

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

**Seventy-Eighth Session
March 31, 2015**

The Committee on Ways and Means was called to order by Chair Paul Anderson at 8:06 a.m. on Tuesday, March 31, 2015, in Room 3137 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. 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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Paul Anderson, Chair
Assemblyman John Hambrick, Vice Chair
Assemblyman Derek Armstrong
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblywoman Jill Dickman
Assemblyman Chris Edwards
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman James Oscarson
Assemblyman Michael C. Sprinkle
Assemblywoman Heidi Swank
Assemblywoman Robin L. Titus

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Stephanie Day, Principal Deputy Fiscal Analyst
Karen Daly, Committee Secretary
Cynthia Wyett, Committee Assistant



Chair Anderson opened the hearing for public comment; hearing none, he closed public comment.

Chair Anderson opened the hearing on Assembly Bill 21.

Assembly Bill 21: Extends the maximum period of maturity for certain special obligation bonds issued to provide funding for highway construction projects. (BDR 35-375)

Robert Nellis, Assistant Director, Administration, Department of Transportation (NDOT), advised that Assembly Bill (A.B.) 21 was previously approved on February 26, 2015, by the Assembly Committee on Transportation. The bill proposed to amend *Nevada Revised Statutes* (NRS) 408.273 to extend the maximum period of maturity for bonds that NDOT could issue from 20 to 30 years.

Referring to the Department's presentation, "Assembly Ways and Means, A.B. 21, March 31, 2015" ([Exhibit C](#)), Mr. Nellis explained that amending NRS 408.273 would permit NDOT to have flexibility in its repayment schedule, potentially lowering the annual payments and protecting the credit rating of the agency.

Mr. Nellis said that the agency's AAA credit rating would be maintained, provided that NDOT's bond payments remained below the maximum annual payment of \$89 million. He advised that the current bond payments were below \$70 million and had been extended through fiscal year (FY) 2026, but the payments on existing bonds should sharply decrease through FY 2026.

Mr. Nellis said that the Department was planning to bond for Project NEON in the current biennium (page 4, [Exhibit C](#)). In the Governor's recommended budget, there was a proposed \$100 million bond sale in FY 2016, as well as another proposed \$150 million bond sale in FY 2017. For the 2017-2019 biennium, he believed that NDOT would propose similar bonding levels in the Governor's recommended budget. The net effect of A.B. 21 would be to reduce total bond payments from a high of \$89 million to \$70 million after FY 2021, and payments would continue to be the same or lower in subsequent fiscal years 2022 to 2039. He pointed out the bill would allow NDOT to bond for \$500 million as a contingency in the budget, but it would keep the agency well below the \$90 million threshold to maintain the AAA credit rating. However, by using the \$500 million bond contingency, the \$90 million threshold would be reached for a short period. He said that the above scenario was using the 20-year bonding, but that A.B. 21 had proposed allowing 30-year bonding.

He believed that NDOT would not propose to lengthen the term of the Project NEON bonds past 20 years.

To conclude, Mr. Nellis advised that A.B. 21 would be an enhancement to the current bond program and would provide an additional tool when the need arose in the future beyond Project NEON. Further, he said that the agency was required to receive approvals from the State Board of Finance and Board of Directors of the Department of Transportation. If there were changes to the Governor's recommended budget, NDOT would seek approval from the Interim Finance Committee as well.

Assemblyman Armstrong asked whether NDOT's credit rating would be lowered if the bill were not passed.

Mr. Nellis replied that NDOT should stay below the threshold for the AAA credit rating level with the passage of A.B. 21, and the Department did not anticipate any change in its credit rating or that it would be lowered.

Assemblyman Armstrong asked whether there were any projects beyond Project NEON for which NDOT would anticipate using bonding.

Mr. Nellis responded that the agency did not foresee a future need beyond Project NEON, but A.B. 21 would allow for the unexpected if there was a need for bonding in the future for other projects. He said that A.B. 21 would give NDOT the flexibility to obtain additional funding in case projected federal funds were not received.

Assemblyman Armstrong asked whether there was a current critical need to change the bonding term from 20 to 30 years or whether the agency anticipated using the 30-year bonding tool in future biennia.

Mr. Nellis affirmed that Assemblyman Armstrong was correct: there was not a current need, and the 30-year bonding could be used in the future. He stressed that interest rates would be an unknown factor in the future. The Department's plan was to issue bonds over the next four years. He said that if interest rates were to sharply increase in the future, A.B. 21 would ensure that NDOT would not exceed the threshold that would affect its AAA credit rating.

Assemblyman Kirner asked whether A.B. 21 would affect how much the Department could bond by moving from a 20-year to a 30-year bonding term.

Mr. Nellis responded that the 30-year bonding term would not affect the agency's ability to bond. The agency could maintain the AAA credit rating or

a lowered credit rating with a senior lien bond, which was equivalent to a first mortgage. Further, NDOT could exceed the AAA credit rating when required and could be approved for a secondary lien debt, which was equivalent to a second mortgage at a higher interest rate. He pointed out that NDOT could obtain additional bond capacity, but that would be at the will of NDOT's Board of Directors, the State Board of Finance, and the Legislature.

Assemblywoman Dickman asked whether there would be a difference in the interest rate between a 20-year and a 30-year bond.

Mr. Nellis responded that NDOT's financial consultants had projected the difference could be between 0.50 percent and 2 percent, which could result in a variance of about 1 percent.

Assemblywoman Kirkpatrick said she supported A.B. 21 rather than the private-public partnership (P3) that had been presented in the past. She said that A.B. 21 could provide the Legislature the oversight needed on how the funding was expended and whether the bond ratings would be affected.

Mr. Nellis disclosed that NDOT had considered a P3 model in the past, but that involved accepting private-sector funding. With the passage of A.B. 21, he said the agency would have more control over its funding, and there would be no need to rely on other parties for funding outside state government.

Assemblywoman Bustamante Adams asked what authorities were required to approve NDOT's funding.

Mr. Nellis responded that NDOT was required to get approvals from the Department of Transportation's Board of Directors and the State Board of Finance through the Office of the State Treasurer.

Assemblywoman Carlton said she agreed with Assemblywoman Kirkpatrick that the bill provided a preferable method of funding. However, she was concerned that the state would be paying off the bonds about the same time the road project would need to be repaired. She asked whether there could be a blend between the maintenance and payment schedules; she did not want maintenance deferred because NDOT was still paying the debt obligation on previous road repairs.

Mr. Nellis advised that, according to NDOT engineers, the duration of a road project could be 20 to 50 years, depending upon the bridges and roads being constructed. Whether there was a need to complete further road repairs or to construct additional projects, he said there would be ample bonding capacity

after FY 2021 for new projects, depending on the will of the Legislature, the NDOT Board of Directors, and the State Board of Finance. He believed that there would be sufficient bonding capacity for other construction projects and existing road repairs.

Chair Anderson summarized that the Department currently did not need to bond to the 30-year bonding capacity, but that NDOT sought the flexibility in the future. He asked about NDOT's cost projections for the 20- to 30-year bonding period and whether the bonds would affect the Department's long-term bonding capacity. He wanted to know what the cost implications were on a long-term basis, with the interest rate variances from 0.50 percent to 2 percent, and how the costs would affect the bond capacity moving forward.

Mr. Nellis responded that the agency had used 20-year bonding for a period of time, and he cited examples of current outstanding bond terms, which were between 7 years and 20 years, and recently retired bonds of 15 years and 10 years. Since NDOT had been issuing 20-year bonds for some time, he said that the agency worked diligently with the Treasurer's Office to pinpoint the sweet spot [most favorable interest rate], the amount of repayment that could be afforded, and the suitable term when no additional interest was paid. He emphasized that when necessary, NDOT would pay more up-front on the bond or request a lesser term for the bond. He noted that NDOT had bonded to the maximum term of 20 years when needed, but in the future, he did not anticipate extending payments to the maximum term.

Chair Anderson asked whether NDOT could determine the appropriate amount of repayment, which included the interest rate and how much up-front payment could be made.

Mr. Nellis pointed out that interest rates were currently low, and the bonding for Project NEON was at an appropriate time. However, if interest rates were to rise to double digits in the future, then the Department might decide to not bond for such a project. Assembly Bill 21 would permit NDOT to maximize the bonding market now and maintain the bond level for the AAA credit rating. [The agency could repay as much as it could afford as early as possible, which would reduce the repayment amount.] He advised that A.B. 21 would allow NDOT to use the funding for upcoming projects instead of using the funds to pay off old bond debt.

Assemblywoman Benitez-Thompson recalled that the bonding level for NDOT was changed from 10 to 20 years in 1999. She noted that NDOT had used the full bonding capacity of 20 years in two instances, and she believed that the agency had used that bonding length judiciously in the past.

Mr. Nellis responded that during the last \$100 million bond sale for Project NEON, NDOT had planned to obtain a 20-year bond. However, the Treasurer's Office, along with NDOT's financial advisors, reviewed current interest rates, market conditions, and the proposed length of the bond. When the agency was ready to do the bond sale, the Treasurer's Office again considered the conditions in the bond market, NDOT's current outlay of maximum payments, and the negotiated term of the bond. With the Treasurer's Office support, he said NDOT negotiated a 12-year bond instead of a 20-year bond, which was what the agency could afford at the time.

Chair Anderson asked for testimony in support of A.B. 21.

Lori Chatwood, Deputy Treasurer—Debt Management, Office of the State Treasurer, said that the Treasurer's Office was in support of A.B. 21. She testified that the Treasurer's Office considered the bill to be another tool to move large construction projects forward, in addition to a highway tolling system or public-private partnerships (P3). She advised that the bonding capacity from 20 to 30 years would permit the bonding to be competitive when the analysis was completed on the cost portion of a project. She pointed out that there were reasons that the Legislature might want to use a highway tolling system or P3 on large projects.

Ms. Chatwood said that A.B. 21 could be used as a tool that would allow the state to analyze the bonding capabilities under the same parameters of a longer amortization. When bonding was being considered, the Treasurer's Office would analyze the overall program, upcoming projects for NDOT, when the funds were needed, how much funding was needed, how much the agency could afford, and where the "pinch points" [the point at which debt service reached the working debt limit] was in the bond market. Between FY 2019 and FY 2021, she said that the pinch points would be high but would level off. She said the Treasurer's Office considered how the pinch point could be leveled in the future and what the sweet spot was in the bond market. In some cases, the short-term funding was inexpensive, and at times, long-term funding costs were reduced, which were good reasons to bond for a longer period. She noted that every time a bond came before the Treasurer's Office for issuance, program needs and financing were reevaluated.

Mr. Nellis advised that A.B. 21 would bring the agency into alignment with local governments that currently issued 30-year bonds.

Hearing no response to his request for testimony in opposition to or neutral on A.B. 21, Chair Anderson closed the hearing on A.B. 21 and opened the hearing on Assembly Bill 465.

Assembly Bill 465: Makes a supplemental appropriation to the Department of Public Safety for projected costs for visiting dignitary protection assignments. (BDR S-1247)

Brian Sanchez, Assistant Chief, Nevada Highway Patrol (NHP), Department of Public Safety, presented Assembly Bill (A.B.) 465, which requested a supplemental appropriation of \$20,000 from the State General Fund to support dignitary protection efforts.

Assemblywoman Titus asked whether the expected projected increase in dignitary expenses were because of the upcoming Presidential election.

Mr. Sanchez responded that the request was for current expenditures this fiscal year for events that had already occurred. As an example, the Vice President had visited Las Vegas, and there was an extended Presidential visit to Las Vegas as well.

Assemblyman Kirner asked, when the Vice President attended an event in Las Vegas, whether protection was a state obligation or whether the federal government reimbursed the Department.

Mr. Sanchez said that the obligation of the agency was to provide protection to the dignitaries, and currently there was no mechanism for NHP to be reimbursed. In the past, the agency had not explored reimbursement from the federal government.

Assemblyman Kirner asked whether there would be any dignitaries visiting Nevada in the next biennium for the Presidential election and, if so, whether those funds would be included in the budget.

Mr. Sanchez responded that NHP was prepared for and had budgeted for the Presidential election and visits from dignitaries during the next biennium.

Assemblywoman Dickman asked why NHP had not explored federal reimbursements.

Mr. Sanchez responded that he was unaware of any mechanism to receive reimbursement from the federal government for protection of visiting dignitaries.

Assemblywoman Carlton commented that during the early phases of the Presidential election, dignitary protection provided was at one level. However, once the party nominations were identified and the dignitaries were officially running for office, the level of protection changed. She stated that not all

dignitaries received the same level of protection. The agency coordinated with the federal government because there was a point in time when there would be federal protection for candidates, and Nevada agencies would not provide the sole protection for the candidates.

Mr. Sanchez replied that Assemblywoman Carlton was correct. There were many protection efforts afforded to dignitaries, which would adjust throughout the election process. Depending upon who the visiting candidate was, the candidate could have his or her own federal protection, which could include the United States Secret Service. He reiterated that not all candidates received NHP personnel assigned to them.

Assemblywoman Titus asked whether officers on duty during a dignitary visit would be reassigned to the dignitary protection for the candidate or for traffic control, which would result in increased overtime costs for NHP.

Mr. Sanchez confirmed that Assemblywoman Titus was correct. NHP personnel would be taken off regular assignments and reassigned to protective detail, which increased costs incurred by the agency.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, noted that A.B. 465 suggested that NHP was State General Fund supported. However, she clarified that NHP troopers were typically paid from the State Highway Fund and the State General Fund provided funding to support the dignitary protection detail. She said that there was a mechanism in the budget for costs associated with dignitary protection. The costs were moved into a separate budget category that was easier to track, so the costs supported by the General Fund for the fiscal year were known.

Hearing no response to his request for testimony in support of or in opposition to the bill, Chair Anderson called for public testimony. There being no public testimony, he closed the hearing on A.B. 465 and opened the hearing on Assembly Bill 469.

Assembly Bill 469: Creating the Office of Finance in the Office of the Governor.
(BDR 18-1180)

Jim R. Wells, C.P.A., Interim Director, Department of Administration, presented Assembly Bill (A.B.) 469 that would carry out part of the Governor's recommended budget. He said that A.B. 469 would create the Office of Finance in the Office of the Governor, which would consist of the Budget Division and Internal Audits Division that were currently part of the

Department of Administration. The other divisions within the Department of Administration would remain in place:

- Administrative Services
- Enterprise Information Technology Services (EITS)
- Fleet Services
- Office of Grant Procurement, Coordination and Management
- Hearings
- Human Resource Management (DHRM)
- State Library and Archives
- State Public Works
- Purchasing
- Risk Management

Mr. Wells said that creation of the new agency was discussed at the Department of Administration's budget hearing on February 6, 2015, before the Assembly Committee on Ways and Means and Senate Committee on Finance, Subcommittees on General Government. At the hearing, several reasons were given for separating the agency into the proposed Office of Finance and the Department of Administration. He noted that separation of the two agencies would eliminate potential or perceived conflict of interest matters among the budgeting activities and oversight of the various divisions within the Department of Administration. In addition, he said that it was important to ensure that the remaining divisions received adequate oversight from the Director of the Department of Administration.

Mr. Wells pointed out that the Director of the Department of Administration also served as the Chief of the Budget Division for the state, and approximately half of the Director's time was consumed with creating and moving the Governor's budget through the legislative cycle. The Director of the Department of Administration was focused solely on creating and presenting the budget for 10 to 12 months out of each biennium, which resulted in a gap for the Director to provide adequate oversight to the remaining divisions in the Department. By creating the new agency in the Governor's Office, Mr. Wells explained that the budget and priorities would be recognized as those of the Governor when submitted to the Legislature.

Mr. Wells summarized A.B. 469 for the Committee:

- Section 2 created the Office of Finance that consisted of the Budget Division and the Division of Internal Audits.

- Section 3 provided for the appointment of the Director of the Office of Finance in the unclassified service of state government.
- Section 4 would allow for the appointment of a Chief of the Budget Division or for the Director of the Office of Finance to serve in that capacity.
- Section 5 would allow the Director to appoint an Administrator of the Division of Internal Audits in the unclassified service.
- Section 6 would allow the appointment of a Deputy and a Chief Assistant for the Budget Division and the Internal Audits Division.
- Section 7 would place staff of the Office of Finance into the nonclassified service that would serve at the pleasure of the Governor.

Mr. Wells said that the intent of the A.B. 469 was to leave the Director, the Deputy Director, the Administrator, the Deputy Administrator, and the Chief Assistants in the unclassified service in the Department of Administration, and the remaining employees would continue in the classified service. He pointed out that section 7 was in conflict with sections 3 and 5, and the bill would need to be amended to remove the conflict.

- Sections 8 through 12 would remove the Budget Division and the Internal Audits Division from the Department of Administration.
- Section 13, page 5, provided for the Administrative Services Division, Department of Administration, to be responsible for the accounting services for the newly created Office of Finance.
- Sections 14 and 15 on page 6 provided for the transition of *Nevada Administrative Code* (NAC) regulations, contracts, and other applicable actions to the new agency.
- Section 16 allowed the Legal Division of the Legislative Counsel Bureau to make conforming changes and substitute the appropriate name of any agency or officer in the *Nevada Revised Statutes* and *Nevada Administrative Code* revised by this bill.

Assemblywoman Kirkpatrick asked whether the qualifications section for the Chief of the Budget Division would be removed by page 4, line 10, of the bill, and she wondered where the qualifications were now located for the same position that had been included in NRS 232.215.

Mr. Wells responded that the current language describing the qualifications for the Chief of the Budget Division was added to NRS Chapter 223, Governor, as shown in section 4, subsection 1, of the bill. This language would require the Director of the Office of Finance to have the same qualifications previously required by NRS 353.175 if the position were to also serve as the Chief of the Budget Division. He said that the qualifications section was removed from NRS Chapter 232, State Departments, and added to NRS 223, Governor. The classified staff, which included the current Budget Analysts, would remain in their current classifications as approved by the Division of Human Resource Management (DHRM).

Assemblywoman Kirkpatrick asked whether the current positions in the Budget Division and the Internal Audits Division would be placed in a different office under the name of the Office of the Governor, Office of Finance, and she questioned whether the positions would be isolated to focus on the prelegislative budget process.

Mr. Wells responded that A.B. 469 would remove the staff of the Budget Division and the Internal Audits Division and incorporate them into the Office of Finance, Office of the Governor. Once the two divisions were incorporated into the Office of the Governor, he said the Department of Administration would consist of the remaining ten divisions, as well as a new Director and Deputy Director position.

Assemblywoman Kirkpatrick asked what position in the new Office of Finance the legislative staff would be working with to get questions answered. She had concerns about the long-term implications of the move and wanted to know what the expectations would be for the Legislature to navigate through the new Office of Finance.

Mr. Wells agreed that the Department of Administration needed to continue to work cooperatively with the Legislative Counsel Bureau (LCB), Fiscal Analysis Division, as well as the members of the Legislature. He said that the intent of A.B. 469 was not to make the process more difficult. He pointed out that LCB Fiscal Analysis Division staff would continue to work directly with their counterparts in the new Office of Finance, as they currently did with the Budget Division. Because the Budget Division staff would be part of the Office of the Governor, he said that there would be direct support for the budgeting process, and interim session budgetary activities would begin earlier by being prioritized.

Assemblyman Edwards asked for clarification regarding the conflict of interest and what a conflict of interest would be for the Department.

Mr. Wells advised that in his capacity, he served two roles for the Department of Administration: Director of the Department of Administration and the state's Budget Director. When a work program for the Purchasing Division was submitted to the Budget Division, he had oversight of the Purchasing Division that submitted the work program, as well as the Budget Division that could potentially ask questions of the Purchasing Division concerning the changes requested. Another example was that he had oversight over the Division of Internal Audits, which would review the processes of the Fleet Services Division, and both divisions reported to the Director of the Department of Administration. He said that there might not appear to be an actual conflict, but it could be a perceived conflict that the Fleet Services Division was receiving preferential treatment from the Division of Internal Audits because both divisions reported to the same Director.

Assemblyman Edwards asked whether the Department of Administration needed a new type of Deputy Director rather than a new office.

Mr. Wells responded that there was currently a provision in *Nevada Revised Statutes* (NRS) 232.215 that permitted the appointment of a Chief of the Budget Division. He said that there was never a separation of duties between the Budget Director, who oversaw the Budget Division, and the Director of the Department of Administration, because in the past, a single individual held both positions. He asserted that there had been no budgetary authority to include the extra position, Chief of the Budget Division, within the office.

Assemblyman Edwards asked whether a better solution would be to have an additional person in the office to serve as the Budget Director.

Mr. Wells responded that the costs would be almost the same, and having an additional person serve as the Budget Director was a possible solution. He advised that the Budget Division was adding two positions because of the proposed Office of Finance: the Director position for the Department of Administration and an Executive Assistant.

Assemblywoman Carlton said that she did not understand the conflict of interest within the Department of Administration and the Budget Division, and she described the Legislative Counsel Bureau, Audit Division, and how the work was accomplished with no conflict of interest. She was concerned with the cost, because each state agency received a cost allocation for the Department of Administration. She asked whether there would be a shared cost among the agencies for the proposed Office of Finance. She commented that each time a new agency was created, state agencies were required to pay additional funds, which resulted in less capital for the core function, the employees, and

benefits for the employees. She asked whether a new 800-series cost allocation would be established that would reduce the current funding streams. She wanted a discussion about the funding behind A.B. 469.

Mr. Wells responded that the current cost allocation for the Department of Administration Director's Office, would continue for the remaining ten divisions within the Department of Administration, and the new Office of Finance would become a stand-alone agency. There was currently no intent to create a separate physical location for the Department of Administration, but the agency would be working within the space allocated to reorganize and create a separate entryway for the two different offices. The office space would remain the same.

Assemblywoman Carlton stated that a cost allocation for each division in the Department of Administration was a line item in each agency's budget. She asked whether there would be a new line item for the Office of Finance or whether the Department of Administration and the Office of Finance would share the administration and funding that had been established for the Department of Administration, which might be considered a conflict of interest.

Mr. Wells responded that Assemblywoman Carlton was referring to the Statewide Cost Allocation Plan (SWCAP) line item. He said that SWCAP was allocated to a variety of diverse elements across the state agencies, and the allocation would not change because of A.B. 469.

Chair Anderson said that there was an appropriation of \$207,578 for fiscal year (FY) 2016 and \$209,003 for FY 2017 in the Governor's recommended budget to fund an unclassified Director and a classified Administrative Assistant in the Office of Finance. He asked whether the funding for these two positions would change the cost allocation overall.

Mr. Wells responded that the positions would be funded from the State General Fund, and that the SWCAP was allocated for the cost of central services to non-General Fund agencies. He said that the allocation might change microscopically, but the vast majority of the funding for the Office of Finance would not be reflected in a change to the SWCAP.

Chair Anderson commented that the two positions, the State Budget Director and the Director of the Department of Administration, were in NRS, and in the past, one individual had filled the two positions.

Mr. Wells confirmed that Chair Anderson was correct. He responded that both the Director of the Department of Administration and the Chief of the Budget Division had always been filled by a single individual.

Chair Anderson asked whether the Department would be recruiting to fill the Chief of the Budget Division position, as well as provide administrative support to the position.

Mr. Wells stated that Chair Anderson was correct.

Assemblywoman Benitez-Thompson asked for clarification on A.B. 469, section 2, regarding the Office of Finance and the State Budget Act [NRS 353.150 to 353.246 inclusive]. As an example, she asked about the current appointments to the State Board of Examiners or the Economic Forum and how those appointments would be handled through the Office of Finance. She questioned whether the new Director of the Office of Finance position would be filled by an individual who was currently in the Budget Division or whether the position would functionally change for the individual who currently had those responsibilities.

Mr. Wells said that the staff at the Budget Division had reviewed each section of NRS to determine whether an individual was assigned, for example, to the State Public Works Board. The responsibilities were reviewed for appointments to the various boards, and it was determined which responsibilities would continue within the Department of Administration or moved to the Office of Finance. He said that the Budget Division had compiled the information for which of the agencies had the responsibilities, and the Department would work with the Legislative Counsel Bureau, Legal Division, when A.B. 469 was applied and codified into NRS, as to which responsibility would go to which director.

In the absence of Chair Anderson, Vice Chair Hambrick assumed the duties of the Chair.

Assemblywoman Benitez-Thompson asked for clarification regarding the State Budget Act, NRS 353.150 through 353.246. If the bill passed, she asked whether the same individual who was currently in charge of the budget responsibilities would continue to handle those tasks or whether a new hire would assume the budget responsibilities.

Mr. Wells responded that the new Office of Finance would take over the administration of NRS 353.150 to 353.246, the State Budget Act, and that those responsibilities in NRS would be removed from the Department of Administration's responsibilities.

Assemblywoman Kirkpatrick asked for specifics regarding the current positions and where the positions would reside in the newly created Office of Finance, such as the Director of the Department of the Administration.

Mr. Wells reiterated that he currently served as both the Director of the Department of Administration and the State Budget Director. There were two deputy directors: one over the Budget Division and the other over the remaining divisions in the Department of Administration. If A.B. 469 were to pass, Mr. Wells would remain in one of the two Director positions, and the Governor would appoint another individual as the Director of the other department.

Assemblywoman Kirkpatrick asked whether one of the Deputy Directors would be promoted or whether a new hire would fill the other vacant Director position.

Mr. Wells responded that an assumption could be made that a current Deputy Director would be promoted to the Director of one of the agencies, which would result in a Deputy Director vacancy. Because of the agency split, there would be one additional position at the top management level.

Assemblywoman Kirkpatrick asked whether the position was in the Governor's recommended budget, and Mr. Wells said that was correct.

Assemblyman Edwards noted that Assembly Bill (A.B.) 300 would create the Office of the Inspector General, and he asked whether that position, if approved, would report to the Director of the Department of Administration. He questioned whether there were concerns about a conflict of interest if the position was located in the Governor's Office.

Mr. Wells responded that the position would likely be within the Division of Internal Audits in the Office of Finance, Office of the Governor.

Assemblyman Edwards asked whether the new position would create a conflict in the new Office of Finance.

Mr. Wells responded the main purpose of A.B. 300 was to move the Division of Internal Audits out of the Department of Administration and to remove any potential of perceived conflict. He said that there was a perception that a conflict of interest could occur within the Department of Administration.

Assemblywoman Titus asked what the perceived need was for these changes, because the proposal could result in additional cost with an extra layer of management.

Mr. Wells responded that he had been in the Director position for a month. Therefore, the decisions regarding the split of the Department of Administration were made before his arrival. He believed that the reason for the split was the conflict of interest concern and the need to dedicate additional resources to the operations of the remaining divisions in the Department. There were currently 12 divisions and over 560 positions in the Department of Administration. When the Director devoted almost 12 months to creating, reviewing, and vetting the Governor's budget proposal and presenting those proposals throughout the legislative session, it was difficult to focus on the operations of the other divisions during that time.

Michael J. Willden, Chief of Staff, Office of the Governor, testified that he could provide insight as to how the budget was prepared for the biennium. He explained that two departments were considered for reorganization by the Governor's Office: the Department of Health and Human Services (DHHS) with 5,500 employees, and the Department of Administration. However, DHHS was too large to accomplish reorganization this legislative session, but it could be brought to the Legislature next session.

Regarding the Department of Administration, Mr. Willden advised that the Director of the Department held two positions: Director of the Department of Administration and the Chief of the Budget Division. He said that the Director could devote approximately 75 percent of his time to the budget. As an example, the budget process began in March 2014 and would continue through July 2015, with the State Budget Director working almost full-time on the budget. Therefore, the other 11 divisions in the Department did not get the attention of the Director, but instead had the attention of the Deputy Director.

Mr. Willden said that A.B. 469 was an effort to take one individual who held two positions in NRS and create a split in the Department so the individual could hold just one position. The position would be focused on the finance and audit functions of the state. He said that the Director of the newly created Office of Finance would have 21 staff in the Budget Division and 13 staff in the Division of Internal Audits. The Office would be relatively small, but it would be powerful in determining the Governor's budget. He said Mr. Wells would assume the position of the Director for two divisions: Budget and Internal Audits. The position of the Director of the Department of Administration would be vacated, and the current Deputy Director would remain in place. He said the vision was for the Department of Administration to have a Director and a Deputy Director, and the new Office of Finance would have a Director and a Deputy Director as well.

Mr. Willden further explained that if the Inspector General legislation (A.B. 300) were passed, the position would be located in the new Office of Finance. The new position would have the necessary independence, and there would no longer be one Director who could be in conflict with determining the budget and overseeing expenditures of another division that would be under the purview of the same Director. As the Director of DHHS, he had been in charge of both the hospitals and the compliance investigators who ensured that the hospitals complied with NRS. He thought that there was an inherent conflict of interest, and that the public was aware that the Director was in charge of the two functions. It was not a comfortable position to be in, and those functions should be separated as well.

Vice Chair Hambrick asked for testimony in support of or in opposition to A.B. 469. Hearing none, Vice Chair Hambrick closed the hearing on A.B. 469 and opened the hearing on Assembly Bill 470.

Assembly Bill 470: Revises provisions governing the base for allocating costs of the Division of Human Resource Management of the Department of Administration to state agencies. (BDR 23-1156)

Jim R. Wells, C.P.A., Interim Director, Department of Administration, explained that Assembly Bill (A.B.) 470 would amend provisions in *Nevada Revised Statutes* (NRS) 284.115 for the allocation of personnel and payroll assessments to the various agencies in the state. The allocation of costs for the Division of Human Resource Management (DHRM) was based on the percentage of gross salaries, and A.B. 470 would remove the requirement to base the assessments on the percentage of annual salaries. He stated that A.B. 470 would allow DHRM flexibility to determine the most equitable allocation of its costs and would permit the Division to allocate costs based on full-time-equivalent (FTE) positions, as opposed to annual salaries. The cost allocation by FTE positions would be mostly aligned to the consumption of resources. It would cost DHRM the same amount to process a piece of paper for an employee who made \$75,000 and an employee who made \$35,000. Furthermore, when state departments were more weighted toward higher-salaried employees, Mr. Wells said that those departments paid a disproportionate amount of the assessment for payroll and personnel services. Other departments that were primarily staffed with lower-salaried classified employees paid a disproportionately lower allocation to DHRM. By removing the provision, DHRM could make a more equitable allocation to all of the agencies based on the number of FTE positions.

Mr. Wells added that a decision unit in the DHRM budget would account for the programming modifications to make the change in the cost-allocation system.

Assemblywoman Carlton asked whether there was a formula available on how the cost allocation would be accomplished and what the proposed formula would be.

Mr. Wells responded that the DHRM budget was the only internal service fund with a prescribed allocation method included in NRS. As an example, the methodologies behind the cost allocations for the Purchasing and Risk Management Divisions' assessments were not included in NRS. He said that the intent of A.B. 470 was to move the current cost allocation to a FTE-position distribution that would be based on the number of positions in each department.

Assemblywoman Carlton asked whether the cost allocation would be the number of FTE positions, multiplied by a rate set by the Legislature, which would determine the amount of funding that DHRM would receive.

Mr. Wells confirmed that Assemblywoman Carlton was correct.

Assemblywoman Carlton said she was concerned about the new proposed methodology, and she would review the history of the current cost allocation. The current allocation method was completed some time ago, and she wanted to understand what effect the new allocation method would have on agencies.

Mr. Wells responded that DHRM personnel services included compensation, classification, recruitment, employee development, employee management services, and the Equal Employment Opportunity Office. Once the budget for personnel services was calculated, the budgeted amount would be divided by the gross salaries of the legislatively approved budget, which would determine the rate that would be charged to each agency. Under the proposed scenario, he said DHRM would divide the budget amount by the number of FTE positions and then allocate the rate to the different agencies based on their number of FTE positions.

Assemblywoman Carlton asked whether there would be less funds to operate DHRM because the multiplier would cost the different agencies less.

Mr. Wells responded that the DHRM budget would remain the same, and the same amount of funding would be collected from the agencies. The methodology would change on how much DHRM collected from the various agencies.

Assemblywoman Carlton asked whether the funding would remain the same, but the costs would shift from one agency to another. She asked which agencies would be affected by the change in the allocation and which agencies would be paying a higher rate.

Mr. Wells responded that departments with a disproportionate number of highly compensated employees currently paid more than they would under an FTE position count in the allocation. An agency that had a disproportionate number of lower-salaried classified employees paid a lower amount. He did not have the proposed cost allocation for each agency, but he stated that Assemblywoman Carlton was correct. The proposed allocation method was more equitable because the DHRM resources being used to fill positions, conduct recruitments, and process paperwork were the same regardless of the salary of the employee.

Assemblywoman Carlton pointed out that the Nevada Highway Patrol (NHP), Department of Public Safety, had employees with 20 to 25 years of service, but they were not the highest paid in the state. The Department of Motor Vehicles (DMV) had a 25 percent turnover rate, with each employee starting at a new level, and the number of DMV employees outweighed the number of NHP employees. She asked whether the new allocation would shift the cost so that NHP would have more funds available because it would be paying less, but DMV would be adversely affected with more funds coming out of its budget, which would mean that DMV would have to do less with the funding available.

Mr. Wells stated that the scenario given by Assemblywoman Carlton, if accurate, would be a correct analogy. If NHP had higher-paid, long-term employees and higher annual gross salaries than the DMV, NHP would be paying a greater assessment to DHRM than DMV under the current methodology. Under the proposed FTE position-based methodology, NHP would pay a reduced amount because it had fewer employees than DMV.

Assemblyman Kirner said that he understood the concept of A.B. 470. He believed that Assemblywoman Carlton's assessment of the costs shifting from one department to another was correct. He asked whether DHRM had reviewed the budgets for each department to understand what the material changes would be. As an example, he said that the Office of the Attorney General (AG) had many highly paid professionals, and the DMV did not have as many highly paid employees, so cost-shifting would be taking place. He asked how much of the analysis had been completed to understand the cost implications of the bill.

Mr. Wells responded that there had been some analysis of the changes in the assessment methodology and the effect on the individual agencies. He said that two parts of the analysis had been completed: DHRM would shift the costs from percentage of gross salaries to a FTE position-based allocation, and unclassified employees had not been included in the current calculations. The analysis that included the unclassified employees in the calculations would result in the Attorney General's Office paying a higher allocation because many of its unclassified positions were exempt from the current approach. He said that an agency with a high number of unclassified employees, such as the Attorney General's Office, would have one of the largest assessments in both funds and percentages. He stated that DHRM would provide a copy of the analysis to the Legislative Counsel Bureau, Fiscal Analysis Division, and that the new allocation would not be a significant shift in either direction for most other departments.

Assemblyman Kirner said that the information would be helpful for legislative staff. There had been a lot of discussion in the subcommittees' budget hearings about the Office of the Attorney General's allocation charged to the agencies. If DHRM raised the allocation to the Attorney General's Office and the Attorney General's allocation to the various agencies subsequently increased, he asked whether that would result in a domino effect in the agencies.

Mr. Wells agreed with Assemblyman Kirner that there had been complaints concerning the AG's Office cost allocation. He advised that during the interim, DHRM would be reviewing the cost-allocation methodologies to ensure that each was equitable and appropriately charged against the agencies for services.

Assemblywoman Benitez-Thompson requested a copy of the DHRM analysis that was completed, and she asked whether the unclassified salaries were included in the current analysis or only in the proposed language in A.B. 470.

Mr. Wells responded that unclassified personnel were currently excluded from the cost-allocation calculation, which was why the Attorney General's Office was paying a lower personnel and payroll assessment. Under the proposed methodology, all classified and unclassified positions would be included in the calculation.

Assemblywoman Benitez-Thompson said that the DHRM analysis would provide the Committee a better understanding of how the new cost allocation would be charged to each agency.

Assemblywoman Kirkpatrick asked why the new cost allocation was being proposed.

Mr. Wells responded that the primary reason for the proposed new cost allocation was to ensure equity among the departments. As an example, when central records processed a piece of paper, the cost was the same regardless of the employee's salary. Therefore, when the cost allocation was based on a percentage of salaries, a specific agency would pay a higher assessment because its employees earned \$60,000 rather than the actual cost of the service, but an agency with employees that earned \$30,000 would pay a reduced cost for that service.

Assemblywoman Kirkpatrick said that when a budget was prepared, higher salaries would be considered. As an example, she said that in her position outside of the Legislature, there were individuals who were higher salaried than she, but that did not mean the paper being processed would have a different cost. Therefore, all of the salaries should be taken into account. Assemblywoman Kirkpatrick understood the equity concern among the departments, but she did not agree with the proposal.

Assemblywoman Dickman asked who would benefit the most from the proposed allocation changes—the department that had fewer employees with high salaries or the department that had more employees with lower salaries.

Mr. Wells responded that under the current cost-allocation methodology, a small agency with highly compensated employees paid more than it would under the alternate method proposed in A.B. 470. Agencies with a large number of lower-paid employees currently paid less than they would under the alternate method proposed in A.B. 470.

Assemblywoman Bustamante Adams understood why DHRM was proposing an alternative method to calculate the cost allocation. She asked whether DHRM had considered only the two options, or if other options were considered that other states had used to make the allocation more equitable.

Evan Dale, Administrator, Administrative Services Division, Department of Administration, responded that if the current constraints could be removed from statute, DHRM could review other methods to achieve a more equitable distribution of costs, such as allocating some costs based on Employment Status Maintenance Transaction (ESMT) forms processed or the number of recruitments requested. He said that DHRM had not ventured into exploring different alternatives because statutes were in place requiring the allocation based on gross salaries. He added that the statutes, as written,

required DHRM to develop a rate and then charge that rate to each agency. He noted that the Judicial and the Legislative Branches did not pay the established rate, and thus DHRM had already shifted from NRS to accommodate its customers' needs. He said part of the request for A.B. 470 was to update NRS to conform to what DHRM had been asked to do. He pointed out that the other internal service funds did not have their allocation base specified in NRS, and the bill would ensure that DHRM was consistent with the other internal service funds. Mr. Dale stated that the agency would be allowed to use the cost-allocation methodology that was the most equitable and acceptable among DHRM customers.

Assemblyman Armstrong asked how long the current cost-allocation method had been used by DHRM.

Mr. Dale replied that he did not know how long the current allocation method had been in place.

Assemblyman Armstrong asked whether another department had come forward and determined that the cost allocation was inequitable, which contributed to the Department's decision to bring A.B. 470 forward, or if the Department of Administration initiated the bill on its own.

Mr. Dale believed that when he started working on the agency accounts for the cost allocation, he realized that concessions had been made to the Judicial and Legislative Branches and there was a conflict in NRS. He had attempted to reconcile the differences, but there was certainly unfairness in charging agencies additional funds because of higher salaries. As a government accountant, he strived to ensure that the allocations were fair, equitable, and defensible. Through the cost allocation, DHRM wanted to encourage behavior that was consistent with the economy. Mr. Dale stated that the cost allocation should be based on the amount of paperwork that DHRM processed for an agency, and A.B. 470 would move in that direction.

If DHRM were to define another cost allocation method in the future, Assemblyman Armstrong asked whether A.B. 470 would be amended to reflect the new FTE position methodology. If either method was not used, he questioned whether an unknown allocation method could be used that was not described in the bill.

Mr. Dale pointed out that the other internal service funds in the Department did not have the cost-allocation methodologies specified. Therefore, when the allocation was specified in statute, the Department had constraints in developing a new cost-allocation method. He said that DHRM would prefer not

to be required to charge every agency in the state for a new service. The DHRM wanted flexibility in determining a cost allocation to seek equity among agencies, which would be fair and defensible. As an example, Mr. Dale said that the Division of Enterprise Information Technology Services (EITS), Department of Administration, used approximately 60 to 70 different cost-allocation streams, which was sensible and reasonable. The EITS cost allocations were based on the number of minutes used in a central processing unit chip or the amount of data hosted on a server. The Division was permitted to use an allocation method that was sensible and could be understood by the customers. He said that with the passage of A.B. 470, DHRM would have the same flexibility.

Assemblywoman Kirkpatrick asked why there were different DHRM cost-allocation rules for the Legislative Counsel Bureau (LCB).

Mr. Dale responded that the LCB did not use most of the services offered by DHRM. Therefore, he believed that LCB had a valid argument that it should not have to pay for the majority of the services provided, but it was difficult to charge a fair and equitable amount based on the current NRS. The way in which the statutes were written, LCB would be charged the same rate based on gross salaries as other agencies. As an example, the LCB did not use DHRM services for harassment investigations and training, which were a large portion of the personnel assessment. With passage of A.B. 470, he noted, DHRM would be able to accommodate LCB.

Assemblywoman Kirkpatrick asked whether the cost-allocation modifications could be completed through the *Nevada Administrative Code* (NAC) instead of revising NRS. Once the cost allocation was in NRS, it was difficult to change, but there could be further discussion through regulation and a better way could be found to allocate based on the services provided.

Mr. Wells responded that DHRM had started a new service after the 2011 Legislative Session that was called agency human resource services (AHRM). The AHRM section of DHRM would act as the personnel section for the smaller departments in the state. With the current allocation specified in NRS, all of the state agencies would be required to pay a percentage of gross salaries when, in fact, the cost allocation for agency human resource services would be used by a small number of divisions and departments. Therefore, DHRM had allocated the costs for the new service based on FTE positions in the participating agencies. Mr. Wells further stated that it would be inappropriate for the AHRM section to allocate on a percentage of gross salaries. He contended that the intent was that the correct allocation method should be based on the number of documents or recruitments processed

through DHRM, because those were actual costs incurred by DHRM. Mr. Wells explained that an agency with a stable workforce that did not use the majority of the services would continue to pay more under the gross salaries allocation than it had used in services. As the Division continued to review the cost-allocation methods for the divisions in the Department of Administration, he said there could be better cost-allocation methodologies developed. The cost allocations were currently being reviewed to ensure that the charges to the customers were reflective of the services being used.

Assemblywoman Kirkpatrick stated that the process of reviewing the Department's cost-allocation methods made sense and would provide a better dialogue than just changing the cost-allocation method for DHRM. She said that there was ample time to consider other options as well.

Assemblywoman Titus was concerned that the law was being changed based on one department's problem, and that DHRM was not providing an open dialogue for other departments that might use only one service and pay a lower rate. She was concerned about setting the policy and where changes in the cost allocation could be leading.

Mr. Dale responded that there had been an open discussion regarding the cost allocations for every internal service fund, with the exception of DHRM. Because of A.B. 470, there would be no further effect on how the remainder of the Department of Administration internal service costs would be allocated because there was flexibility to allocate costs in a reasonable and equitable manner. The DHRM was currently locked into the statutory language for its allocation.

Chair Anderson returned to the meeting and resumed his duties as Chair.

Assemblywoman Dickman commented that, based on the examples that were provided by the Department, DHRM was currently flexible in its cost-allocation process.

Mr. Dale responded that DHRM was being flexible to accommodate the customer base, and it could be construed that DHRM did not comply with the statutes. The DHRM wanted to comply with NRS, but the agency wanted to provide customer service as well. He said that modifying NRS was necessary for the agency to move forward.

Assemblywoman Carlton asked, if the Department wanted to move away from the inequities to the agencies, whether it would be possible for the Legislature and the budget to cover the costs of the allocations.

She questioned the cost shifting from one department to another since State General Funds could cover the costs. The Legislature could divide the costs equitably among the budgets throughout the state, which would then support the resources that the agencies needed. By allowing the State General Fund to pay these costs, the agencies would be able to carry out their duties and move away from cost shifting. She was worried that once the funds were removed from the budgets, there would be fewer services provided to the constituents of each agency.

Mr. Wells responded that one reason for the cost-allocation methods was that the costs were distributed to non-General Fund sources as well. The Department of Administration's costs were charged according to the funding sources for those departments. As an example, a federally funded agency would pay the DHRM personnel assessment, and federal funds would be used to reimburse DHRM.

Chair Anderson asked for testimony in support of, opposed to, or neutral on A.B. 470.

Rick Combs, Director, Legislative Counsel Bureau, said that his comments were not on the merits of A.B. 470. He wanted to clarify how the Legislative and Judicial Branches were treated regarding the cost-allocation assessment from DHRM. He said that the existing statutory language in A.B. 470, on page 2, lines 5 to 6, referred to "each department, agency, and institution operating under the provisions of this chapter" He noted that there was another provision in Chapter 284 of NRS that specifically exempted the Judicial and Legislative Branches from the provisions of NRS Chapter 284. He believed the Department of Administration had the flexibility to work with LCB to charge for services that were used but not charge for services that LCB did not use. He said that the DHRM Employee Assistance Program (EAP) provided benefits for LCB and its employees. The LCB would continue to provide funding to support the program going forward, and the DHRM program was more efficient than setting up a separate program for LCB with 280 employees. Regarding the DHRM cost allocation, he wanted to clarify LCB's role.

Chair Anderson asked for any further testimony neutral on the bill. Hearing none, Chair Anderson closed the hearing on A.B. 470 and opened the hearing on Assembly Bill 473.

Assembly Bill 473: Revises provisions governing the composition of the State Department of Conservation and Natural Resources. (BDR 18-1166)

Kay A. Scherer, Deputy Director, State Department of Conservation and Natural Resources, stated that Assembly Bill (A.B.) 473 was companion legislation that would be needed to carry out a budgetary item. The Assembly Committee on Ways and Means and Senate Committee on Finance Subcommittees on Public Safety, Natural Resources, and Transportation heard the Department of Conservation and Natural Resources' (DCNR) overview on January 28, 2015. She said the amendment to *Nevada Revised Statutes* (NRS) 232.055 would return a second Deputy Director to DCNR. The budgetary effect would be to take a current classified special advisor to the director position and replace it with the Deputy Director position. She said that the budgetary effect of A.B. 473 was largely revenue neutral. She pointed out that during the 2011 Legislative Session, budget reductions and other changes had been approved for DCNR and its agencies, including the Director's Office. During the 2011 Legislative Session, NRS 232.055 was modified to reflect one Deputy Director position because the other position was vacant. She said that A.B. 473 was straightforward and returned the second Deputy Director position to the Director's Office.

Ms. Scherer said that the reasons that the special advisor to the director was brought on and the second Deputy Director position was needed included:

- The addition of the Sagebrush Ecosystem program, which included the general counsel and Sagebrush Ecosystem Technical Team.
- A change to the conservation districts, which were once under a separate agency, but were now directly under the supervision of the Director's Office. The conservation districts had grown to include regional employees.
- Increased collaboration with California and local governments on activities and issues at Lake Tahoe that had expanded.
- The 2011 Legislative Session had approved the Governor's recommended budget to transfer the Office of Historic Preservation Office to DCNR from the then Department of Cultural Affairs.

Ms. Scherer said that these additions and changes were coupled with growing responsibilities in several divisions, particularly the Division of Environmental Protection. She pointed out that a technical correction to section 2, line 4 of A.B. 473 was needed. She said that DCNR needed the second Deputy Director

and the position should not go to the State Department of Agriculture if A.B. 473 were approved.

Assemblyman Edwards asked whether DCNR operated without a Deputy Director position before 2011, and if the agency had replaced the position with a special advisor to the director. He said that it appeared that the positions were not being used.

Ms. Scherer responded that the special advisor to the director position was currently filled, but it would become a second Deputy Director, as was originally provided in NRS. She stated that through the many presentations made to the Legislature by DCNR, the span of control, variety, and technical nature of all of the agencies, boards, commissions, and programs was broad, and the Department had determined that a senior management team of three individuals was necessary. She said that A.B. 473 was simply changing the name of a currently filled position.

Chair Anderson asked for testimony in support of or in opposition to the bill. Hearing none, he called for public testimony. There being no public testimony, he closed the hearing on A.B. 473.

Chair Anderson adjourned the meeting at 9:50 a.m.

RESPECTFULLY SUBMITTED:

Karen Daly
Committee Secretary

APPROVED BY:

Assemblyman Paul Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: March 31, 2015

Time of Meeting: 8:06 a.m.

| Bill | Exhibit | Witness / Agency | Description |
|---------|---------|--|--|
| | A | | Agenda |
| | B | | Attendance Roster |
| A.B. 21 | C | Robert Nellis, Deputy Director, Department of Transportation | PowerPoint Presentation "Assembly Ways and Means, A.B. 21, March 31, 2015" |