

**MINUTES OF THE MEETING OF THE  
ASSEMBLY COMMITTEE ON WAYS AND MEANS  
AND  
SENATE COMMITTEE ON FINANCE  
SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL RESOURCES, AND  
TRANSPORTATION**

**Seventy-Eighth Session  
March 17, 2015**

The joint meeting of the Assembly Committee on Ways and Means and Senate Committee on Finance Subcommittees on Public Safety, Natural Resources, and Transportation was called to order by Chair Chris Edwards at 8:01 a.m. on Tuesday, March 17, 2015, in Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:**

Assemblyman Chris Edwards, Chair  
Assemblyman John Hambrick, Vice Chair  
Assemblywoman Maggie Carlton  
Assemblywoman Jill Dickman  
Assemblyman Michael C. Sprinkle  
Assemblywoman Robin L. Titus

**SENATE SUBCOMMITTEE MEMBERS PRESENT:**

Senator Pete Goicoechea, Chair  
Senator Mark Lipparelli  
Senator David R. Parks



**STAFF MEMBERS PRESENT:**

Mark Krmpotic, Senate Fiscal Analyst  
Stephanie Day, Principal Deputy Fiscal Analyst  
Karen Hoppe, Senior Program Analyst  
Adam Drost, Program Analyst  
Barbara Williams, Committee Secretary  
Cynthia Wyatt, Committee Assistant

The committee secretary called the roll. Chair Edwards asked for public comment. Hearing none, he invited testimony on budget account 4709.

**PUBLIC SAFETY**

**DEPARTMENT OF PUBLIC SAFETY**

**DPS - CRIMINAL HISTORY REPOSITORY (101-4709)**

**BUDGET PAGE PUBLIC SAFETY-127**

James M. Wright, Director, Department of Public Safety, provided the Subcommittees with a PowerPoint presentation, the "General Services Division Budget Presentation" ([Exhibit C](#)). He explained that the Division was created in the 77th Legislative Session (2013) and was previously known as the Records and Technology Division. The consolidation of the technological functions gave the agency the opportunity to serve Nevada law enforcement by organizing the records and communication bureaus under one division.

Mr. Wright referred to the Department of Public Safety (DPS) as a multidisciplinary and multifaceted total force organization, by which he meant that every DPS employee had an important and supportive role in carrying out the DPS mission. He said the General Services Division was a prime example of what total force meant. The Division was the Department's largest, nonsworn division, and supported the Department of Public Safety, the Nevada Criminal Justice Information System, and other entities that relied on the Division for services such as civil name background checks, employment determinations, and professional licenses. He recognized, with appreciation, the efforts of the entire staff, and introduced Julie Butler, Chief, General Services Division, Department of Public Safety.

Ms. Butler discussed the creation of the General Services Division, which came out of the dissolution of the Records and Technology Division and the transfer

of the DPS information technology (IT) activities to Enterprise Information Technology Services (EITS), Department of Administration.

Chair Edwards asked Ms. Butler to forego the presentation so that the Subcommittees could ask questions.

Chair Edwards referred to the Nevada Criminal Justice Information System (NCJIS) modernization project, saying he understood that the project was initially going to take six years and started with \$400,000 of federal funding. He believed the agency was currently asking for \$2.2 million, and that it was projecting a total cost of \$18 million. He asked for an update on the progress of the first phase of the NCJIS modernization project.

Ms. Butler directed the Committee's attention to slide 13 of [Exhibit C](#), stating that in fiscal year (FY) 2012, the Records and Technology Division received a federal grant to commission a study to recommend the best way to modernize NCJIS. In the 77th Legislative Session (2013), the agency received a \$2.3 million appropriation to start the first phase of the project. The NCJIS system contained many different applications: criminal history system, parole and probation offender tracking system, and temporary protection orders among them. She emphasized that it was a large and complex system. Because of the study in 2012, it was recommended that the system be completely replaced. The study estimated that the project would span multiple biennia and cost approximately \$18 million.

Ms. Butler said that with the transfer of DPS IT functions to EITS, the agency had determined that an in-house solution to replace NCJIS would be better, based on the technology investment request process. During the first phase of the project, the Division was able to define the scope of the project, define the governance and responsibilities of the program, and identify the stakeholders. The underlying architecture of the system had been established by EITS to allow the disparate applications to communicate more efficiently with each other and with outside law enforcement entities by purchasing a middleware tool. Enterprise IT had been working to train its software developers on the new tool, and some of the ancillary applications within NCJIS had been reengineered. The Investigations Division was manually migrating some data between systems. Enterprise IT had begun the process of upgrading the law enforcement message switch, which was the communications controller that regulated the message traffic coming into and going out of the state and between all the law

enforcement entities within the state. These were the main accomplishments of the first phase of the project.

Ms. Butler said that in the next biennium, the goal was to recode the existing functionality into a modernized IT environment that would be supported in the future. The desired system would be capable of being more easily modified and expanded to handle additional mandates and address stakeholder needs, eliminate dual data entry, and more easily communicate with disparate systems. The Division was looking to replace the "hot files," which were the instant communications and caution messages that went out to the law enforcement community. Phase II would also replace the Offender Tracking Information System within the Division of Parole and Probation's budget account 3740.

Chair Edwards asked whether the Division anticipated spending the \$2.3 million appropriation before the end of FY 2015. He also asked for a revised total estimate for the project and a new timeline.

Ms. Butler said the Division was on track to spend the full amount before the end of the current fiscal year. She said she did not have a total for the overall modernization effort because not all of the later phases had defined requirements. The new modernization effort had four phases in all; the agency was currently requesting funding for phase II. She believed the total cost would be less than the \$18 million that the 2012 study had estimated, because the original plan had been to buy commercial off-the-shelf (COTS) products to modernize NCJIS, while the new plan involved having EITS modernize what already existed in-house.

Ms. Butler explained that it was more difficult and costly to take an off-the-shelf product and customize it than to take what was already customized to meet the Division's business needs and modernize it. She explained that the current platform was called USoft and was 20 years old and no longer vendor-supported. The modernized program would be on a .NET platform.

Chair Edwards asked how long the new system was expected to last.

Ms. Butler said the life expectancy was about 15 years, but she acknowledged that the rapidly evolving technology environment could change that estimate.

Chair Edwards asked for more detail about how the project would improve data protection, disaster recovery, and continuity of operations.

Ms. Butler said the agency was paying particular attention to information security and building a security layer into the modernized environment. She added that the Division currently replicated the data to southern Nevada and would continue to do so. The redundant data capability ensured recovery and continuity of operations

Chair Edwards inquired whether the NCJIS modernization project would require any computer hardware costs.

Ms. Butler understood that most of the hardware was purchased with the funding the Division received for phase I. She added that further work defining the requirements might lead to additional hardware needs.

Chair Edwards asked Ms. Butler to discuss the difference in costs between the outsourced project and the in-house version.

Ms. Butler replied that modernizing the criminal history program through outsourcing had been estimated to cost between \$9 and \$12 million, while the request before the Subcommittees was a \$2.2 million in-house solution.

Chair Edwards inquired whether there had been any similar-sized projects completed, whether EITS had been helpful, and whether there had been any problems.

David Gustafson, Chief Information Officer and Administrator, Division of Enterprise Information Technology Services, Department of Administration, stated that EITS frequently managed projects on a large scale. The agency was constantly upgrading infrastructure, such as mainframe systems and storage arrays. He reminded the Committee that EITS supported the Division of Human Resource Management, Department of Administration's Advantage system, and the enterprise resource planning system, so it was quite used to managing large and complex projects. He said that the agency was very comfortable with its solution to DPS' needs.

Senator Goicoechea asked whether EITS would be using its own programmers or Master Services Agreement contractors.

Mr. Gustafson proposed that EITS would provide the programmers and had originally requested full-time staff. In the budget process, the Governor's recommendation had changed the request to contractors, which he

said the Division was happy to facilitate. The final decision, he said, was up to the Legislature.

Assemblyman Sprinkle thanked DPS staff for the work that had gone into the full presentation for the Subcommittees. He recalled that the original project had called for a new program because the old one was not supported, and he wondered how it would be supported if the agency was using the old program with some modernization.

Ms. Butler explained that the former DPS IT staff had used a commercially available software tool to build the current system, and now the plan was that EITS software developers would recode the existing software into a new platform. The new platform was commercially available, vendor-supported, and used widely throughout the IT industry.

Assemblyman Sprinkle asked whether handling the project in-house was intended to keep costs down and expressed concern that the Division could not provide a total estimated cost for the project.

Ms. Butler said the agency shared the concern of the Subcommittees about the total cost of the project. She said the Division had projected for the next biennium the \$2.2 million to recode what it had. The 2012 study recommended a complete replacement of the massive multiple applications that DPS had by going to COTS products, and estimated that would cost about \$18 million. She believed moving to the in-house model was the fiscally responsible thing to do.

Chair Edwards reviewed the request for temporary contract staff for the disposition of casefiles that had exponentially increased after the Department's outreach to judges and courts, which he understood had resulted in a backlog of over 800,000 dispositions. He asked for an update on the status of the project and how long the Division anticipated it would take.

Ms. Butler directed the Committee's attention to slide 11 of [Exhibit C](#) and stated the backlog balance was 857,742. She said the agency had encountered a number of difficulties with the disposition backlog. Because of the age of the dispositions, the Division discovered that many of them did not have all the necessary information for staff to enter them efficiently. About two-thirds of the dispositions required additional research because they did not

contain the necessary data elements. The result was that clearing the backlog had proceeded very slowly.

Ms. Butler said that another difficulty had been filling the 30 approved positions for the project. The agency had experienced approximately a 47 percent turnover in staffing of the temporary positions. Some staff members were unable to meet minimum data entry requirements and others had moved on to permanent positions. Currently, 25 of the 30 positions were filled and the Division was actively looking to fill the other five. All of the problems resulted in making it difficult to estimate a completion date. She stated that the original goal for completion was 2017, but it been moved twice already, and she was not comfortable giving a completion date because there were too many variables.

Ms. Butler explained that because so many of the dispositions required additional research, staff working the day shift, when the courts were open, were doing research, and the swing shift staff members were working on the dispositions that were complete and able to be directly data-entered.

Chair Edwards noted that some of the dispositions were 20 years old, and in his opinion, were less important than those that were more recent. He asked how the Division prioritized the dispositions.

Ms. Butler thought the dispositions were being handled as they came in. She stated that there was no backlog on the current cases, which she defined as the recently concluded cases that had been received at the Criminal History Repository.

Chair Edwards asked what requirements had been imposed on the agency by the Federal Bureau of Investigation (FBI) and whether the FBI was helping the Division with any of the data entry.

Ms. Butler said the FBI was not participating or helping in the project. The Division was having to dual enter the dispositions into the state and the FBI databases. She stated that it was a national problem, and that all state criminal history record repositories had difficulty getting dispositions from the courts.

Chair Edwards asked whether the modernization project was designed to facilitate the dual entry issue.

Ms. Butler responded that one of the NCJIS modernization goals was to eliminate dual data entry.

Chair Edwards asked whether any of the data entry could be done at the court level.

Ms. Butler said that the Division had tried for years to do an automated disposition interface with the courts, but it had met with little success. She said there was no centralized court data system, and the different data elements and disparate systems made a solution impractical for now.

Chair Edwards asked whether the court system would get on board with a standardized system that would fulfill the state and FBI needs.

Ms. Butler responded that the approximately 30 entities that went through the Administrative Office of the Courts (AOC) used the same software, and DPS was working with the AOC to develop interfaces and data exchanges to improve the matching rate and eliminate the reliance on paper. Courts not supported by the AOC presented a challenge because there were no standards.

Senator Lipparelli expressed concern with the number of times the same data needed to be entered, which greatly increased the chance for error, especially when using temporary help. He wondered why the underlying problem was not being fixed by standardizing the information systems at the court level.

Ms. Butler did not disagree, but maintained that the cost of such a project was prohibitive. She concluded that what the Division could control was how it moved the data. The goal was to build the agency system with a standards-based IT model that would delineate the specifications for the data, which the agency had the statutory authority to do. She agreed that moving away from a paper-based system would improve data quality and timeliness.

Chair Edwards expressed frustration that the courts seemed to be a roadblock in the effort to modernize IT systems. He asked what solutions the Division proposed.

Ms. Butler stated that as of the end of calendar year 2014, all Nevada courts were reporting disposition information to the Criminal History Repository, because of a collaborative effort between the AOC and the General Services Division. The two agencies met monthly to discuss items of mutual interest,



such as data systems and system modernization. She thought the problem of nonreporting by the courts had been solved.

Chair Edwards asked for a timeline for handling the backlog of dispositions and the average amount of time required for inputting one disposition.

Ms. Butler replied that she could not possibly give a timeline for the complete backlog because there were too many variables. If all the data elements were present, staff could input about ten dispositions per hour. Some of the dispositions arrived without the underlying arrest record, causing staff to have to go back to the law enforcement agency to get the arrest information, verify the identity, obtain a fingerprint card, and match it to the disposition before it could be entered. The whole process could take weeks.

Chair Edwards asked about the 110,899 dispositions added in 2014.

Ms. Butler explained that those cases were also old historic dispositions. She reiterated that new current dispositions had no backlog, and the Division had received about 42,000 per year, but projected an increase in that number to 92,000 now that all courts were reporting to the Criminal History Repository. She wanted to make sure the Subcommittees understood that there were two teams working on dispositions: the 30 staff requested from the Interim Finance Committee in 2014 were working on the 910,046 backlog of historic dispositions, and a staff of 4 had been working all along on current case dispositions.

Chair Edwards speculated that if one individual could handle about 10,000 dispositions a year, the project team of 30 should need about three years to dispense with the backlog.

Ms. Butler said that the agency had used that methodology originally and projected the same numbers, but with the personnel turnover in the temporary positions and the large number of cases needing further research, it was not practical to expect the project to be done in that amount of time.

Chair Edwards inquired whether a three- to five-year period would be reasonable, and Ms. Butler agreed that it would.

Senator Goicoechea asked why the Division was requesting the final ten temporary contracted positions from the Interim Finance Committee (IFC) rather than building them into The Executive Budget.

Ms. Butler explained that the positions had been removed in the Governor's recommended budget, and because of the difficulty the agency had experienced in filling the temporary positions, it believed it had a better chance of getting the positions approved if it could come back to IFC with a proven record of accomplishment. She said if the Subcommittees decided to authorize the positions, the Division would welcome that authorization.

Chair Edwards asked for the methodology used to determine that an annual caseload of 400 to 450 was a reasonable level for employees working on the sex offender registry.

Ms. Butler said the caseload guidelines had been based on the work performance standards. Experience had shown the agency that once caseloads got much beyond the recommended level, employees had a hard time keeping current.

Chair Edwards asked for a description of the duties of a registry employee.

Ms. Butler explained that when a sex offender registered with local law enforcement, the offender's photograph, fingerprints, and his or her conviction information came to the Repository, and staff had 90 days, per current law and Office of the Attorney General (AG) guidelines, to set a tier for that sex offender. Registry personnel used a risk-based assessment tool that used the data, including the sex offender's conviction, age of the victim, employment, and counseling history, to arrive at a score. Based on that score, the offenders were categorized: Tier I meant they were least likely to reoffend, Tier II meant there was a moderate risk to reoffend, and Tier III were those with a high risk to reoffend. The information was subsequently placed on the community notification website for Tiers II and III, and offenders were monitored on paper through the year making sure that if there were changes to the address or employment information, the community notification website was changed so the public could know where offenders lived, worked, and went to school. She said it was a labor-intensive process, of which not much was automated. The caseload recommendations reflected the desire to ensure that caseworkers

did not let an offender slip through the cracks, because the consequences of tiering someone incorrectly could be dire.

Assemblyman Sprinkle asked, if Senate Bill 99 [legislation revising provisions governing registration of and community notification concerning sex offenders] passed, what the effect would be on the agency's request for positions and recommended caseloads.

Ms. Butler responded that passage of S.B. 99 would not affect the request for three additional positions. She stated the agency experienced about 1,200 new registrations each year. Sex offenders entering Nevada had 48 hours to present themselves to local law enforcement and register. She said about 300 of the 1,200 who entered Nevada remained in the state, which meant staff members were required to evaluate them, tier them, and open a case file. The passage of new legislation would not change the number of offenders the agency was dealing with.

Assemblywoman Carlton asked for the status of Assembly Bill No. 579 of the 74th Session (2007) and wondered why Tier I offenders, who she thought were typically stable, required annual registration. She believed that the agency needed to focus on the more serious offenders who really needed to be watched.

Ms. Butler explained that the Division had to stop and start the process of carrying out A.B. No. 579 of the 74<sup>th</sup> Session twice since it was enacted. Currently, there was a stay issued by the Nevada Supreme Court in response to a legal challenge in January 2015. The delays had been labor intensive for staff, because they had begun the process of sending correspondence to the 6,500 active registrants regarding changes to their tiers. Under Megan's Law, which was enacted prior to A.B. No. 579, Tier I offenders were required to register with law enforcement only and were not posted on the community notification website. Tier I offenders were typically those convicted of misdemeanors and gross misdemeanors, such as statutory sexual seduction, indecent exposure, and lewdness. Some of the offenses were pled down from more serious offenses, so she hesitated to say that none of the Tier I offenders presented a risk to the community, although based on the assessment tool, they were deemed at less risk to reoffend than the higher tiers. Assembly Bill No. 579 of the 74th Session did not look at the risk to reoffend, but only considered the convicted offense and the age of the victim. It could not be determined that Tier I, II, or III was more dangerous based on the

current registration scheme. The provisions of A.B. No. 579 governed the frequency and duration of registration: Tier III registrants were required to register for life, whereas Tier I registrants could seek relief after 15 years. She said she would leave it to the Subcommittees to determine how they wanted the state to supervise sex offenders.

Assemblywoman Carlton stated that she felt it was ultimately about resources and putting them where they were most needed rather than monitoring someone whose life was on track and doing well and making that offender register every year, when the state should be watching other offenders who were at a greater risk to reoffend.

Senator Goicoechea asked whether all the current positions related to the sex offender registry were filled.

Ms. Butler said that some of the positions were vacant because the Division had a very difficult time getting candidates through the preemployment background check screening process. She said the agency was actively working to fill all the vacant positions, noting the sex offender registry grew every year. She emphasized that DPS took its public safety responsibilities very seriously and anticipated that the risk of error or omission greatly increased if the new positions were not approved.

Senator Goicoechea said that meant the registry's caseload was probably already much higher than the projections, and Ms. Butler agreed that it was.

Assemblyman Hambrick asked whether all the vacancies were in northern Nevada and whether there was a possibility that staff could work remotely from home in other parts of the state.

Ms. Butler replied that the Division had offices in Carson City and Las Vegas. Because of the sensitivity of the criminal history records that were housed, the records were not taken off-site, so there was not the possibility of working remotely.

Assemblywoman Carlton inquired about the problems the agency was having with the preemployment screening process that eliminated so many candidates and wondered whether the Division's requirements were too stringent.

Ms. Butler replied that there was a variety of reasons candidates had failed the preemployment screening: a troubling criminal history, a history of substance abuse, a large quantity of law enforcement involvement, or poor references from prior employers. She maintained that job experience went a long way toward qualifying candidates, which was why she placed a great deal of weight on previous employer recommendations.

Chair Edwards asked where the agency was recruiting, and Ms. Butler replied that recruitment was done through the Division of Human Resources Management's existing employment list, statewide open competitive recruitments, and division promotions. While the agency liked to promote from within, doing so naturally created other vacancies within the agency. She said that the statewide competitive recruitments often yielded candidates with backgrounds that made them unsuitable for the nature of the work.

Chair Edwards inquired whether the agency attended job fairs; he believed that there had to be qualified individuals in Nevada who could pass a background check.

Ms. Butler said the Division had started to explore that option. It recently had developed a strategic plan that focused on recruitment and retention and expected to use job fairs and college campus recruitment.

Chair Edwards asked when the agency expected to start using these new avenues of recruitment.

Ms. Butler replied that she did not know, but that it was part of the strategic plan. She said that on the communications bureau side of the Division, some preemployment brochures had been created in the hopes of using them at job fairs.

Chair Edwards requested more information on the IT positions requested in decision unit Enhancement (E) 226.

Tammy Trio, Administrative Services Officer, General Services Division, Department of Public Safety, responded that the request was for IT professionals for the information security unit. They would be tasked with addressing the ever-growing technical security auditing mandates from the FBI and state IT security standards as set and maintained by EITS. The number of agencies requiring FBI technical audits had grown

from 115 in 2007 to approximately 160 agencies currently, a 39 percent increase, without a corresponding increase in staff. She said the FBI's Criminal Justice Information Services security policy had grown from 18 pages in 1999 to 186 pages in 2014 and was being revised yearly to add security standards. The Division's current staff of two full-time-equivalent (FTE) positions was inadequate to meet the increasing mandates, and the agency was requesting two more IT professionals: one in Carson City and the other in Las Vegas. The request was funded with General Services Division reserve funds.

Chair Edwards asked when the agency anticipated the FBI auditors would next visit the General Services Division.

Ms. Butler replied that the FBI auditors visited every three years, and their last visit was in October 2012, so she anticipated the next visit would be sometime in calendar year 2015.

Chair Edwards asked whether the IT positions being requested would be sufficient for the next visit, and Ms. Butler replied that she was confident they would be.

Assemblywoman Dickman wondered what the penalties were if the agency was found to be noncompliant.

Ms. Butler said the penalties could range from addressing follow-up correspondence from the FBI to sanctions. Ultimately, the FBI could remove state access to FBI systems, which was why the IT security positions were so critical.

Chair Edwards asked whether the IT professional position acting as the Department's Information Security Officer would work for just the General Services Division or for the entire Department of Public Safety.

Ms. Butler responded that the position would be for the entire Department and involve some internal cross training of other staff members to cover for time away, such as travel to Las Vegas for an audit.

Chair Edwards requested more information about the civil name check program: in particular, why it appeared that the agency was only completing about half of the checks requested by the casinos.

Ms. Butler said the civil name check program was a name-based background check program designed primarily to support casinos in the preemployment background check screening process. The General Services Division was addressing all the requests for name checks, but to meet demand, it had diverted staff from other programs to help with the volume. The civil name check position request would enable the agency to address the workload without pulling staff members from other tasks, which were primarily training and auditing.

Chair Edwards asked whether the addition of one position for the civil name check program would be sufficient to manage the workload, and Ms. Butler replied that it would be.

Assemblyman Sprinkle noted the General Services Division budget projected a reserve balance of about \$11 million in FY 2017 and asked why the Division needed such a large reserve.

Ms. Butler agreed that the reserve was very healthy and said the agency might reevaluate the request from the State General Fund. She said the modernization effort could possibly be funded internally rather than putting that burden on the General Fund.

Assemblyman Sprinkle appreciated that possibility, but wondered why the anticipated requests to IFC were not built into the budget.

Ms. Butler said that the IT rates from EITS had not been finalized when the agency was going through the budget process, and based on the preliminary numbers from EITS, funding the modernization would have taken a significant portion of the reserves. She said the General Services Division would be having conversations with the Budget Division, Department of Administration, to decide on how best to optimize resources.

Assemblyman Sprinkle said that would be helpful information to have once the requests were submitted to IFC.

Mark Krmptic, Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that the Division had submitted fiscal notes for bills in some cases, and the Division would possibly transfer money out of reserves. Fiscal staff was currently looking at the cumulative effect on the Division and the effect on the reserve if the bills passed.

Chair Edwards closed the hearing on the General Services Division and opened the hearing on the Department of Transportation.

**INFRASTRUCTURE**  
**DEPARTMENT OF TRANSPORTATION**  
**NDOT - BOND CONSTRUCTION (201-4663)**  
**BUDGET PAGE NDOT-15**

Rudy Malfabon, P.E. (Professional Engineer), Director, Department of Transportation, shared a PowerPoint presentation, "Department of Transportation 2015-2017 Budget Hearing" ([Exhibit D](#)), with the Subcommittees. He stated that a major goal of the Department of Transportation (NDOT) was to optimize both pedestrian safety and highway traffic safety. He stated that the Department's budget philosophy was to be conservative in funding, but to get the key projects out the door and optimize all of its resources.

Mr. Malfabon said NDOT was responsible for the planning, construction, operation, and maintenance of approximately 5,400 highway miles and 1,100 bridges, which carried 54 percent of the total vehicle miles traveled in Nevada. Most of the staffing in the Department was for construction, maintenance, and project delivery, which included the engineering staff and technicians responsible for design. There were 1,782.53 full-time-equivalent positions in the agency.

Mr. Malfabon directed the Subcommittees' attention to slide 7 of [Exhibit D](#), which showed the State Highway Fund revenue projections by source for the 2015-2017 biennium. He mentioned that the projected revenue for NDOT in fiscal year (FY) 2017 was over one billion dollars. On slide 8, he pointed out that the agency projected federal revenue of \$640 million over the biennium. He noted that in each fiscal year, State Highway Fund and federal aid reimbursement each accounted for approximately \$320 million in revenue, as shown on slide 9.

Mr. Malfabon proceeded to slide 10, which reflected the expenditures of the Department. He stated the bulk of NDOT's budget was spent on capital improvements, such as Project NEON, which he expected the Subcommittees would be talking about at length because it was one of the most significant projects the agency had ever done. He said other capital projects could include safety projects, preservation projects, and capacity projects, which were



improvements to existing highways, such as new interchanges, widening of freeways, and new bridges. He pointed out that Highway Funds also supported NDOT sister agencies, the Department of Motor Vehicles and the Department of Public Safety.

Mr. Malfabon explained that slide 12 of [Exhibit D](#) showed the Office of the Attorney General (AG) cost allocation. He stated that NDOT paid for the services provided by the AG's office out of the Highway Fund.

Chair Edwards said he wanted to discuss budget account (BA) 4663 and asked about the status of right-of-way purchases using the \$100 million bond sale that was approved by the Interim Finance Committee (IFC) in December 2013.

Mr. Malfabon directed the Subcommittees' attention to slide 17, pointing out that NDOT was requesting \$100 million in bond funding for FY 2016, and \$150 million in bond funding for FY 2017, all in support of Project NEON. He said the project was critical for mobility and safety in southern Nevada at the interchange of Interstate 15 and U.S. Highway 95. The Department did not want to deliver the project at the expense of the entire capital improvement program, and because it had bonding capacity, it believed bond funding was the best way to deliver the project.

Senator Goicoechea asked about the status of the right-of-way purchases.

Mr. Malfabon said that slide 19 of [Exhibit D](#) illustrated the phase 1 acquisition of 60 parcels, and in the design-build phase, 121 parcels would be acquired. Of the 60 parcels in phase 1, the Department had advanced 53 parcels and the remaining 7 would likely go to trial if NDOT's settlement offers were not accepted. In the design-build phase, 24 parcels had advanced. Of the remaining 97 parcels, the Department had made offers on 61. The Department anticipated that through July 2015, 10 of the parcels would go to condemnation action before the Board of Directors of the Department of Transportation, starting the process for the legal acquisition of the parcels. Through October, NDOT anticipated 37 more parcels going to condemnation. The result of that activity was an increase in the AG cost allocation to pay for the legal support to acquire the properties.

Senator Goicoechea commented that the cost of the project, which had originally been estimated at \$500 million, appeared to be rising sharply.

Mr. Malfabon added that one of the results of having to go to court on the condemnations was the court decided what price the agency would pay. The Department had decided that if the prices were in excess of the anticipated costs, the agency could make up the difference on a pay-as-you-go basis. He stated that the Highway Fund was at a healthy level currently, at over \$215 million.

Assemblywoman Carlton asked for clarification of the map on slide 19 of [Exhibit D](#).

Mr. Malfabon explained that Charleston Boulevard ran from the top of the map toward the bottom, and the large buildings at the bottom of the map were the Clark County Government Center and the Regional Transportation Commission of Southern Nevada building.

Assemblywoman Carlton asked how many residential homes were being acquired for the project.

Mr. Malfabon said he would have to get the information on the number of residential parcels to the Subcommittees later.

Assemblywoman Carlton said it was her understanding that the houses were still occupied, and the residents were the ones likely to end up in court.

Mr. Malfabon replied that the relocation process took care of most residential displacements by getting them equivalent or better housing options. He said that typically it was commercial properties that wound up in court.

Assemblywoman Carlton felt that the displaced residents would disagree with Mr. Malfabon.

Chair Edwards asked about the timeline for Project NEON, saying he understood it would cost about \$250 million each biennium. He wondered whether that meant the project was expected to be complete in about four years.

Mr. Malfabon said the agency anticipated about half of the necessary bonding the first biennium, but exact figures would be arrived at after consultation with bond counsel and the Office of the State Treasurer, and approval would be sought from the State Board of Finance and the Board of Transportation.

He agreed that the project would take about four years to construct after the design was done.

Chair Edwards expressed concern over NDOT's intent to lower the bond indebtedness limit to one-third of the pledged motor vehicle taxes to improve the bond rating. He wondered whether such a move would result in less bonding capability and therefore delay the project.

Mr. Malfabon said the Department was already operating at the more conservative limit, but the formal adoption of the lower limit as policy would benefit the bond rating and, consequently, the bond interest rate. He assured the Subcommittees that the move would not delay the project.

Chair Edwards asked how much lower the interest rate would be with the highest bond rating.

Robert Nellis, Assistant Director, Administration, Department of Transportation, said that typically the higher rating would save about 0.5 percent on the interest rate. At current rates, it would be the difference between 3.5 percent and 4 percent.

Chair Edwards inquired how much the dollar savings would be with the lower interest rate.

Mr. Nellis said the calculations were a bit complex, depending on the term of the bond and current rates when the bond was sold.

Senator Goicoechea stated that, regardless of the scenario, the amount saved would be significant. He noted that the Department was hoping to get bond terms increased to 30 years, but he asked what the agency would do if Assembly Bill 21 did not pass.

Mr. Malfabon said that NDOT had always anticipated the 20-year term for the bond sales and had traditionally issued bonds for lesser terms when possible. The goal of requesting a longer window for bond terms was to give the Department flexibility, but he had no concerns about its ability to cover debt service in the event A.B. 21 did not pass. He emphasized that the agency was fiscally conservative, and its high bond rating was a testament to sound financial management.

Senator Goicoechea asked why NDOT was asking to extend the limit to 30 years if it could do business within the current 20-year limit.

Mr. Malfabon stated that the request was to give the Department flexibility, and the intent was always to bond for the shortest term possible. He said that if there was a pinch point in the debt service coverage, the ability to tailor payments or extend them out further gave the agency more options.

Assemblywoman Dickman asked, assuming bond financing for Project NEON was approved for the next two biennia, when NDOT anticipated additional bond capacity would be available for other projects.

Mr. Nellis replied that, using the projected payment schedules, additional bond sales could be made in 2020, with debt payments beginning in 2021.

**INFRASTRUCTURE**  
**DEPARTMENT OF TRANSPORTATION**  
**NDOT - TRANSPORTATION ADMINISTRATION (201-4660)**  
**BUDGET PAGE NDOT-17**

Rudy Malfabon, P.E. (Professional Engineer), Director, Department of Transportation, directed the Subcommittees' attention to slide 22 of his PowerPoint presentation, "Department of Transportation 2015-2017 Budget Hearing" ([Exhibit D](#)), and explained that the Department of Transportation (NDOT) was requesting budget authority to upgrade its existing fueling system at 53 fueling sites across the state. The system was used by multiple state and local agencies, including critical emergency responders.

Mr. Malfabon added that the agency wanted to make sure it was sensitive to environmental concerns by preventing leakage from underground tanks. He said the Department did not know of any current leakages, but underground tanks with one of their double walls compromised had been identified. The new system would be aboveground in contained facilities, so any leakages would be readily apparent and easily repaired.

Mr. Malfabon said the fuel system was aging, and there had been numerous instances when systems had gone down, resulting in agencies having to go to commercial facilities or to other sites. In parts of rural Nevada, there were few options for fueling state vehicles. He explained that NDOT anticipated the project would be completed in 2019.

Chair Edwards asked how many tanks were leaking and their size.

Mr. Malfabon replied that the Department was not aware of any actual leakage, but it had been watching some double-walled tanks where one wall was rusted out. The goal was to replace tanks before they leaked, and NDOT had been monitoring certain sites for any indication of leakage into groundwater. He said the tanks ranged from 500 gallons to 12,000 gallons, but most were in the 2,000 to 4,000 gallon range.

Chair Edwards inquired as to the age of the tanks and their life expectancy.

Mr. Malfabon said he would have to get the statistics and bring them to the Subcommittees.

Senator Goicoechea asked whether the agency was aware of any single-walled tanks.

Mr. Malfabon said some tanks had already been replaced because of aging problems. He was aware that had been done in Tonopah, where the agency had identified some at-risk tanks.

Senator Goicoechea said he understood the total project was projected to cost \$16 million, and Mr. Malfabon verified that amount.

Senator Goicoechea asked whether NDOT was covered by the Fund for Cleaning up Discharges of Petroleum.

Mr. Malfabon said NDOT had typically taken care of tank replacement through its own budget.

Senator Goicoechea stated that, in light of the dollars involved, the Subcommittees might request additional information or consider stretching the project out over a longer period.

Senator Goicoechea asked about the request to fund capital expenditures for a rest area at Beowawe that was projected to cost \$4.5 million.

Mr. Malfabon replied that the request to rebuild two rest stops, one at Trinity and the other at Beowawe, was due to NDOT receiving several complaints or because high usage had taken its toll. He said the Department was trying to

provide a service to support rural tourism and, more importantly, to support safety. Travelers were more likely to stop and rest when fatigued if the rest area was well lit and comfortable.

Senator Goicoechea said he knew that the Beowawe facility was heavily used. He asked whether the stop at Trinity would be entirely replaced and whether Beowawe would be replaced or upgraded.

Mr. Malfabon responded that the old facilities at both would be demolished. It was NDOT's goal to standardize the layout of the facilities and make them more usable for larger vehicles, such as commercial trucks and recreational vehicles.

Senator Goicoechea asked whether the welcome stations the Department planned in Boulder City, Mesquite, and West Wendover would replace existing facilities.

Mr. Malfabon said NDOT had existing welcome centers in those locations, and the funding request was for facility improvements.

Chair Edwards asked whether the rest stops on each side of Interstate 80 at Beowawe could be replaced by one rest stop in the median.

Mr. Malfabon replied that Beowawe would have a rest stop on each side of the highway, and Trinity would consist of one major rest stop on one side with signage and access from the other direction.

Assemblywoman Carlton said that the rest areas on U.S. Highway 95 between northern and southern Nevada were subpar. She felt many lacked adequate facilities, saying, "A trash can and a picnic table does not make a rest stop." She said if a goal was to get travelers out of southern Nevada and into the northern and rural areas, better facilities were needed on the highways.

Senator Goicoechea agreed that many rest stops along state highways did not have adequate facilities and restroom facilities should be added where possible.

Mr. Malfabon said that the next two rest areas on the Department's list were Pahrnagat Lake and Millers near Tonopah.

Assemblywoman Titus questioned the difference between a rest area on the Interstate Highway System for use of hundreds and thousands of trucks and travelers crossing the state versus constituent accommodations along the less-traveled routes. She said they appeared to differ in costs, goals, and design.

Mr. Malfabon explained that a rest area was a major facility, such as those found along an interstate highway. He said a rest stop was a minor facility, but the agency intended to improve them all with bathroom facilities. The Department had developed concepts for both rest areas and rest stops.

Chair Edwards asked what the timeline was for all upgraded rest stops.

Mr. Malfabon replied that, subject to available funding, NDOT believed updating rest facilities across the state would take about 10 to 15 years. The agency maintained that it had identified the worst first and had prioritized the plan accordingly.

Senator Goicoechea commented that local jurisdictions could help with the effort by making municipal water available. Communication with NDOT could encourage local governments to incorporate rest facilities into their long-range plans.

Chair Edwards asked whether NDOT had any plans to include revenue makers at the facilities.

Mr. Malfabon replied that there was a sponsorship program the agency had advertised. The Department thought that after the facilities were improved, the sponsorship program would be attractive, but to date there were no sponsors.

Chair Edwards asked what the plans were for demolishing the old stops.

Mr. Malfabon said NDOT would have to have interim facilities available to the public while the new facilities were being built.

Chair Edwards asked whether the Office of the State Engineer could pick up some of the design costs for the Nevada Shared Radio System (NSRS) upgrades.

Mr. Malfabon replied that the radio system was shared with NDOT, NV Energy, Washoe County, the University System, rural police departments, and dozens of other agencies. He did not know whether the State Engineer was one of the users. The Department had done a needs assessment and concluded that the system was reaching its end of life, and the vendor would not be supporting the system past 2017.

Senator Goicoechea commented that the Division of Enterprise Information Technology Systems (EITS), Department of Administration, was planning to replace its microwave network, and he believed that many locations were on the same mountaintops and towers as NSRS. He wondered whether the projects could be integrated to save money.

Mr. Malfabon replied that the Department was working with EITS, which had a lot of the function related to fiber optics, while NDOT had a lot of the responsibility for the towers and other infrastructure at the 113 mountaintop sites statewide. He said NDOT owned 66 sites, NV Energy maintained 36 sites, and Washoe County maintained 11 sites, serving 16,000 statewide users.

Mr. Malfabon said that the needs assessment was done with the major users of NSRS, and a request for proposal (RFP) for procurement of the next generation radio system was developed. The mountaintop sites were still necessary for the system, and many of the existing buildings and towers would still be used for infrastructure.

Senator Goicoechea commented that it was difficult to know where to draw the line between EITS, NDOT, and local agencies renting rack space on the towers. He wanted to make sure that the 90 agencies and 16,000 users were aware of what the changes would be and how the fee structure might change so they could budget for the changes. He expressed concern about some of the infrastructure he had visited, saying a lot of it had been there for 50 years.

Mr. Malfabon said the bulk of the system currently being used was replaced a little over 20 years ago. The Department was looking at different funding models: lease-to-own option, a vendor-financed option, and a public-private partnership option. The immediate need was to develop the RFP to design the system and determine the cost. He realized the cost would be significant, but it could be allayed depending on the funding option chosen. In addition, all the users paid to use the system.



Chair Edwards said he had initial indications that the total cost was projected at \$176 million and asked whether that might significantly change if the funding model changed.

Mr. Malfabon agreed on the replacement cost estimate and said the lease-to-own option for funding would result in annual payments that would be significantly less than having to pay the cost all at once.

Chair Edwards asked what the life expectancy of the new system would be.

Mr. Malfabon assumed the life expectancy would be around 20 years, but he recognized that technology changed rapidly. For this reason, he considered a leasing option very practical because it allowed the provider to upgrade the system periodically. He suggested that David Gustafson, Chief Information Officer and Administrator, EITS, could probably share opinions on the topic as well.

Chair Edwards asked whether NDOT had a deadline to make the decision on the funding model.

Mr. Malfabon said NDOT anticipated that it would be two years before a decision was made regarding the funding mechanism for the project.

Chair Edwards asked what percentage of the design phase had been completed.

Mr. Malfabon replied that design had not started. The request before the Subcommittees was to hire a consultant to develop the technical requirements for the new system and draft an RFP to select a vendor. The Department expected it would take five to six years to build the system.

If the system was not designed yet, Chair Edwards asked how the projected cost of \$176 million was developed.

Mr. Malfabon said the needs assessment had led to a probable cost estimate, which he admitted was rough and based on concept rather than on actual design. He said it would be the next biennium before the agency would be requesting funds to actually build a new system.

Senator Goicoechea said he wanted the Subcommittees to understand that the work involved in the NSRS upgrade would be primarily on remote mountaintops

and therefore sensitive to weather events. If the NSRS went down, it severely limited capabilities for emergency and law enforcement response for possibly hundreds of square miles. He expressed concern about vendor-supported systems being less reliable.

Chair Edwards asked for more detail regarding decision unit Enhancement 720, a request for \$3,598,017 in fiscal year (FY) 2016 and \$2,748,741 in FY 2017 to purchase office furniture and operational equipment.

Felicia Denney, Administrative Services Officer, Department of Transportation, said NDOT typically budgeted \$1 million each year for equipment used throughout the agency and \$750,000 each year for information technology equipment. The bulk of the decision unit request was for equipment such as generators, air compressors, and plows, and only a very small percentage for office furniture, primarily for the Project NEON office in Las Vegas.

Senator Goicoechea said the Legislature was considering a redirection of the governmental services tax (GST) commissions and penalties to the State General Fund and wondered what impact that would have on the agency's construction program.

Mr. Malfabon said that NDOT's budget had been built with that consideration in mind. The Department had federalized many of the expenditures for projects and had built the State Highway Fund up from \$35 million a few years ago to \$215 million in June 2014. He maintained the agency had taken a conservative fiscal approach while delivering some very big projects: Project NEON, the Carson City bypass, the USA Parkway, and the future Interstate 11 Boulder City bypass.

Senator Goicoechea recalled that the Federal Highway Administration's Moving Ahead for Progress in the 21st Century (MAP-21) funding would expire in May 2015 and wondered how NDOT planned to address that change.

Mr. Malfabon replied that U.S. Senator Dean Heller was cochair of a working group in the Senate Committee on Finance that was looking at corporate tax reform as a way to fund the needs of the transportation system. He believed that Congress was going to take appropriate action by passing a short-term extension for highway funding and that Nevada was not at risk of losing federal funding.

Senator Goicoechea asked whether the Department thought that the current \$115 million in unrestricted Highway Funds would be adequate for sustaining one month of operating expenditures and one and one-half months of capital construction program expenditures.

Mr. Malfabon said NDOT believed the Highway Fund was healthy, but he reiterated that he felt it highly unlikely that there would be a shutdown of federal funding.

Senator Goicoechea asked for more detail on the \$3 million the Department was asking for storm water management upgrades and training over the biennium.

Mr. Malfabon replied that NDOT had been audited by the U.S. Environmental Protection Agency (EPA), and the projects and training covered by the request were critical to demonstrating compliance with the Clean Water Act of 1977. The agency was compliant in construction and permitting of contractors doing right-of-way work, involved with water quality improvements in the Lake Tahoe area, and provided public information and outreach. He said that the request also included some facility improvements, including those to address washing out salt and sand during winter operations.

Chair Edwards asked whether the recommended storm water activities would allow the Department to avoid any Environmental Protection Administration (EPA) fines or penalties.

Mr. Malfabon said that all of the proposed efforts would show the EPA that NDOT was changing its culture and holding third-party contractors accountable. By doing so, he said, the agency hoped to avoid any penalties. The Department had received a draft consent decree from the EPA and was working to identify reasonable timelines to deliver on the requirements.

Chair Edwards asked whether the Department had incurred any fines thus far.

Mr. Malfabon responded that there had been no fines assessed, but the draft consent decree stated that if requirements were not met by specified times, the fines could be as much as \$1,000 per day.

Assemblyman Sprinkle, referring to the USA Parkway project, asked whether the \$70 million being requested was in addition to the \$43 million already approved for the project.

Mr. Malfabon explained that the \$43 million previously approved was for purchasing right-of-way for the connection to U.S. Highway 50 from the existing highway and paying for a portion of the improvements on the existing USA Parkway. He said as NDOT had advanced the project, it was anticipating that the construction costs would be about \$70 million.

Assemblyman Sprinkle asked whether the full project was going to cost over \$110 million, and Mr. Malfabon agreed that it would.

Assemblyman Sprinkle requested clarification of the GST commissions and penalties money flow.

Mr. Malfabon replied that the Department tried to keep a year-end balance in the Highway Fund, related to its operating expenses and capital improvement projects, which would be relief in the event of a catastrophic shutdown of federal funding. He reiterated that he did not consider this likely, but NDOT still liked to keep the Highway Fund healthy. The agency had not relied on the additional funding in its budget—the \$58 million of GST commissions and penalties revenue that would normally be in the Highway Fund but was being redirected to the State General Fund. He understood that the state was still facing a General Fund challenge and thought the Department would do fine for one more biennium. He said the hope was that after the next biennium, the revenues traditionally deposited in the Highway Fund would remain there for use on projects.

Assemblyman Sprinkle, noting that NDOT planned to request \$30 million at the April 2015 meeting of the Interim Finance Committee, wondered whether the request was for current capital projects, and Mr. Malfabon responded that it was.

Chair Edwards requested confirmation that the Highway Fund reserve was \$115 million and questioned the purpose of the \$30 million request.

Ms. Denney explained that the current projection was closer to \$120 million, using a guideline of one month of operating expenses and one and one-half months of capital expenditures. She added that the \$30 million was considered when the balance was built, and the agency contemplated that it would need to submit a work program for that amount.

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Senator Goicoechea noted that the concern was that the Highway Fund had been cut by a large amount, and through experience, he had seen that each biennium had required revised calculations and need determinations.

Chair Edwards opened the meeting for public comment. Hearing none, he adjourned the meeting at 10:08 a.m.

RESPECTFULLY SUBMITTED:

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Barbara Williams  
Committee Secretary

APPROVED BY:

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Assemblyman Chris Edwards, Chair

DATE: \_\_\_\_\_

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Senator Pete Goicoechea, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Subcommittees on Public Safety, Natural Resources, and Transportation

**Date:** March 17, 2015

**Time of Meeting:** 8:01 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	Department of Public Safety	Budget Presentation
	D	Department of Transportation	Budget Hearing