in reducing customer wait times, especially in the Las Vegas region.

We were required to keep those 20 positions in the current budget. They did not continue through the Base Budget. There is an enhancement unit within the field services budget to continue funding. There are additional four additional positions included for Elko, and one for Winnemucca. These two communities have seen population growth and an increased need for DMV services. Our original request to the IFC was for 30 additional field service staff positions.

PUBLIC SAFETY

DEPARTMENT OF MOTOR VEHICLES

DMV - Field Services — Budget Page DMV-95 (Volume III)
Budget Account 201-4735

E-750 Budget Restorations — Page DMV-102

Pages 34 through 38 of [Exhibit E](#) discuss our self-service kiosks.

The question during the 2011 Session was, "How do we save the dollars the Highway Fund is spending and make that a service fee for the user?" The number of kiosk transactions is no longer subject to a funding cap. With the fee-funded model, that ceiling is now unlimited, subject only to the capacity of the technology.

The graph on page 36 of [Exhibit E](#) shows how kiosk use has increased despite the funding mechanism change. Our system has become the first self-funded kiosk system in the Country. The next challenge will be how to handle cash transactions after hours at the offsite kiosks. Currently, the only kiosks that are capable of handling cash transactions after hours are on the exterior of the DMV location on Decatur Boulevard in Las Vegas.

Fiscal Staff has asked how the decisions are made in site selections for the kiosks. Decisions involve a cooperative partnership between the location, the vendor and the State, based on geographical need. We have worked with companies willing to undertake installations at no cost to the State. The location must produce transactions. Advertising for the location is a responsibility of the location sponsor. We talk to the vendor or the location sponsor at an underperforming location. This could result in looking for another location. Recently, our IT group launched a new program to analyze payment types and zip codes to help us identify potentially successful locations.

Page 37 of [Exhibit E](#) is a map of kiosk locations in the Las Vegas region.

Page 38 of [Exhibit E](#) is a map of kiosk locations in the Reno-Sparks area. We are in the process of installing a kiosk in Elko. We are in the negotiating process to relocate the kiosk from the Winnemucca DMV to a local grocery store.

Pages 39 and 40 of [Exhibit E](#) discuss the NV LIVE program. This successful program has collected over \$12 million in registration reinstatement fees from the new tiered fees and fines schedule. The goal of the change we seek in NV LIVE in the 2013 Session is to alleviate the number of reminder postcards sent to

customers when the mandated books of business are received with insufficient data. To do this, we will require insurance companies to submit their books of business electronically on a monthly basis. Page 41 of [Exhibit E](#) is a graph showing the percentage of uninsured motorists in Nevada as compared to uninsured motorists in the United States.

Assemblyman Aizley:

Is it correct that you accept notices of cancellation from insurance companies, but you do not accept notices of reinstatement from them?

Mr. Dillard:

The insurance companies notify us if there is a cancellation. We check our files to validate it. If the registered owner switched insurance companies, a very common occurrence, but did not notify the DMV, we do not know which company to contact to ascertain reinsurance. By requiring monthly electronic submission of books of business, we should be able to locate proof of insurance more easily. Cancellations and transfers will be readily available. This should reduce the need to mail postcards to customers.

Pages 42 and 43 of [Exhibit E](#) discuss the REAL ID Act of 2005 (REAL ID) and Nevada's compliance therewith. We have submitted documentation to the Department of Homeland Security (DHS) showing our compliance accomplishments. We are waiting for confirmation of our compliant status. The DHS is withholding enforcement of the Act until the fall of 2013 when they expect their review to be completed. Their final decision will affect Nevadans' ability to use their Nevada-issued drivers licenses for entry onto commercial airlines and into federal buildings.

Assemblyman Hambrick:

Is there any conflict with the goals of the REAL ID, the Development, Relief, and Education for Alien Minors Act (DREAM Act) and what the Governor is proposing?

Mr. Dillard:

The REAL ID does not focus on citizenship. It focuses on validation of identity. Individuals who are not citizens of the United States, but are legal residents, can still receive a REAL ID because documents issued by the DHS are valid for identification purposes.

Assemblyman Hambrick:

Could there be a problem with those who are in this Country illegally, regardless of age or time in the Country?

Mr. Dillard:

Those here illegally would not qualify for a REAL ID because the DHS will not document them. The individuals covered under the DREAM Act are being documented by the DHS.

Page 44 of [Exhibit E](#) discusses the off-highway vehicle (OHV) registration and titling program, which became effective July 1, 2012. Although actual OHV registrations to date are far below projections, we anticipate a large temporary increase as the July 1, 2013, deadline approaches. The long-term viability of the program is questionable.

Assemblyman Hambrick:

We have received a picture of the design of the decal to be used for OHV registrations. It appears to be large enough to wrap around the spoke of a minibike. I would like to discuss this in subcommittee. Are there plans to address the sizes of decals for different size vehicles?

Mr. Dillard:

After discussing many different opinions on the size of the decal, the Legislative Commission has decided on a decal the same size as a motorcycle license plate. The Legislative Commission will also determine the placement of the decal. The DMV will enact their decisions.

Chair Smith:

The Legislative Commission discussed the size of the decal at length in meetings during the interim. We received heavy public comment. Most people thought the decal was too small to be seen for law enforcement purposes. The Legislative Commission was seeking to strike a balance.

We will move on to a presentation from the NDOT.

Rudy Malfabon, P.E. (Director, Department of Transportation):

Our presentation is contained in ([Exhibit F](#)).

Page 2 of [Exhibit F](#) provides an overview of the NDOT's responsibilities, including the Highway Fund.

Page 3 of [Exhibit F](#) outlines our mission, our goals and our budget philosophy.

Recently, I responded to the IFC's questions regarding the Highway Fund balance and the steps we have taken to restore that balance. We have looked at making every expenditure eligible, to the extent possible, for the federal reimbursement program. We have looked at reducing managerial positions in our construction programs. We are looking at where we can shift resources. We have discontinued the State matches for metropolitan planning organizations for purchase of buses. Those matches came from the interest earned on the Highway Fund, but now the balance is low and the interest is correspondingly low.

Page 4 of [Exhibit F](#) is our organizational chart. We have 1,781.55 FTEs. The majority of our employees are in the field, providing maintenance and construction services. Our vacancy rate is approximately 7 percent. At the request of the IFC, we are looking at which positions need to be filled and where we might transfer resources.

Page 5 of [Exhibit F](#) shows our staffing levels, expressed as FTEs by activity and our seasonal and/or temporary labor needs.

Page 6 of [Exhibit F](#) is a map showing 51 maintenance and support stations in the State.

Page 7 of [Exhibit F](#) shows general statements about the Highway Fund.

Page 8 of [Exhibit F](#) shows pie charts explaining revenue sources. The category entitled "LVCVA Revenue \$56,180,257" includes room tax revenue bonded for the resort corridor projects on Interstate 15 and received in FY 2011-2012. This is a revenue decrease in the current budget proposal.

Page 9 of [Exhibit F](#) shows what gasoline consumers pay per gallon in federal, State and county taxes. The total tax per gallon is \$0.52205. This chart does not include the fuel tax indexing performed in Washoe County. The chart shows that the State has not increased the fuel tax since 1995.

Page 10 of [Exhibit F](#) contains information on the special fuel tax. This applies primarily to diesel fuels, but also to propane and compressed natural gas. Alternative fuel vehicles pay their share in those areas. The method of collection of these taxes for truckers differs from that for passenger vehicles. The former is collected through a fuel tax agreement between the states. The latter is paid at the pump. The chart shows that the State has not increased the special fuel tax since 1995.

Pages 11 through 13 of [Exhibit F](#) describe how the Federal-Aid Highway Act of 1956 funding works. Funding is apportioned in specific funding categories. The State must spend its funds first and the federal government reimburses the State, less a typical 5 percent match. Occasionally the federal government must rescind funds that are not spent.

The Chair of the U.S. House of Representatives Committee on Transportation and Infrastructure has stated his desire to begin discussions during the current Congressional Session on highway funding in order to avoid the use of continuing resolutions to extend MAP-21. The MAP-21 eliminated earmarks. Thanks to Nevada's Congressional Delegation, there is still approximately \$53 million in earmarks on the table for Nevada. These were created before MAP-21 was enacted. We are working with the counties and cities to whom these funds will be given.

The MAP-21 mandates performance measures. We will be reporting to you the same data that the federal government requires.

My goal is to maximize the amount of federal funds we allocate to projects. There are two opportunities to receive money that other states do not spend: "last day funds," and "August redistribution." These opportunities are declining as states do a better job of using funds that are allocated to them. Since CY 2004, Nevada has received over \$116 million in funds that were not used by other states.

Page 14 of [Exhibit F](#) contains pie charts depicting State Highway Fund disbursements for FY 2011-2012. Revenue sources from FY 2011-2012 that were used for large capital improvement programs (CIP) will not be available in the coming biennium. We are going to rely on our traditional fuel tax sources for CIPs, rather than one-shot appropriations. We are looking at ways to reduce the cost of labor and operating while maintaining our safety goals. The "other disbursements" represent primarily money transferred to the bond fund. Scott Sisco, Assistant

Director of Administration for the Department of Transportation, has been successful in refinancing our bond debt for a projected savings of \$6 million in future-year bond payouts.

The pie charts on page 15 of [Exhibit F](#) illustrate rural expenditures versus urban expenditures. We try to strike a balance between the two, while preserving our existing system.

Page 16 of [Exhibit F](#) should be titled "NDOT Cumulative Expenditures in Rural and Urban Areas." The figures cover a 5-year period, FY 2007-2008 through FY 2011-2012, for capacity projects and preservation projects.

Page 17 of [Exhibit F](#) begins a discussion of our proposed budget for the coming biennium.

Scott K. Sisco (Assistant Director, Administration, Department of Transportation):

There has been discussion on the cash flow in the Highway Fund. Governor Brian Sandoval, in his State of the State Address, mentioned Project Neon as one of the NDOT's priorities. In response to questions from the NDOT Board of Directors, we compiled the figures in the left-hand column of the chart on page 17 of [Exhibit F](#) entitled "5-yr average, less one-shots, 2007-2011." We determined that our average CIP is approximately \$378 million, without one-shot appropriations. The Board of Directors wanted to assess the impact of Project Neon on the Highway Fund cash flow. Upon review of the calculations on page 17, the NDOT cannot make the payments on Project Neon starting in FY 2016-2017 and also be able to maintain our CIP while keeping a healthy Highway Fund balance. This will be of interest to your subcommittees.

Page 18 of [Exhibit F](#) shows a list of our PPBB activities. Our top three priorities are allocated at 80.54 percent of our budget for the coming biennium.

Chair Smith:

It appears that you now have more FTEs than you did at the start of the economic downturn. Has your personnel changed because of the economy as it has in other building-related organizations, i.e. public works? It does not appear that it has.

Mr. Malfabon:

Since the economic downturn we received millions of dollars from atypical sources which enabled us to keep our FTEs stable.

Chair Smith:

We need to have a serious and in-depth discussion about this. We have not had the volume of work in the last couple of years that we have had in the past. We do not anticipate that higher volume of work for the future. Yet we have the same number of designers and engineers, etc., on staff. Your projections indicate extended lean times.

Mr. Malfabon:

We are at the end of our biggest year ever. In the near future, we will not experience such a high level of funding. I have had this discussion with our division chiefs and assistant directors, asking them to look critically at every vacancy that occurs to determine the necessity of filling them.

Chair Smith:

I am interested in volume of dollars versus number of projects. It seems logical that the number of projects takes more staff than fewer, but larger, projects. I am concerned with the volume of work the NDOT contracts out. Are we contracting out work while keeping our staffing levels high? What are we getting for that contract work? We need to have these discussions.

Mr. Malfabon:

I have asked staff to look at those issues to determine the kind of work we can do that is now contract work. We are looking at the engineering function and the construction function.

Chair Smith:

I am not advocating job loss for anyone. My goal is to see that the State is operating as efficiently as possible.

Mr. Sisco:

Page 19 of [Exhibit F](#) is a summary of how the NDOT complies with the Governor's overall core functions of State government. The majority, or 93 percent of our activities come under the category of Infrastructure.

Pages 20 and 21 of [Exhibit F](#) list updated performance measurements of our PPBB.

Pages 22 through 25 of [Exhibit F](#) list the decision units in our proposed budget. We have asked for no additional staff for the coming biennium. The decision units listed here relate to the Governor's priorities.

INFRASTRUCTURE

DEPARTMENT OF TRANSPORTATION

NDOT - Transportation Administration — Budget Page NDOT-17 (Volume III)
Budget Account 201-4660

Our first budget request is for an eDiscovery and Litigation Case Management System. We constantly need to hire legal forensic experts to comb through our electronic files and emails to find anything related to any pending litigation in which we may be involved. This software is well-tested and efficient. It has the potential to pay for itself within 15 months, with a gain on investment of approximately \$794,000.

E-580 Tech Invest, Efficient and Responsive St Governmen — Page NDOT-20

The next request is for the list of new equipment listed on page 22 of [Exhibit F](#).

E-720 New Equipment — Page NDOT-22

Senator Goicoechea:

What is a tow plow, at \$100,000, as mentioned on page 22 of [Exhibit F](#)?

Mr. Malfabon:

It is a vehicle attachment to a regular snowplow truck. It swings out to enable the snowplow to clear two lanes of interstate highway at the same time. It is not simply a wing plow, nor does it replace a wing plow. It is a separate device with onboard brine tanks. It allows one operator to do the work of two operators.

The two requests on page 23 of [Exhibit F](#) are attached to BDRs. The first request is to institute a sponsorship program for highway rest areas.

E-125 Sustainable and Growing Economy — Page NDOT-19

Assemblyman Hickey:

I have a constituent who visits highway rest stops regularly who told me that the rest stops in rural areas are not adequately maintained. Is the purpose of your proposal to enter into agreements for private-sector sponsorships of rest areas intended to address this problem?

Mr. Malfabon:

Yes. We are looking for private partners to share in the cost of maintenance. We contract much of the maintenance work. Unlike other states, that have closed rest areas, we want to keep them open in the public interest. We will submit a bill to institute the program.

Chair Smith:

Explain the term "private partner."

Mr. Malfabon:

The program would be similar to our current program to sponsor a highway. In exchange for a sign at the rest area acknowledging the partner, the partner would pay for the maintenance of the rest area.

Mr. Sisco:

The second request on page 23 of [Exhibit F](#) intends to update our Pioneer Program guidelines. We will vet this program during budget hearings.

E-130 Sustainable and Growing Economy — Page NDOT-19

On page 24 of [Exhibit F](#) there are three budget requests. The first would move airplane maintenance out of the regular budget and includes necessary internal/external renovations to our primary airplane. The second request is to replace our obsolete analog radio system equipment. The third is a request to replace approximately 10 percent of our 800 MHz radios each year.

E-735 Airplane Maintenance — Page NDOT-23

E-375 Safe and Livable Communities — Page NDOT-20

E-711 Equipment Replacement — Page NDOT-22

On page 25 of [Exhibit F](#), we list three budget requests. The first is a request for capital expenditures for buildings and grounds and is less than in previous years. The second is to replace mobile and fleet equipment and is less than in previous years. The third is a request for a new cost allocation for the NHP for dispatch services.

E-730 Maintenance of Buildings and Grounds — Page NDOT-23

E-710 Equipment Replacement — Page NDOT-22

E-803 Cost Allocation — Page NDOT-23

Assemblyman Hardy:

I have seen instances of poor communication between the NDOT maintenance and the NDOT construction staff. We need to improve this situation for cost savings.

Mr. Malfabon:

We recently met with the district engineers to talk about those types of coordination issues. We do have room for improvement.

Chair Smith:

What is happening with the Meadowood interchange in Reno and when will construction be complete? We get a lot of feedback from our constituents because of lane and speed restrictions in the absence of active work being done. This is frustrating to a taxpayer.

Mr. Malfabon:

The majority of the work was completed by the day after Thanksgiving 2012. There is some work and cleanup yet to be done on the freeway. I will follow up on the completion date and respond to the Subcommittee.

Chair Smith:

Please also keep us updated on the liquidated damages issue and the intent to collect them.

Mr. Malfabon:

We intend to collect liquidated damages. We are reviewing information we received from the contractor. They believe they have some days due them. Our intent is to reach a settlement to collect all eligible liquidated damages that correspond to how late they were in completing their obligations.

Assemblyman Hogan:

I have received positive feedback from constituents regarding the progress the NDOT has made in improving the performance of contractors. I want to make sure you are making the same kind of progress in requiring contractors to hire women and minorities.

Chair Smith:

Our last presentation today is from the Judicial Branch.

The Honorable Kristina Pickering (Chief Justice, Nevada Supreme Court):

My presentation is contained in ([Exhibit G](#)). Page 2 of [Exhibit G](#) contains references from the *Constitution of the State of Nevada* establishing the composition of the State court system as a separate department from the Legislative and Branches of State government. This page also lists our primary duties.

In preparing for my presentation, it occurred to me that if one is not familiar with the judicial system on a daily basis, one cannot fully understand the judicial system's role in our government. Federal Supreme Court Justice Anthony Kennedy once stated, "You have to be efficient, fair and decent and have a transparent open legal system." A functioning legal system is part of the capital infrastructure. It is as important as roads, bridges or schools. We, on the Court, and our colleagues on the District Court and Justice Court Bench take that obligation seriously.

I was heartened to read the questions you had for us in your letter of January 7. The questions regarding caseloads and existing and projected backlogs relate directly to a major problem of this Court: our caseloads are constantly increasing.

Page 3 of [Exhibit G](#) illustrates the caseload increase from FYs 2009-2010, 2010-2011, 2011-2012 and our projections for FYs 2012-2013, 2013-2014 and 2014-2015 for the Supreme Court. We are moving backward, despite all our good efforts. Those efforts include mandatory settlement programs, increasing reliance on staff, decreasing our panel size from seven to three and an objectionable, yet increasing, reliance on unpublished dispositions. The reason that the latter is objectionable is because we owe citizens who bring a dispute to our Court an answer as to why one side won and one side lost. We must justify that result based on the established law and case law, not on personal opinion. The percentage of published dispositions that carry precedent and stand as judicial law has declined as our caseload has increased. We do not have time to publish our opinions. More often, we can send citizens memorandum dispositions more quickly and efficiently. We have maintained reasonable control over our backlog; however, we are struggling.

Chair Smith:

There is an extreme increase in caseload from FY 2009-2010 to FY 2014-2015. What is meant by "cases pending?"

Chief Justice Pickering:

The "cases resolved" line indicates our caseload capacity, based on our staffing levels. We have 7 justices, 13 civil attorneys, 15 criminal attorneys and a staff of law clerks. Cases filed above that capacity create the backlog. The cumulative effect is indicated by the sharp year-to-year increases.

Chair Smith:

Is the "cases pending" number the cumulative effect of the inability to resolve cases while more are being filed?

Chief Justice Pickering:

Exactly right.

Page 4 of [Exhibit G](#) compares Nevada to other states with respect to caseloads. Nevada, with a population rank of 35, is only one of 10 states lacking a court of appeals as an intermediate step between district courts and supreme courts. Nevada is the most populous state where that is true. Nevada has the highest number of cases per justice in this group. Our Supreme Court does not make any decision with a panel of less than three. The per-justice caseload would seem to assume one judge decides one case. Truthfully, one would multiply that number by 3 and arrive at 900, or three complete cases every day of the year based on using a three-member panel for all cases. Seven-judge panels would lead to even higher numbers. Each judge gives each case individual consideration. The information on this page will be helpful in the Court of Appeals budget presentation next week. It relates to the Supreme Court's budget request for staff.

Page 5 of [Exhibit G](#) contains a chart showing the categories of cases we hear and the age of the cases in the backlog. We struggle to dispose of cases within 18 months. The chart graphically illustrates disposition time for the cases resolved in CY 2012. It is not representative of the age of our current caseload. Citizens seek the speedy disposition of a case with an articulate, principled and fair decision. Such efficiency has an economic effect on business.

Page 6 of [Exhibit G](#) is a graphic illustration of an overview of our revenue sources. Revenue from the General Fund accounts for 53 percent of our budget. Revenue from administrative assessments and other fees account for 46 percent of our budget. The federal government provides 1 percent of our budget. The Judicial Branch General Fund appropriation is 1 percent of the total General Fund appropriation contained in the Executive Budget. Judicial elected official salaries

and judicial retirement systems account for 74 percent of the General Fund appropriation. The Legislature sets these amounts. This page also shows a breakdown of the General Fund appropriation by decision units.

Pages 7 through 9 of [Exhibit G](#) show how General Fund appropriations and revenue from administrative and other fees, and from federal sources, are spent.

The salaries of the judicial elected officials, comprised of 7 justices and 82 District Court judges, are 100-percent funded by the General Fund in the amount of \$42,613,115.

The Supreme Court operations are funded by 46 percent administrative assessments and 53 percent General Fund appropriations in the amount of \$23,060,377. This funds 84 FTEs in the Clerk of the Supreme Court office, the central legal staff, a maintenance request for two new, civil attorney FTEs, an enhancement request of 2.5 security FTEs, rent and other general costs of operation. The central legal staff processes a large number of cases and makes recommendations for disposition to the three-judge panels. A criminal legal staff of three is devoted solely to capital cases. We have 79 inmates on death row in Nevada. Many of their cases come to us on post-conviction review.

The judicial selection process used to fill vacancies through recommendations to the Governor, is funded 100 percent from General Fund appropriations. Our request is for an enhancement unit to allow us to fund three such projected processes in the amount of \$36,540. This is a low estimate based on information available to date. If projections for vacancies increase, we will need to return to the Legislature for additional funds.

The Senior Judge program utilizes 22 retired judges and justices who return on a per-hour basis. A part-time coordinator assists them. There are no overhead expenses in the form of chambers operations or the personnel associated with a full-time judicial officer. We have used these individuals to fill temporary vacancies or other absences. They also help in the drug court programs in rural Nevada, settlement mediations in the Clark County family courts and in the medical malpractice arena. This program has been cost-effective.

The Administrative Office of the Courts (AOC) works under the direction of the Supreme Court. It provides administrative support to the Judicial Branch in the

form of budget development, accounting, auditing, personnel, payroll and IT. There are 34.5 FTEs funded by \$10,382,723 in administrative assessments revenue.

The Uniform System of Judicial Records employs 11 FTEs. It is funded primarily by administrative assessments revenue. It has reserves that it is intending to apply to a revamp of its IT. For the answers to specific IT questions, I will need to bring our IT personnel to budget hearings.

Judicial programs and services employs 10 FTEs. It is funded 62 percent from the General Fund appropriations in the amount of \$2,330,306. They collect and analyze statistics, to provide subject-specific experts as needed and to provide assistance to the rural trial court.

Judicial education is funded 100 percent by administrative assessments revenue for \$3,160,402. There are four FTEs, one of which is vacant at this time, who provide for the continuing education of judges. Most judicial education is mandatory for judges. Attorneys in the private sector receive their mandatory education at employer expense.

The Judicial Retirement System is 100 percent funded by the General Fund in the amount of \$4,191,116. This is provided by statute.

We are not asking for any enhancement units for the Law Library. It has 6 FTEs funded with 99.7 percent General Fund appropriations.

Page 10 of [Exhibit G](#) discusses changes to our budgets since 2011. We have lost administrative assessment and other revenue requiring supplemental appropriations from the General Fund. We project a continuation of this trend. Our projected decrease for the next biennium is \$1,108,205. We have funded positions for which we did not request funding in the last biennium. Some of those positions are listed on page 10.

Page 11 of [Exhibit G](#) summarizes the continuity and the specific changes on which you want us to focus. These reflect our priorities.

Assemblyman Kirner:

Do the compensation and retention priorities imply that employees of the courts are treated differently than or similarly to other State employees with regard to furloughs and salary reductions?

Deanna Bjork (Administrative Office of the Court, Office of the Court Administrator, Nevada Supreme Court):

We are treating employees consistent with court authority. They are being treated differently than other State employees. Our proposed budget retains Base Budget funding for merit salary increases and longevity pay. The Court is exempt from the State Budget Act, NRS 353.246 and the rules for State personnel administration, according to the Court's Administrative Docket, ADKT 437.

Assemblyman Kirner:

Are they currently treated differently or is this a departure for the future?

Ms. Bjork:

We are currently undergoing furloughs and salary reductions pursuant to legislation from the 2011 Legislative Session. We are proceeding in a similar manner as the Executive Branch, retaining salaries to compensate employees. The Executive Branch included an enhancement in their budget request to reduce the salaries, remove longevity and restore merit salary increases in FY 2014-2015.

The Honorable James W. Hardesty (Justice, Nevada Supreme Court):

We advised the Legislature in 2011 about our concern with losing attorneys. Because our compensation of attorneys is not equal or fair, we have lost 9 of 28 experienced staff attorneys during the last biennium. They went to other State agencies. This led the Court to decide to maintain its independent budget authority under the *Nevada Constitution* in order to retain experienced staff attorneys.

Page 12 of [Exhibit G](#) describes our requested enhancement unit for the addition of 2.5 FTEs to address our security concerns and risks. It would be funded by \$431,239 from the General Fund. We have hired one Capitol police officer, supervised by the Buildings and Grounds Section of the Executive Branch. We propose the addition of additional security to be under his supervision. We did not believe this would constitute an increase in our budget because we were being charged by Buildings and Grounds for services from Capitol Police to cover those personnel. However, we were not seeing the additional personnel to meet our needs.

LEGISLATIVE-JUDICIAL

JUDICIAL BRANCH

Supreme Court — Budget Page JUDICIAL-13 (Volume I)
Budget Account 101-1494

E-350 Safe and Livable Communities — Page JUDICIAL-15

Our building, a four-sided, square building was built in 1991. It is open from each of four sides. It is a three-floor building. Many times, we have only one security guard present in the building. The ground floor contains the Law Library and is appropriately open to the public. We have found disturbing searches on the publicly accessible computer regarding personal information about judges. Justice Michael Douglas has worked to develop an alternate plan to afford adequate security for the building. Litigation and dispute resolutions processes carry with them intense emotions. Security is important to us and to our employees.

In Las Vegas, we shifted from Capitol Police to the Clark County Marshal's Office in FY 2008-2009. We have coverage from 7 a.m. to 7 p.m. We have saved from \$50,000 to \$75,000 per year. We have not been able to obtain precise dollar amounts from Buildings and Grounds that would be the offset to the rent. We may be at an impasse.

Page 13 of [Exhibit G](#) describes our request to add two FTEs to our central civil legal staff. The purpose of this request is to address our case backlog. This would require a General Fund appropriation of \$503,375.

M-200 Demographics/Caseload Changes — Page JUDICIAL-14

On page 14 of [Exhibit G](#), there is a description of the collection and distribution of administrative assessments and a summary of statute changes affecting them. These have been on a steady downward trend. They are a percentage of fees or fines collected primarily as a result of traffic offenses on the municipal and justice court levels. This method of funding the court system could be a viable one. However, over time, and with the current economic climate, more types of fees have been imposed on the unemployed. This results in compromises on levied fines in exchange for community service assignments. After we follow the order of collection located on page 14 of [Exhibit G](#), the Judicial Branch and Executive Branch remainders are correspondingly reduced. This is illustrated in the chart on page 16 of [Exhibit G](#). The column headed "GF Share" indicates from FY 2009-2010, the \$5 General Fund share, imposed by the Special Session in

2010, has remained stable. It is not computed on a percentage of receipts. In the column headed "Judicial and Executive Share," dollars and percentages have been declining precipitously since FY 2009-2010. Prior to that time, the percentages were increasing by double digits. We build our budgets on projections. Our projections may be low. Dollars we may have been able to revert to the General Fund are no longer available. If we are short on the administrative assessments revenue, we must request funds from the General Fund in order to make up the shortfall. Changing the priority of the \$5 distribution, or removing it entirely, could prevent this.

Pages 17 through 20 of [Exhibit G](#) are submitted in response to the Committee's interest in the Specialty Courts programs. These programs have had the most positive impact on the criminal justice system of any other programs. The focus is primarily on drug- and alcohol-addiction problems and their associated crimes and recidivism. These courts attempt to intervene to break the cycle to restore people to normal and productive lives rather than institutional care or homelessness. The funding is 100 percent from administrative assessments. In 2007, these courts were assigned 12 percent of the Judicial Branch's share of administrative assessment revenue. Their budgets are determined by the Judicial Council of the State of Nevada after evaluating available and appropriate funding. There are 44 Specialty Courts in Nevada. We pioneered the fifth drug court in 1992 in Clark County. They have 3,700 active clients and 1,700 projected graduates. It makes economic sense to continue these Specialty Courts even though some do not succeed. The successful graduates are no longer a burden on society. Their stories are deeply rewarding.

Page 18 of [Exhibit G](#) shows the Specialty Courts region. The Legislature will be considering the addition of a Specialty Court for veterans. They should be adequately funded to meet the purpose of being an effective bridge to the services available to veterans.

Page 19 of [Exhibit G](#) shows the projected revenues available to fund the Special Courts. There are more negative percentages than we would like to see. Those are attributable to the declines in administrative assessments.

The graph on page 20 of [Exhibit G](#) illustrates a comparison between revenue and expenditures from FY 2009-2010 through projection for FY 2013-2014 and FY 2014-2015. It appears that revenue consistently exceeds expenditures. This is

due to the assessment collection funding source and the requirement to carry forward a reserve to meet the ongoing expenses of the program.

Justice Hardesty:

Pages 21 through 25 of [Exhibit G](#) describe our Foreclosure Mediation Program (FMP). In August 2012, we made a presentation to the IFC about this program and our concerns about it. The original intent in the 2009 Legislative Session was to impose a new fee on each Notice of Default (NOD) to fund the program. This includes NODs on residential and commercial properties. That process was successful in funding the program when the issuance of NODs was high. In October 2011, the number of NODs began to decline dramatically. There was also a high number of foreclosures reported to the 26th Special Session. The fee for the NOD increased from approximately \$50 dedicated to the program, to \$250, with \$200 of that going to the General Fund.

Page 22 of [Exhibit G](#) shows that in FY 2010-2011 the State had 54,191 NODs. That number dropped to 16,818 in FY 2011-2012. Of that number, 13,121 were recorded in the first quarter of FY 2011-2012. Only 3,697 NODs were recorded in the last three quarters of FY 2011-2012. During the first two quarters of FY 2012-2013, 8,528 NODs were recorded, an average of 1,421 per month.

With the number of NODs declining, there has been a corresponding decrease in the number of mediations conducted and in the number of agreements reached. There is a corresponding budget impact. The success of the program created approximately \$1.6 million in reserves. We are consuming that reserve to make up for declining revenues. We expect to exhaust that reserve to a point where another revenue source will be necessary to continue the program. This is a critical issue facing the 2013 Session. This will involve a policy question about retaining, perhaps in a different form, or eliminating the program. It will involve a budget question about funding for the future if it is retained and NOD recordings remain at a low level.

We want to bring this issue to your attention and remind you about the concerns we brought to you in August 2012 in light of the decision to place this program under the administration of the AOC. The FMP, as currently funded, cannot continue in the next biennium without consuming all of its reserves. That would be a waste of money and would require General Fund appropriations to continue the program. Pages 23 and 24 of [Exhibit G](#) show the Economic Forum projections for

NOD filings and for revenue. An average of 1,421 NODs per month will not support this program on a consistent basis.

Our FMP enhancement request for \$202,727 from the General Fund appears on page 25 of [Exhibit G](#). If the rest of our needs are to be covered by exhausting our reserves, the FMP will need 100 percent funding from the General Fund after FY 2014-2015 at approximately \$1.1 million per year. This program was created by the Legislature and it will be the Legislature that will decide its future.

E-750 Budget Restorations — Page JUDICIAL-16

Assemblywoman Carlton:

This program has benefitted a large number of my constituents in dark times. It has been a success. The reserves were generated by the fees paid through this program. We are still using those funds to help citizens with foreclosure issues. Is there an estimated date when the reserves will run out based on caseload projections for the next 18 months?

Justice Hardesty:

We expect that after the second quarter of FY 2014-2015 we would need General Fund support due to lack of reserves. From July 2009 through June 2012, the program conducted 16,000 mediations and had a significant impact on the citizens of Nevada. The approximately 54,000 NODs includes all NODs on residential, commercial and residential properties not eligible for the program.

Assemblywoman Carlton:

In the 2011 Legislative Session, did we not change some provisions on NODs to slow down the process? There are proposals before the 2013 Session to adjust that. It is difficult to forecast the volume of NODs in 2 years.

Justice Hardesty:

The uncertainty of projecting revenue sources is part of the policy-making process for you.

Chair Smith:

Did we sweep or redirect some of your reserves?

Justice Hardesty:

That option was considered.

Ms. Bjork:

The 2011 Session authorized a transfer of \$300,000 each fiscal year to the Supreme Court's budget, if necessary. The Court withdrew any request for that funding.

Justice Hardesty:

There was legislation to authorize the transfer of \$300,000 from FMP reserves to the Supreme Court General Fund. The justices affirmatively declined to take advantage of that for three reasons. First, we were concerned that, if we accepted the funds, we would come before Legislatures earlier than now to request funds for operation of the FMP because NODs declined. Second, we were concerned about the Court adjudicating cases under the FMP. Receiving money from the program would create a serious separation-of-powers objection. Third, we reduced the staff in the FMP to operate the program.

Foreclosure Mediation Program — Budget Page JUDICIAL-50 (Volume I)
Budget Account 101-1492

Chair Smith:

Please provide the subcommittee with your updated annual report for the FMP when we consider your budget.

Assemblyman Hardy:

Do you know the cost of the proposed appellate court?

SENATE JOINT RESOLUTION 14 OF THE 76TH SESSION: Proposes to amend the Nevada Constitution to create an intermediate appellate court. (BDR C-1013)

Justice Hardesty:

The estimate is \$1.741 million. That is why we have asked the Legislature to examine the \$5 special assessment fee. If that is terminated, or at least its priority reduced, the funds would be available to fund the new court. The process requires a second vote by the Legislature in the 2013 Session in order to place it on the general election ballot in 2014. If the voters approve it at that time, the earliest the court could be constituted would be in January 2015.

Legislative Commission's Budget Subcommittee
January 28, 2013
Page 58

Chair Smith:

Seeing no public comment, this meeting is adjourned at 4:11 p.m.

RESPECTFULLY SUBMITTED:

Leslie Sexton,
Committee Secretary

APPROVED BY:

Senator Debbie Smith, Chair

DATE: _____

Assemblywoman Maggie Carlton, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	2		Agenda
	B	7		Attendance Roster
	C	61	Greg Cox	NDOC Budget Presentation
	D	32	Chris Perry, James Wright	DPS Budget Presentation
	E	44	Troy Dillard	DMV Budget Overview
	F	26	Rudy Malfabon	NDOT Biennial Budget Overview
	G	26	Honorable Kristina Pickering	Judicial Branch Budget Overview