

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

**Eighty-second Session
March 14, 2023**

The joint meeting of the Subcommittees on Public Safety, Natural Resources, and Transportation of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair Dallas Harris at 8:02 a.m. on Tuesday, March 14, 2023, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Dallas Harris, Chair
Senator Rochelle T. Nguyen
Senator Pete Goicoechea

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblyman Howard Watts, Chair
Assemblywoman Natha C. Anderson, Vice Chair
Assemblywoman Tracy Brown-May
Assemblywoman Jill Dickman
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II

STAFF MEMBERS PRESENT:

Cathy Crocket, Chief Principal Deputy Analyst
Karen Hoppe, Principal Deputy Fiscal Analyst
Justin Luna, Program Analyst
Paul Breen, Committee Assistant

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Michelle Friedlander, Committee Secretary
Dee Chekowitz-Dykes, Committee Secretary

OTHERS PRESENT:

Adam Sullivan, P.E., State Engineer, Division of Water Resources, Nevada
Department of Conservation and Natural Resources
Micheline Fairbank, Deputy Administrator, Division of Water Resources, Nevada
Department of Conservation and Natural Resources
Kacey KC, State Forester and Fire Warden, Division of Forestry, Nevada
Department of Conservation and Natural Resources
Kristin Szabo, Administrator, Division of Natural Heritage, Nevada Department
of Conservation and Natural Resources
Patrick Donnelly, Center for Biological Diversity
Jeff Fontaine, Humboldt River Basin Water Authority, Central Nevada Regional
Water Authority
Jaina Moan, External Affairs Director, The Nature Conservancy

CHAIR HARRIS:

We will start with the budget for the Department of Conservation and Natural Resources, Division of Water Resources (DCNR).

ADAM SULLIVAN, P.E. (State Engineer, Division of Water Resources, Nevada Department of Conservation and Natural Resources):

The mission of the Nevada Division of Water Resources (NDWR) shown on page 3 of the Department's budget presentation ([Exhibit C](#)) is to responsibly manage Nevada's limited water resources in accordance with State law and the best available science. It is increasingly difficult to accomplish this mission because of the climate and increasing demand for reliable water resources. Our immediate concern is dam safety because of all the rain and snow. Longer-term concerns for NDWR are having enough reliable water resources to meet demand, diversification and protection of Nevada's natural resources.

MICHELINE FAIRBANK (Deputy Administrator, Division of Water Resources, Nevada Department of Conservation and Natural Resources):

As a component of developing our budget, we updated our strategic plan for the Agency. We identified seven primary goals shown on page 4 and 5 of [Exhibit C](#).

The first goal is to manage the appropriation of water resources as required by statute to optimize the beneficial use and conservation of water resources in Nevada. This goal pertains to NDWR's water rights section and appropriation processes. When people apply for water rights, we review the applications and issue permits for the beneficial use of water.

The second goal is to expand and enhance the adjudication and dam safety programs to meet State and federal requirements, and the needs and expectations of the public. Our adjudication section has seven staff members.

December 2027 is the deadline for filing vested claims within the State. There is a public expectation, not a statutory requirement, that we adjudicate all prestatutory claims. Each adjudication is done on a basin-by-basin approach. All surface water systems have been fully adjudicated. The basin adjudication, if simple, takes three to five years. On average, basin adjudication can take decades to complete. That will be a herculean task for NDWR in 2027 and 2028. We are working to develop the dam safety program to meet National standards. We recognize the need to improve in order to fulfill our regulatory requirements to protect public safety.

Our third goal is to modernize recordkeeping and document processing to improve public services and preserve historic data. The Division was awarded \$1.3 million in American Rescue Plan Act of 2021 (ARPA) funding to begin this project.

The fourth goal is to enhance the capacity of NDWR through employee development and career advancement to better serve the public and support employee retention. We will enhance our employees' skills through training.

Our fifth goal to establish current water availability data for the State through the Water Resource Initiative. It is a collaborative effort among the State Engineer's Office, the U.S. Geological Survey, Nevada Water Science Center and the Desert Research Institute (DRI). The Nevada Division of Water Resources has received \$6.4 million of ARPA funding to start this project. It will be an ongoing obligation of the State to support the data and its usefulness for the Division.

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Goal six is to update the State Water Plan, which is in process.

The seventh goal of NDWR is to build sustainable relationships with our stakeholders in the communities.

The Division of Water Resources' biennial budget on page 6 of [Exhibit C](#) is just over \$24 million; \$17.8 million is from the General Fund. Our other sources of funding include ARPA money which must be fully spent by 2026, federal grants that support dam safety and flood management programs, and interagency transfers from the U.S. Department of Energy grant, and water basin transfers to offset budget reductions. The "Other" category is \$44,000 for court reporter expenses.

Our full-time equivalent (FTE) staffing totals have increased by two. Staffing levels remained flat for the last decade but recently increased by two new ARPA funded positions for the digitization project. These positions will be needed on a long-term basis after the expiration of the ARPA funding.

Generally, our budget has remained unchanged. Budget account (B/A) 101-4171 has enhancements shown on page 7 of [Exhibit C](#), a few of which we received last year. The first enhancement is in decision unit E-254 to update the ArcGIS software which is at end of life.

INFRASTRUCTURE

CONSERVATION AND NATURAL RESOURCES

DCNR - Water Resources — Budget Page DCNR-61 (Volume III)
Budget Account 101-4171

E-254 Infrastructure, Energy & Environment — Page DCNR-63

We received a temporary position to assist in updating the Nevada State Water Plan through decision unit E-255 in B/A 101-4171.

E-255 Infrastructure, Energy & Environment — Page DCNR-63

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Personal protective equipment, a requirement for conducting work on mine sites, is funded through decision unit E-300 in B/A 101-4171.

E-300 Safety, Security and Justice — Page DCNR-64

Decision unit E-380 in B/A 101-4171 funds an increase to the South Fork Dam operating budget. This decision unit requests \$66,840 in fiscal year (FY) 2023-2024 and \$63,340 in FY 2024-2025 which doubles the NDWR operating and maintenance budget. We regulate, operate and maintain the South Fork Dam.

E-380 Safe and Livable Communities — Page DCNR-64

Replacement of worn furniture and old video conferencing equipment for our hearing rooms in Carson City is requested in decision unit E-712 in B/A 101-4171.

E-712 Equipment Replacement — Page DCNR-65

Decision unit E-817 in B/A 101-4171 requests funding for a pay increase for the chief of water planning and drought resiliency. The maximum salary for this position was less than the Division's classified manager and chief positions doing the same work. This request create parity among its peer positions.

E-817 Unclassified Position Changes — Page DCNR-65

We received several one-shot appropriations in the Executive Budget shown on page 8 of [Exhibit C](#). An annual Exceedance Precipitation study for \$650,000 will support the Dam Safety Program. An appropriation we receive every biennium for South Fork Dam repairs and maintenance requests \$635,000.

FY 2023 One-Shot: This request funds a study of extreme rainfall events including an Exceedance Precipitation study.
Department of Conservation & Natural Resources-Water Resources
(BUDGET OVERVIEW-39)

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FY 2023 One-Shot: This request funds projects at the South Fork Dam.

Department of Conservation & Natural Resources-Water Resources
(BUDGET OVERVIEW-39)

Other one-shots are for replacement of computer hardware and software, and to replace two vehicles. The vehicles were donated to the Agency and are not on the replacement schedules. We are replacing a Toyota Prius with another electric vehicle and a Dodge Nitro with a hybrid.

FY 2023 One-Shot: This request funds the replacement of computer hardware and associated software.

Department of Conservation & Natural Resources-Water Resources
(BUDGET OVERVIEW-39)

FY 2023 One-Shot: This request replaces one vehicle.

Department of Conservation & Natural Resources-Water Resources
(BUDGET OVERVIEW-38)

Eighty percent of our budget is personnel costs. This year those costs are down to around 66 percent because of the influx of ARPA funding such as the Water Resources Initiative and the digitization project. The rest of our budget goes toward other substantial allocations. We provide funding to The United States Geological Survey (USGS) for stream gauges and other monitoring throughout the State.

ASSEMBLYMAN WATTS:

What factors contribute to the projected cost increases for maintenance and operations of the South Fork Dam?

MS. FAIRBANK:

We see increases in the cost of electricity for newer computers and other monitoring data. Our operating budget is small. We have not had a budget for routine maintenance on the structures. An additional \$30,000 will increase our ability to hire contractors for maintenance such as painting. Increasing the budget should decrease the amount of biennial one-shot requests for preventative and ongoing maintenance.

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ASSEMBLYMAN WATTS:

You mentioned a significant need for staff in a few years for the adjudication of all prestatutory claims. How have the Agency workloads increased over this biennium that resulted in the need for additional positions? I need to understand the balance between the work needed to accomplish Agency goals and where the staffing needs are. I do not see that reflected in the Adjudication Program or the Water Rights Section.

MS. FAIRBANK:

In terms of workload, the number of water rights applications filed on an annual basis is flat but can fluctuate. Staff productivity is slowing down. We see a dramatic drop in the number of protested applications that staff can process on an annual basis due to the complexity. There are a multitude of hydrologic factors to consider before staff can come to a baseline understanding of what we think the decision should be. A protested application must have a written decision articulating why the State Engineer makes that decision to grant or deny.

This process has become more cumbersome because of multiple factors. There are incidents of increased litigation. Water is becoming scarce. People are more protective and inclined to litigate over a decision they disagree with. For these reasons, we expend a significant amount of time to create the most defensible decision we can, knowing we might end up in court. The protested applications are becoming chokepoints in our ability to produce work in a timely manner.

We are asking more of our staff, and due to the complexity of the work, productivity is decreasing. We have seen an increase in other factors, such as investigations into alleged violations, extensions of time, cancellations, and forfeitures. We do not have the capacity to perform our statutory responsibilities timely, but we prioritize the workload.

Adjudication Unit staff was increased by three or four positions about seven years ago. Adjudications are complex and take a significant amount of time. We need more staff to start preparing for the processing of statutory adjudications for 2027. The public must understand and recognize we only have so much capacity.

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ASSEMBLYMAN WATTS:

That concerns me. We need to start investing in preparing for the adjudications due at the end of 2027 rather than having to make a substantial investment to catch up. People expect that adjudications will proceed timely.

Please give us an update on the modernization efforts for recordkeeping and document processing. What is the Division's IT capacity?

MS. FAIRBANK:

We have entered into a contract with USGS and DRI to update data for the Water Resource Initiative. We are in the early stages of this project, which will begin with baseline data from two chosen subject basins. It will not apply Statewide.

We have a more significant IT capacity issue with the digitization initiative. The Department of Conservation and Natural Resources has a small IT staff of one nonclassified and three classified positions. The nonclassified position primarily works with the basin metering databases. We have trouble recruiting because IT is not the official name for the job classification.

We are short in terms of our IT capacity to do software development, code writing and data management. The existing IT staff work for multiple agencies within DCNR. Once the digitization effort begins, we will be able to put information on the website. Because our permit databases will be living documents, we need to create software to make data publicly accessible. We do not have that capacity right now.

ASSEMBLYMAN WATTS:

Through different budget restorations, your Agency has recovered staffing cutbacks and restored travel. Has the training budget for your Agency been restored?

MS. FAIRBANK:

No. We have \$0 in the training budget. The training budget within NDWR was small for a long time. It got smaller through the Great Recession. Ultimately, through COVID-19 we lost the remainder of our training budget. We can support only limited training.

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ASSEMBLYMAN WATTS:

We need to make a greater investment in human resources for this Division.

SENATOR GOICOECHEA:

This is not going to work. Many times the adjudication process ends up in litigation. People do not agree. We must provide money and staff for NDWR. We must get prepared to meet that 2027 deadline. We need to make a commitment right now because we have ARPA funds available.

It seems the work on the South Fork Dam was completed. Are you comfortable with repairs done to the dam? Have you been able to curtail the material wash from the dam?

MS. FAIRBANK:

Our team is comfortable the designed repairs have mitigated seepage issues. The contract is substantially complete. We have supply chain issues and are waiting for ladders to come in. The team will complete installation when weather permits.

SENATOR GOICOECHEA:

Do you have enough in this budget to fund South Fork Dam's ongoing needs?

MS. FAIRBANK:

The numbers in this budget will be sufficient to carry us for the next budget cycle. You cannot predict unknown issues. Increasing the annual budget for South Fork Dam is a critical component. This will enable us to do more preventative maintenance to lessen the chances of large dollar repairs. We are attempting to be proactive in the management of that facility.

SENATOR NGUYEN:

How will the salary increase for the chief of water planning and drought resiliency improve the State's water planning efforts?

MS. FAIRBANK:

This position was created in 2019 as an unclassified position. All other section manager positions are classified, with the same supervision duties and subject to the classified pay scale. We identified the salary cap for that

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unclassified position was equivalent to other managers at grade 44, step 6. This unclassified position would be capped out at step 6, but the classified position would be able to obtain a step 10. This request represents the difference between step 6 and step 10 for the position. It is important to have pay equivalency and transparency which helps recruit and retain qualified people.

SENATOR NGUYEN:

Is that position currently filled?

MS. FAIRBANK:

Yes. This request changes the maximum pay scale for the chief of water planning and drought resiliency. The Agency's vacancy rate is about 11 percent. We have been successful in recruiting and hiring positions.

SENATOR NGUYEN:

Your Agency's vacancy rates are relatively low. What are you doing differently to recruit and retain?

MS. FAIRBANK:

We have a positive culture within our Agency. Employees receive support from their coworkers. There is free exchange of information. We struggle in one area of recruitment, with positions requiring professional licensing. Pay discrepancies in the State are a pervasive problem. It is not unique to our Agency. As with other agencies, we have lost staff to local government and the private sector. Because our Agency does a lot of promotion from within, our recruitment efforts are directed at filling entry level positions. People come to our Agency because they hear good things about us.

ASSEMBLYMAN HAFEN:

It is my understanding there are counties that were not paying their basin fees during COVID-19 and reserves were used to cover the shortfalls. Have delinquent counties paid, and are they current?

MS. FAIRBANK:

Every county has approved paying the fees. One county has not yet remitted the fees. Those will be collected when we collect this year's assessments.

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Concerns will probably be raised when a bill is heard later today on assessments.

ASSEMBLYMAN HAFEN:

Have the reserves used to cover nonpayments been restored?

MS. FAIRBANK:

We try to retain cash reserves within the nonexecutive accounts to cover instances when we do not receive fee payments timely. We have not fully expended our reserves but may get close before we receive the next funding source.

We have another account not in the Executive Budget with funds available specifically for this purpose from which we can borrow. Reserves are repaid when money comes in. A State engineer account can be used for overdraft protection. We are not at that point and anticipate that situation can be avoided.

ASSEMBLYWOMAN ANDERSON:

The Division has recommended converting the attorney to an unclassified position. How will that impact the Division's operations?

MS. FAIRBANK:

The chief of our hearing section is a classified position. We are requesting it be revised to an unclassified position as a chief administrative law judge.

The purpose is twofold. First, the class specifications for the chief hearing officer are predominantly geared for professional engineers. Our administrative hearings have become more complex, and we are seeing an increase in licensed attorneys representing their clients. It is no longer water rights holders coming to plead their case. It is important to have a licensed attorney in that position.

Second, I am not aware of any classified positions that require someone to be a licensed attorney. This position is the chief administrative law judge and supervises staff who serves as an administrative law judge. Other duties include serving as technical support for the hearing section and supervising hearing officers who conduct informal hearings on behalf of the Agency. It is imperative

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for recruitment purposes to have this position be classified and compensated appropriately.

This position is classified in the engineering class specifications. Attorneys do not look for engineering jobs. When the position was vacant the last time, we were fortunate the candidate learned of the position by word of mouth. It needs to be in the classified system and titled appropriately so we can recruit the right qualified people.

ASSEMBLYWOMAN ANDERSON:

I understand. Congratulations on the 11 percent vacancy rate. I agree a culture makes all the difference. Do you have enough staff now to be able to do the job needed? Your Agency should get two IT positions, but has the Executive Budget accounted for the number of staff you truly need?

MS. FAIRBANK:

In terms of maintaining the bare minimum, we have adequate staff. We prioritize our workloads to accommodate the extra time it takes to get complex issues done based on availability of staff. People get paid to do their job, but they are not paid to be doing three people's jobs. We try to maintain a culture of realistic expectations of our staff.

Another challenge for us is putting to use the data that we will be gathering through the Water Resource Initiative. If we are fortunate to receive funding to support additional data gathering, we will be challenged with not having staff to create the IT programs to apply the data and make it accessible to our partners and the public.

ASSEMBLYWOMAN ANDERSON:

I appreciate the candor. Your answer was clear; there is data, there are realities, there is a culture created with everyone working together.

SENATOR GOICOECHEA:

It is great to have data, but you must have the staff to use it and I appreciate that.

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CHAIR HARRIS:

We will hear the Division of Forestry's (NDF) first 3 budgets together.

KACEY KC (State Forester and Fire Warden, Division of Forestry, Nevada Department of Conservation and Natural Resources):

The Division of Forestry's mission, shown on page 11 of [Exhibit C](#), is to protect and enhance Nevada's ecosystems and communities through natural resource stewardship and wildland fire management. We do this through implementing multiple programs, as shown on page 12 of [Exhibit C](#), that include forest, range and watershed stewardship in urban, community forests and mountain forests. We protect the ecosystem by fire prevention, mitigation and suppression, and through hazardous fuel reduction and fire adapted community support programs. We have many programs that implement our mission, goals and objectives.

The Executive Budget for the 2023-2025 biennium for the Division of Forestry, as shown on page 13 of [Exhibit C](#), is over \$90 million, of which \$53 million is from General Fund dollars. Other sources of revenue are federal grants and revenue from the honor camp projects. The State tree nursery does not receive any General Fund revenue.

We have 191 FTE positions and 67 seasonal positions through the 2023-2025 biennium. There is an increase of three FTE, but a decrease of nine seasonal positions. Our Air Operations program was decreased by nine seasonals to create three FTEs in the program. The Air Operations program has three helicopters. Ground firefighters are flown in as part of the initial attack and dropped at the site while the helicopter goes to get water. Water is dropped as directed by ground firefighters. It is hard to hire seasonal firefighters now. By hiring three into full-time positions, we hope to retain the investment in their training.

Multiple Agency objectives are shown on page 14 of [Exhibit C](#). We desire to maintain current staffing levels across the areas of wildfire suppression and natural resource management work. We want our staff to have adequate equipment, supplies and training to safely do their jobs. We want to ensure we have funding for suppressing wildfires across the State. We want to be sure we have a stable funding source through transferring monies between budget accounts.

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Several of our challenges are listed on page 15 of [Exhibit C](#). We have a retention and recruitment issue with a 20 percent vacancy rate. The vacancy rate is inflated by our deficits in the camp program.

Another position conversion will add a biologist needed to comply with the statute to maintain and manage State listed species. The Division of Forestry has need for positions in southern Nevada where there are many of these listed plant species. Similar to NDWR, we have seen an increase in litigation.

The Division's accomplishments are highlighted on page 16 of [Exhibit C](#). We treated 7,000 acres with local government entities. We flew the State with our federal counterparts at the U.S. Forest Service to track trends in insects, disease mortality and infection. We were unable to do this during COVID-19.

There are 120,000 newly infected acres. The drought has continued to stress trees. We see outbreaks of insect and disease mortality around areas of large wildland fires. Once areas are mapped by air, foresters and staff travel there to confirm the affected areas and determine which insects have caused damage.

We have increased our fire adapted communities from 8 to 33 communities. We educate people about fire risks in their communities and how to take steps to reduce those risks.

In the Wildland Fire Protection Program, B/A 101-4194 is shown on page 17 and 18 of [Exhibit C](#). It is a cooperative program with local government in which they can opt-in and pay us for their wildland fire suppression. The purpose of the Wildland Fire Protection Program is to work with counties to mitigate the risk of fire, suppress wildland fires immediately and provide rehabilitation from fires on the back end. It is an all-inclusive program.

DCNR - Forestry - Wildland Fire Protection Prgm — Budget Page DCNR-74
(Volume III)
Budget Account 101-4194

When a county participates, the program pays the county's fire bills over 24 hours, the first initial attack period of a wildland fire. Once it goes beyond that period, we assist in paying the county's bills and send staff there to make

sure we are estimating costs and keeping costs low during the fire. It is hard to argue the cost after the fact.

When this budget account was created, we were losing chapter 473 of *Nevada Revised Statutes* (NRS). It was an opt-in program where counties could ask NDF to be an all-risk fire department for them. After a Wildland Fire Safety Awareness data study concluded we were not efficient at running this program and because we had a recession coming, it was decided to give the responsibility of all-risk hazard incidents back to the counties. We kept the wildfire suppression responsibilities.

This efficiency swap we are asking for is revenue neutral and intended only to eliminate the standalone budget account, 101-4194. The budget account was created to pay for the firefighting staff. The counties' participation fees pay for NDF's suppression staff. For example, Elko is one of the largest counties in the Nation with a lot of private land and a significant fire risk and occurrence. Based on the formula, Elko meets all the criteria and is taxed heavily in this program. If it decided not to participate in the program, NDF would stop paying all Elko's fire bills, but the program would lose about 75 percent of our fire suppression response capability in the State. The need for suppression capability does not go away with the loss of a county's participation; only the need to pay fire bills go away.

This efficiency swap in decision unit E-903 in B/A 101-4194, shown on page 18 of [Exhibit C](#), puts the money the counties are charged into decision unit E-903 in B/A 101-4196, to pay for suppression response on behalf of participating counties. Decision unit E-904 in B/A 101-4194 moves General Fund monies to decision unit E-904 in B/A 101-4195 where fire program assets, such as aviation assets and firefighters, are located. Decision unit E-902 in B/A 101-4194 eliminates that budget account.

E-903 Trans from Wildland Fire Protection to Fire Suppr — Page DCNR-77

DCNR - Forestry - Fire Suppression — Budget Page DCNR-91 (Volume III)
Budget Account 101-4196

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E-903 Trans fr Wildland Fire Protect to Fire Suppression — Page DCNR-93
E-904 Trans from Wildland Fire Protection to Forestry — Page DCNR-78

DCNR - Forestry — Budget Page DCNR-80 (Volume III)
Budget Account 101-4195

E-904 Trans From Wildland Fire Protection to Forestry — Page DCNR-87
E-902 Trans from Wildland Fire Protection to Forestry — Page DCNR-76

Shown on page 20 of [Exhibit C](#) is B/A 101-4195, our general forestry account for most activities. Decision units E-902 and E-502 in B/A 101-4195 is the movement of the firefighting personnel from B/A 101-4194.

E-902 Trans from Wildland Fire Protection to Forestry — Page DCNR-87
E-502 Adjustments to Transfers — Page DCNR-84

Several one-shot appropriations for NDF are on page 21 of [Exhibit C](#). We request funding for replacement of the 53-year-old federal excess property helicopter.

FY 2023 One-Shot: This request funds replacement of one military surplus UH-1H helicopter.
Conservation & Natural Resources-Forestry (BUDGET OVERVIEW-39)

Nevada Division of Forestry is requesting replacement of four staff vehicles and three fire engines, all of which have exceeded the State Administrative Manual's recommended replacement schedule.

FY 2023 One-Shot: This request funds replacement of four vehicles.
Conservation & Natural Resources-Forestry (BUDGET OVERVIEW-39)

FY 2023 One-Shot: This request funds replacement of two Type 3 fire engines.
Conservation & Natural Resources-Forestry (BUDGET OVERVIEW-39)

Budget account 101-4196 is the Fire Suppression account shown on pages 22-23 of [Exhibit C](#). The main enhancement is transferring county receipts

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from the Wildland Fire Protection Program in B/A 101-4194, to Fire Suppression B/A 101-4196, decision units E-503 and E-903.

E-503 Adjustments to Transfers — Page DCNR-92

For the first time in a very long time, we have near full participation in the Wildland Fire Protection Program. We do not see that dropping anytime soon. The only two participants not in the program are Mount Charleston Fire Protection District and General Lyon County. General Lyon County does not have a fire protection district but most of the land is a State park in NDF's jurisdiction.

There is one supplemental appropriation for NDF to pay bills through the end of fiscal year 2022-2023 for fires that have already occurred.

FY 2023 Supplemental Appropriation—BUDGET OVERVIEW-45—Conservation & Natural Resources (Division of Forestry)

ASSEMBLYWOMAN GORELOW:

Is B/A 101-4194 going away with funds moved to B/A 101-4196, and will B/A 101-4196 move to B/A 101-4195?

Ms. KC:

Budget account 101-4194, the Wildland Fire Protection Program, will go away. The money that is county receipts from the Wildland Fire Protection Program will move into B/A 101-4196 to pay the fire bills. Currently, the fire bills are paid with General Fund monies. The General Fund monies in B/A 101-4196 will move to B/A 101-4195 to cover staff firefighters' salaries.

ASSEMBLYWOMAN GORELOW:

What factors are driving the elimination of B/A 101-4194? What are the anticipated benefits for the recommended transfers, and will that affect response times?

Ms. KC:

The driving factor is the efficiency of the program. Our biggest fear was we would lose any of the counties that participate in the Wildland Fire Protection

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Program. If that happens, we will need to reduce firefighting staff at a time when firefighting needs are increasing. I have requested this change for several years.

This will increase response capacity and efficiency, keeping more firefighters on the line. From the State's perspective, it is more cost-effective to have firefighters employed by the State. When they are not fighting fires, they cut fuels to mitigate future fires. It is more costly when outside firefighting assets are called in from neighboring states. Having a State-funded forestry firefighting staff allows us to place them Statewide in areas of highest risk to quickly suppress fires. These efficiencies contribute to the safety of firefighters and communities.

ASSEMBLYWOMAN GORELOW:

Have we done any mapping to identify where this year's fire season might occur?

Ms. KC:

This season, the upper elevations should be safer, depending on how quickly the snow melts. We are particularly concerned about rangeland areas. Scientifically speaking, the three years following our biggest wet years cause us the greatest concern. In these years we have had both the largest range fires and the greatest number of acres burned. It is always dependent upon the compaction of brome grass and other fine flashy fuels that will carry fire a lot quicker. We have seen compaction of last year's grass growth and are waiting to see what this year will look like from all the spring moisture. Wet years bring in summer thunderstorms, sometimes without rain.

CHAIR HARRIS:

In the Forestry Fire Suppression B/A 101-4196, would the county participation funds and associated reserves being transferred out of this budget be used to support incident response costs for participating jurisdictions only, or would it support incident response costs for all areas of the State, including the nonparticipating jurisdictions?

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Ms. KC:

It would go into the Fire Suppression account and be used for all entities. We keep track of how much we expend on behalf of each jurisdiction each year and how much we get reimbursed from our federal partners on behalf of each jurisdiction. This information is part of the funding formula for the Wildland Fire Protection Program.

CHAIR HARRIS:

Please briefly describe how the Wildland Fire Protection Program reserve funds would be used in the Forestry Fire Suppression budget. If we approve the revenue transfers, will the Agency revert unused county participation funds to the General Fund at the end of each fiscal year?

Ms. KC:

The reserve funds and the county participation funds will be used for the cost of wildland fire suppression. It is revenue neutral, but we will gain a small amount of money because of salary savings. That is where the reserve came from. If the reserve were moved today, it would be used to pay for current fire bills. We do not anticipate reverting the funds but would carry them forward to pay for future fires. We hope this would reduce the need for us to ask the Interim Finance Committee for supplemental or contingency funds.

ASSEMBLYMAN HAFEN:

The Wildland Fire Protection Program is not going away, but the budget account funding for this program in B/A 101-1494 is going away.

County participation assessments in this program should not be moved back to the General Fund but continue to be designated for fighting wildfires, or if reverted, should go back to the counties. Has there been a time when the counties have been refunded any portion of their assessments?

Ms. KC:

No, none of these funds have been given back to the counties. Our yearly expenditures for wildland fire have exceeded the \$2.5 million buy-in rate for the counties. There are years when it is much lower. The last three years have been slow from a fire perspective, but there were many fire occurrences. We had a lot of staff to initially and aggressively attack them.

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ASSEMBLYMAN HAFEN:

Have any of the counties or cities expressed any concerns over the change from the separate account to the General Fund account?

Ms. KC:

I do not know if the counties understood how their funding was spent when it came in.

When the program was created it was called Kentucky Windage. There was an experienced fire management officer who assessed risk based on what he knew of where fire occurred. When we went into the formula discussions, we were charged with creating a formula based on the science we had. We looked at mapped areas of risk, fire occurrence, the values at risk and the cost to the State minus costs that are reimbursed on behalf of the participating entities. The counties were initially concerned with the formula when they found out they were buying in and paying for State firefighters. They thought the firefighters should be county assets and moved only within their specific county. We explained that is not how we will operate as a Statewide entity. We explained it is more efficient to send firefighters to the highest risk area, to the most critical fires and pay fire bills out of the General Fund.

We have not heard many concerns on behalf of the counties regarding this movement between budget accounts because nothing changes for them. The assessments and buy-in rates will be the same, though the rates may change based on average costs for each of the entities.

ASSEMBLYMAN HAFEN:

I understand if there is a fire in Humboldt County, all the staff or as many as needed go to fight the fire, not just the Humboldt County portion. Do they understand that?

Ms. KC:

Wildland fire response across the U.S. is misunderstood. Yes, I believe they understand now. We had good conversations when we created the formula. We included county managers, fire protection chiefs, rural and urban counties to make sure we had all participants in the program.

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When the fire bell rings, it is the local, closest available resource, regardless of badge, that shows up to the fire. As local resources are exhausted, we move geographically to the western portion of the State, then to the State at large. When needed, we request out-of-state assets with existing contracts, then lastly, to cross-country contracts. If other assets are unavailable, we will reach out to Canadian assets.

They understand. We have spent a lot of time with flowcharts helping people understand exactly how wildland fire suppression response works and how it all gets paid.

SENATOR GOICOECHEA:

The real issue is the counties, such as Elko County, do not feel they get the response they should from the Wildland Fire Protection Program compared to the money they put into it. It is difficult to keep everyone happy. It is imperative that NDF do its best to make sure the counties' needs are met.

I agree with you. I do not think that downy brome is going to be an issue this year, but we will see significant cheatgrass in lower elevations.

ASSEMBLYWOMAN BROWN-MAY:

There was a 46.3 percent increase in annual revenue for the Wildland Fire Protection Program budget. How was that increase determined to be appropriate? How does this correlate to, and impact, the participating jurisdiction's ability to pay?

Ms. KC:

What you are talking about is the increase in the participation fees. When we went to a formula it greatly impacted Elko County. We were charged by the Office of the Governor, Office of Finance and by the Legislature to decrease the impact on the counties who were getting charged much more. We saw a large reduction in fees for the entities around the Tahoe Basin because they have very little privately owned land. The Tahoe Basin fires will be considered for a fire management assistance grant through the Federal Emergency Management Agency (FEMA) with about 75 percent of the expenses reimbursed to the State. We tried to get FEMA fire management assistance grants for Elko County but

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have not been successful yet. We will keep trying. Elko County does not get much in federal reimbursements.

We were asked to artificially deflate the buy-in rate in some of these instances. The buy-in rate was always \$2.5 million, but we decreased it to \$1.8 million so Elko County would not jump out because of the cost. Eureka County was similarly hit hard by the rate increases. We are working our way through that process. We want them to stay in the program because we are worried about losing up to 80 percent of the firefighting staff.

ASSEMBLYWOMAN BROWN-MAY:

What is the status of the revenue agreements with participating jurisdictions for the 2023-2025 biennium?

Ms. KC:

We are running the numbers and hope to have the cost information to the counties in the next two weeks. We do not anticipate large fluctuations like we saw in the beginning because now we have nine years of good data, which should cover our high and low years. We are not projecting for future years. We anticipate a small swing in rates.

ASSEMBLYWOMAN BROWN-MAY:

Does the Agency expect an increase in program participation in the upcoming 2023-2025 biennium?

Ms. KC:

I hope to get Mount Charleston this year. Everyone in Clark County is in, other than Mount Charleston. That group tried to participate last time but had a budgetary issue. We will have full participation Statewide if they come in.

ASSEMBLYWOMAN DICKMAN:

How will the recommended funding source changes for firefighting staff and incident response costs impact the Division's operations and administration?

Ms. KC:

This is basically a transfer. Decision unit E-502 in B/A 101-4195 is the transfer of the General Fund monies out of B/A 101-4196 into B/A 101-4195 for the

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payroll of existing firefighting staff. This will not change but will allow us to keep all the people we have employed. These are full-time firefighter grades I and II and seasonal firefighters who would move into this budget account.

ASSEMBLYMAN WATTS:

Would you provide additional high-level background for the duties to protect native plant species and benefits your Agency will see from reclassifying the vacant camp area supervisor to a biologist?

Ms. KC:

Nevada has seen an increase in development across the State. At one time, we were the third-fastest growing State in the Nation. The development has impacted many of the State's listed species we are statutorily charged to protect. We have been working with DCNR, Division of Natural Heritage to ensure the habitats and populations of protected species are monitored. We keep a list of species that may meet the listing criteria in our statute.

Both of our agencies determined a biologist position would be helpful. The position will be in Las Vegas where there is the largest growth of homes and roadways and the largest impact to current listed species. We are seeing the same impact appear in Washoe County. This position will help with our enforcement responsibility Statewide and with tracking the health of the listed species.

ASSEMBLYWOMAN ANDERSON:

How do you manage the air operations under the existing staffing issue? How will the addition of three full-time staff in decision unit E-807 in B/A 101-4195 improve incident response?

E-807 Classified Position Changes — Page DCNR-86

Ms. KC:

Historically, we had a single engine air tanker owned by NDF and three helicopters for firefighting missions. We did away with the NDF-owned single engine air tanker because we were not very efficient at running it. There

is hoist capability in two of the helicopters, which allows us to get injured firefighters off the line quickly.

We have three full-time employees, six pilots, a program manager and seasonal firefighting staff to ensure seven-day coverage during the fire season. We move these helicopters across the State depending on where the risk is.

For aircraft, we saw a great decline in seasonal positions as we started to build crews at the county government level for fuels and fire under the NV Energy Initiative. Many of our qualified seasonal staff got full-time jobs with the county. We lost all that training investment we had made in them. With the three new full-time positions we hope to hire helicopter crew members. Crew members need to be Nationally qualified to be on a helicopter and run a helicopter crew. We have seasonal firefighters at our air operations who have been there for seven, eight and nine years. This is an area of investment in training we are trying to keep alive.

Seeing the additional air resources needed in the State, we contracted for Super Scoopers. The initial contract was a good deal for the State, and the provider. We pay them only when we use them. We have increased our contracts to include two single engine air tankers. Historically, our aircraft was contracted by the federal government.

The issue was, the contracts were National and Nevada shared the air assets with California, Oregon and Washington. Equipment would be moved out of the State to higher priority fires, then called back when needed. Nevada wildland fires were not a priority when California homes were burning. Having State-contracted air assets allows the Division to mobilize those assets as needed. We also contracted with a crossover between a Super Scooper and a single engine air tanker which can take retardant or scoop water from waterways.

We may be able to increase to four single-engine air tanker contracts in FY 2023-2024 this year. The contracts are for the duration of the fire season. We will have multiple air assets contracted this year to assist with the early initial attack of fire. Air assets are wonderful in the early initial attack of fire, but they do not replace the need for ground assets. Every piece of water or

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retardant that is dropped requires firefighters to come in behind and secure the line.

ASSEMBLYWOMAN ANDERSON:

You mentioned firefighters are employed during the off-season. What exactly are the duties of the three full-time firefighters?

Ms. KC:

Every day, everyone's job at NDF is natural resource management. When they are not fighting fire, all firefighters are in the field aggressively reducing risk. Part of the Wildland Fire Protection Program was a risk assessment provided by the counties which went into the formula. We provide fire staff every day to reduce risk in the counties' priority areas unless staff are actively suppressing fire.

Firefighters assist in other priority missions, such as flyovers to check the status of dams. We sometimes do rehabilitation on smaller fires on private lands abutting larger efforts on U.S. Forest Service land.

ASSEMBLYWOMAN BROWN-MAY:

How has the budgeting methodology approved by the Eightieth Session, which is based on five-year average costs and adjusted for one-time funding, impacted the Agency's operations and ability to pay fire suppression costs in a timely manner?

Ms. KC:

In FY 2018-2019, NDF worked with the Legislative Counsel Bureau (LCB) and the Office of the Governor, Office of Finance staff to create that methodology. In prior years, it was a fixed number not calculated or based on any methodologies. I believe NDF's Fire Suppression account started at \$1 million in General Fund monies and increased to \$2.5 million. This amount was just a number, not a methodology based on past expenses.

This budgeting methodology helps to pay our fire bills timely. It is calculated on the five-year average of all expenditures for all categories within the budget account. The General Fund appropriation is reduced by the average of State reimbursements when firefighting costs are incurred on land outside of the

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State's jurisdiction or on federal lands. The formula does not consider the timing of the State reimbursement. Reimbursements are a challenge for NDF because the federal government can be slow, which impacts the State's ability to pay timely.

With the budgeting methodology, we went from \$2.5 million to \$4.5 million. In the Eightieth Legislative Session, an additional \$10 million was put into a special contingency reserve increasing our General Fund monies in the reserve that we could access to pay bills. We spent all the money in that account.

Unfortunately, the methodology does not cover all expenses. The cost of wildland fire is increasing significantly, particularly involving homes in the wildland urban interface. There are more instances of fire in high-risk wildlands directly adjacent to communities. In the future, we hope to fix the formula to a five-year average of expenditures that will be fully funded and not reduced by expected reimbursements. Reimbursements, once received, would go back to the General Fund or stay in the account to offset future costs. This should reduce the times NDF would need to return to the Interim Finance Committee for contingency supplemental funding.

ASSEMBLYWOMAN BROWN-MAY:

How has NDF been impacted by having contingency accounts to pay bills? Do you feel NDF is better off when it is trying to acquire new assets?

Ms. KC:

Many unknowns go into suppressing wildfire. Unlike the federal government, the State does not have large contracts in place for services. It is often necessary to write emergency contracts with local vendors and immediate response agreements with ranchers to use their equipment and their time on the fire. We are writing an emergency contract for our incident command post at the school in Elko County. We make sure everyone has a contract. It is NDF's priority to pay contracts immediately.

I fear the potential of writing IOUs on bills owed to businesses most impacted and that cannot carry the debt. We want them to continue to work with the State. Our goal is to make sure we pay the contracted local entities timely while we wait for federal reimbursements. This is one of the benefits of the Wildland

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Fire Protection Program for the counties. If a county opts out of the program, the State could still be on the hook for the cost of the fire. We would not have any negotiation capability during the immediate fight. We are constantly looking at costs, and when we can release assets, we will release the most expensive assets first.

ASSEMBLYWOMAN GORELOW:

What problems has the Agency encountered when the money runs out, and how does that impact your ability to fight fires?

Ms. KC:

It impacts our ability to fight fires only if vendors decide not to work with the State. Otherwise, we will continue to operate as we do. They continue to respond and then wait for payment. The biggest impact is on smaller businesses that cannot carry loans.

Permanent NDF fire billing staff is five employees. That is five times as many as the federal government has for the entire State. If local smaller contractors decide to opt out, we must seek services from larger out-of-state companies from surrounding states. These contracts are more costly to the State.

ASSEMBLYWOMAN GORELOW:

I heard communities do not like the retardant used because it leaves a red sludge. Would you talk briefly about that?

Ms. KC:

Different colors of retardants are used. Although not necessarily NDF's mission, it is our responsibility to clean up as part of the other costs of wildfire on the recovery side. This responsibility falls more to the Nevada Division of Emergency Management. The Division of Forestry's responsibilities are more for vegetation rehabilitation. Fire-retardant chemicals are not great for the environment but are necessary to slow fire. The retardant companies have come a long way in trying to put seed into retardants to make it is more biodegradable and easier to wash off.

CHAIR HARRIS:

We will now hear from the Forestry Conservation Camps.

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Ms. KC:

The Conservation Camps Program is a 70-year-old partnership between the Nevada Department of Corrections and the DCNR, Division of Forestry. The goal of the program is to impact the recidivism rates of inmate populations. To qualify for this voluntary program, inmates need to meet certain criteria in their sentencing and be within two years of release. The Division of Forestry trains them to the same national standards we train our own staff in tree care, pruning and firefighting. Inmates leave the program with the same certificates as our firefighting staff. The purpose of the program is to transition the inmates from the prison system to employment.

Historically, NDF had an average of 1,500 inmates in the program for an average of two years on our crew. Two years was adequate time to encourage inmate behavioral changes and provide a realistic workforce environment. The Early Release Bill, A.B. No. 236 of the 80th Session, affected participation, which went from an average of 1,500 to 350 inmates. Sustaining nine camps with 350 inmates is not possible anymore. The inmates move through the program, on average, every four months. This limits training and is not enough time to change behavior.

The Division of Forestry has 74 crew supervisors across the State. Each crew supervisor runs up to a ten-person crew. A squad is two crews and meets the 16-20 person minimum for a fire crew response. Historically, we had been able to run 15-20 fully qualified fire crews across the State. Today, we are only able to run three fully qualified fire crews. Retention issues in our crew supervisor positions and a decrease in inmate participation have contributed to the reduction in the number of camps across the State.

We have been working with the Nevada Department of Corrections (NDOC), the Office of the Governor, Office of Finance and LCB on the evolution of this program. Temporary camp closures are in Ely, Wells and Tonopah. Currently, Ely is partially running with 13 inmates. The closure of Wells was due to staffing issues; we have not yet been able to hire for those two positions. Tonopah's closure was an NDOC staffing issue. If the inmate population remains at 350, NDF would be able to effectively operate 4 camps across the State.

The Division of Forestry has fought hard to keep this program. Both staff and inmates have benefited from doing this type of work. The inmates were a big workforce for us, and the counties benefited from the jobs in their communities. The Division has been working on being less reactive and continuing to provide the needed services.

We have kept all crew supervisor positions open. We hope to reclassify them to firefighter I and firefighter II full-time positions to rebuild the numbers due to diminished inmate crews. We will augment with seasonal employees as needed. This reclassification will help us meet our mission. Natural resource management is the critical piece in making sure we are protecting communities.

Transitioning crew supervisors to firefighter I and II positions, similar to hotshot crews, would uncomplicate mobilization. Mobilizing inmate crews is incredibly challenging, because we sometimes need custody 24 hours per day. Historically, the Division had adequate staff to safely run these operations. The Division is transitioning, not because we choose to, but to adapt to where we are.

Budget account 101-4198, shown on page 25 of [Exhibit C](#), shows our budget enhancements and one-shot appropriations. Decision unit E-225 is the inmate labor costs. Each camp has an operating budget for inmate wages. This decision unit transfer all camps into one operating budget for flexibility and transparency of inmate wages. When camps temporarily close and inmates move to different locations, the transfer of funds between budget accounts is slow. This consolidation allows for flexibility.

DCNR - Forestry - Conservation Camps — Budget Page DCNR-95 (Volume III)
Budget Account 101-4198

E-225 Efficiency & Innovation — Page DCNR-97

Our one-shot appropriations are shown on page 25 of [Exhibit C](#). The Division is requesting the replacement of 17 command trucks and 49 portable toilet tool trailers. Considering the Division's transition, we reviewed our current equipment needs to run those crews. The 17 command trucks are still

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necessary as we move from inmate crews to full-time firefighting staff, but our request for toilet tool trailers has been adjusted to 47.

FY 2023 One-Shot: This request funds the replacement of 17 command trucks.
Department of Conservation & Natural Resources-Forestry-Conservation
Camps (BUDGET OVERVIEW-39)

FY 2023 One-Shot: This request funds the replacement of 49 portable toilet/tool
trailers.
Department of Conservation & Natural Resources-Forestry-Conservation
Camps (BUDGET OVERVIEW-39)

SENATOR NGUYEN:

Do any other factors contribute to the recommendation to consolidate camp expenditures to pay offender labor costs? Would doing so allow you to be flexible enough to move money freely?

Ms. KC:

Yes, the consolidation of camp expenditures gives us flexibility in the movement of the inmate population. We want to be upfront with how much the inmate wage was and how much we are asking to increase it. You will be able to easily see where the inmate labor costs are coming and going.

Having inmate labor costs in an operating budget in a year with high inflation was difficult as items such as the prices of gas, chain saw parts and oil have gone up significantly. When the inmate labor is locked into the operating budget, and the operating budget is running in the negative, over time it will eat into that wage. Even at the current wage rates, we could not sustain the labor costs we have now with the budget structure we had.

SENATOR NGUYEN:

You mentioned the recent lack of offenders who would qualify for assignment to the program. Does the Division have a plan for the long-term sustainability of conservation camps?

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Ms. KC:

The Division is working on a long-term plan with NDOC. We have discussed this issue with both the prior and current administrations. We do not want to be reactive to these closures which affect our ability to mobilize quickly. We need to figure out how this gets funded through our budget process going forward.

SENATOR NGUYEN:

Do you anticipate the Conservation Camps Program's work can be accomplished using other labor resources or operational changes?

Ms. KC:

We can manage it with contracted resources and crews within the State. We have a good of the State contract for this type of work across State agencies. We are working to build these crews so we can continue to do the work.

Unfortunately, we are running fewer people through the program. We were the primary workforce to help inmates get the skills and qualifications necessary for daily work life.

SENATOR NGUYEN:

How many inmates have gone through the Conservation Camp program and transitioned into employees of the Division.

Ms. KC:

Over the years, a few have transferred to us for employment. Recidivism rates are tracked by NDOC.

SENATOR NGUYEN:

My question was not about recidivism rates. Do you know how many people in your program have gained the skills to go on to do this work?

Ms. KC:

We know of quite a few who have gone on to federal firefighting crews. We see them primarily going into the tree care industry. We are trying to focus more heavily on getting them certifications in tree care. There is a company here in Carson City that solely hires our crews because of the tree climbing work experience they have.

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Historically, we have worked closely with NDOC to run nine camps with many employees. I understand NDOC's challenges. Reducing the camp footprint across the State may allow us to focus on other types of programs.

In Arizona, there is a program called the Phoenix Crew. Firefighters in the program who qualify are employed as staff. They are transitioning out of the prison system but still getting the care they need through a halfway house on the outside. We have been working with a couple of groups to set that up in southern Nevada, and eventually, in northern Nevada. In this type of program, we could employ people for five years, making the transition from felon to full-time employment easier. The inmate would have five years of dedicated NDF State service with routine performance evaluations.

ASSEMBLYMAN WATTS:

We had conversations about the camps with NDOC. As the Division of Forestry and NDOC work through these issues, please keep us updated so we can get a sense of the long-term plan for the camp footprint, the staffing changes and what the long-term employment pipeline looks like. This is important for our budget decisions concerning NDF and NDOC.

We asked NDOC to think about other offender populations that might qualify for the program if the guidelines are changed. This would increase NDF's workforce.

SENATOR GOICOECHEA:

I am concerned about where we are headed with the project. When you look at the list of Wildland Fire Protection districts, we are closing camps in the counties that pay \$700,000 to \$800,000 in participation fees. Who is going to respond after the counties' initial attack response? Bringing in expensive outside contractors will break the program. The counties will stop participating if they do not get the response. The State will be on the hook because we moved this budget into the General Fund.

I am talking from a rural guy's perspective. There is nothing that irritates the local government more than an NDF official coming in a new vehicle and parking on the fire line when the volunteers are fighting the fire. Those trucks typically do not even have a bump on them.

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Ms. KC:

I hear you. It was never the Division's intent to close any of these camps. We fought hard to continue the service built into these programs. Who will respond? The response is critical, and the response will come.

Knowing NDF would not have as many response crews, with the NV Energy Initiative, S.B. No. 508 of the 80th Session, we built a big response mechanism into local government entities with the fuels and fire crew. Those crews are throughout the State in southern and eastern Nevada. Elko County has a crew and a half. It is not the Division's intent to leave the rural areas. We have increased the contract assets.

We have been working hard on what this plan might look like because it is a long-term plan to close these facilities, if that is where we end up going. We want to know where it is going because it is frustrating to be on the backside of a temporary closure. I cannot keep staff because they do not feel valued. We have a plan, but it is not officially approved yet.

We still have three regional offices. We are considering repurposing some of these facilities into long-term barracks. The State of California is going through a similar thing with Cal Fire. We met with Cal Fire's chief and deputy chief to ask what they were doing.

Part of our plan is repurposing some facilities in the future for barracks to house the full-time staff. The cost of housing is one of our hiring challenges. If we were to reclassify only the vacant positions we have, we would put these squads and crews in rural locations at existing facilities. We would more easily mobilize these squads to areas of highest risk around the State.

SENATOR GOICOECHEA:

You do not have to convince me; you must convince Elko County.

CHAIR HARRIS:

We will move to B/A 257-4235, the Forestry Nurseries budget.

DCNR - Forestry - Nurseries — Budget Page DCNR-101 (Volume III)
Budget Account 257-4235

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ASSEMBLYWOMAN GORELOW:

Which of the 43 maintenance projects does the Agency expect to be able to complete in the upcoming biennium?

Ms. KC:

This is an enterprise budget account that does not get any General Fund monies. We are required to make our own revenue by selling conservation plant materials, both in seed and in plant stock form. We always push forward deferred maintenance projects as our facilities are old. We need to keep them up, running and current so we do not kill the plants we are trying to sell.

What defers the maintenance is, we do not often have the money in the account to pay for it so we focus first on life, and safety issues, and on compliance with the Americans with Disabilities Act of 1990.

We usually push the larger maintenance out until it becomes a big problem and requires immediate attention. For example, winds took out two of our greenhouses in Washoe Valley. We had to emergency reskin them so the plants would live through the winter.

We have made a few efficiencies to the program by investing in more automated systems. With that, we can produce plants more quickly and be more cost effective which generates more profit.

We were closed to the public for a long time during COVID-19, which impacted our sales. We are finally starting to come out of the sales slump. An infrastructure bill is part of the infrastructure law directly correlated to State tree nurseries. State tree nurseries are often underfunded but necessary for conservation, rehabilitation and restoration. We are expecting a \$160,000 annual investment to help us get our infrastructure back up and running through that infrastructure bill. Page 26 of [Exhibit C](#) shows B/A 257-4235.

ASSEMBLYWOMAN GORELOW:

Who is buying your plants and what kind of plants are you selling? Are they sold in bulk or like commercial nurseries?

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Ms. KC:

We sell sagebrush, rabbitbrush and bitterbrush plants for conservation purposes. We have many native and adapted tree species that require less water. Per NRS, we cannot sell within city limits. Customers are not required to buy in bulk but are usually required to buy a 25-tree or brush minimum for the first purchase.

ASSEMBLYMAN HAFEN:

I notice the decline in reserves. Would you explain the plan for sustainability moving forward?

Ms. KC:

In the 2021-2023 biennium, we requested a large amount of our reserves be invested in automation efficiencies to produce viable plants faster. We hope to see the return on investment when we sell the plants.

We now have a pricing formula we borrowed from another state tree nursery. We will reevaluate the pricing every two years to be sure the nursery account is viable. It is not our intent to carry a large reserve or to make a large profit. We recognize the reserves are declining and are looking for other sources of revenue. We have begun selling whole logs to the firewood industry. The NRS prevents us from competing with private industry, so we sell things that are built for conservation purposes.

ASSEMBLYMAN WATTS:

You mentioned potential federal infrastructure funding could be available. Please follow up with us on any additional information, opportunities or plans you have as we look at how to make this budget sustainable.

CHAIR HARRIS:

We will now hear from the Nevada Division of Natural Heritage.

KRISTIN SZABO (Administrator, Division of Natural Heritage, Nevada Department of Conservation and Natural Resources):

The Division of Natural Heritage's budget for the biennium is about \$2.6 million in B/A 101-4101, as shown on page 31 of [Exhibit C](#). Of that total, \$429,000 is General Fund monies. Nearly 75 percent of our funding comes from interagency

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transfers from the Nevada Department of Transportation (NDOT) and Nevada Division of Environmental Protection (NDEP), followed by General Fund, federal funds and other income. We have nine FTEs.

DCNR - Nevada Natural Heritage — Budget Page DCNR-119 (Volume III)
Budget Account 101-4101

Decision unit E-250 in B/A 101-4101 revises the funding source for the administrator and an accounting assistant III position from interagency transfers to the General Fund. Decision unit E-251 in B/A 101-4101 will use those freed up interagency transfer funds to create two new technical biologist III positions, one focused on botany and one focused on invertebrate zoology. These two positions will increase our expertise and our capacity to meet our mission to curate Statewide data on at-risk species and ecosystems.

E-250 Infrastructure, Energy & Environment — Page DCNR-122
E-251 Infrastructure, Energy & Environment — Page DCNR-122

Decision unit E-815 in B/A 101-4101 will align the administrator's tier level to the State's unclassified tier definitions. The administrator position is currently a tier 11, which is defined as having authority over a small division and staff. The duties of the position are more closely aligned with tier 8, which is defined as authority over a medium or small division that provides internal or external services. The Division of Natural Heritage provides several services, internally within our department and within State government, and externally to our customers, partners and the public.

E-815 Unclassified Position Changes — Page DCNR-123

ASSEMBLYMAN WATTS:

What benefit will the new biologist positions provide to DCNR's NDEP and to NDOT? Where is the revenue coming from to support the positions and how does that work fit in with the Nevada Department of Wildlife's management activities?

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Ms. SZABO:

Our main challenge is the capacity to track and gather data on hundreds of species. Timely updating of our database to make the data accessible to the people that need and use it is challenging. We constantly have a backlog of data. We have nine people, seven of whom technically are mappers updating data. It would help the backlog issue to have more mapping capacity and expertise.

The largest amount of funding in interagency transfers comes from NDOT. It has the most data requests for NDOT projects and receive top priority for their requests. If NDOT staff has questions about plants they see in the field, they will send in photos for evaluation. Our botanists will identify if plants are rare or endangered and get back to NDOT quickly.

It is the same with NDEP. That funding comes from a U.S. Department of Energy grant that is centered around the Nevada National Security Site. We get reports annually from the Nevada National Security Site, and we update our database with their data. The Nevada Department of Wildlife is a big partner of ours. We work together to exchange data.

ASSEMBLYMAN WATTS:

Your presentation illuminates the need for those additional staffing resources. When this Agency was reclassified from a program to a division, it did not have a fiscal impact. How has your Agency's scope changed since? How has that role grown, and why is this salary adjustment being proposed now?

Ms. SZABO:

This request to adjust the tier of the position was first submitted in the Seventy-eighth Session in 2015. We knew back then that the administrator position was already working out of tier. It passed the Legislative Session but was never put into the budget. We do not know why. Every biennium since, we have been proposing this adjustment. When we were a program, we worked at the level of a division. We have an administrator, we have staff, and we provide services. Becoming a division came after the fact.

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CHAIR HARRIS:

We will move to public comment. In addition, public comment was received from Jay Dixon and Robert Coache of Water Strategy Group, ([Exhibit D](#)) and from Kyle Roerink of Great Basin Water Network ([Exhibit E](#)).

PATRICK DONNELLY (Center for Biological Diversity):

One of the biologist positions the Division of Natural Heritage is requesting is an entomologist. There is a bill right now, Assembly Bill (A.B.) 221 would give authority over insects to the Nevada Department of Wildlife. They have also asked for a fiscal note for an entomologist on that bill. Coordination is necessary because it seems strange for one division to hire an entomologist when another might be taking authority over that type of wildlife. That is something for the Subcommittees to note.

ASSEMBLY BILL 221: Authorizes the management of designated terrestrial invertebrates. (BDR 45-339)

We support hiring another botanist in NDF. The Division needs accountability with the rare plant program. The one major rare plant issue in front of them in the past years is our petition to list Tiehm's buckwheat under the State Endangered Species Act. There was no action for three years. There needs to be accountability.

The Division of Water Resources, while it does not manage water for most of the State's population, it does manage water for almost all the State's land. When you are interested, as in my job in protecting biodiversity in the Great Basin, you try to protect water. The Division of Water Resources protects the ecosystems and the wildlife of the State. Fully funding that Division is really funding environmental protection and not just helping rural economies.

As we are moving forward in this 1,200-year drought, we are fighting more and more over less and less water, and the Agency is starved for resources. We heard the administrators say they are providing the bare minimum service right now. We are in the worst drought in 1,200 years and we have the State Water Agency saying they are doing the bare minimum because that is all the resources they have.

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The Governor's budget is unacceptable for the level of service we need to get from NDWR in this urgent crisis of a drought. We urge you all to fund NDWR as much as possible, enhance that budget if possible because we are in a catastrophic drought, and they need the resources.

JEFF FONTAINE (Humboldt River Basin Water Authority, Central Nevada Regional Water Authority):

I am testifying on the Division of Water Resources budget. On average since 2019, the Division has received about \$2.9 million annually in General Fund support which supplements its revenues for water assessments and fee-based services. This has not kept pace with the Division's increasing workload and rising costs.

We are concerned the Division will not be able to carry out its mandated duties. We share the concerns expressed today about the Division falling further behind on addressing the backlog of adjudications and other activities without additional funding. We are also concerned about using fees and assessments to replace General Fund appropriations to address these shortfalls.

In 2019, non-executive basin account revenues were used to replace General Fund dollars to support existing positions. In 2021, an additional \$619,000 in transfers were approved as a temporary alternative funding source to partially fund an additional five existing positions. The basin account is a special revenue account. It is paid by assessments on water rights holders and is used for additional studies and management of groundwater basins by the State engineer designated as requiring supervision.

The transfers are again proposed to be continued in this 2023-2025 biennium. These transfers were supposed to be temporary, as the positions funded provide Statewide services to the public and should be funded by General Fund appropriations in the long-term.

At the time, it was noted that the impact of the transfers was that by funding those designated basins, funding would not be available for other things that the Division would prefer to do that would be beneficial, such as collecting more water level data, keeping up with field investigations, continuing with studies to

evaluate the water budget and the water availability within the basin, supporting travel expenses and field presence.

The lack of those services is evident this biennium. The record indicated that the water basin district budgets would not be able to support the recommended personnel cost beyond the 2021-2023 biennium without substantial increases in both assessments.

The bare minimum is not enough. We are very concerned about funding for the Division of Water Resources.

JAINA MOAN (External Affairs Director, The Nature Conservancy):

Nevada is the driest State in the nation. Water is a limiting factor in economic development and for nature. The prolonged drought in Nevada has exacerbated this need and created an urgency to ensuring water security for people and the environment. It is imperative that the Division of Water Resources, which protects, manages and enhances the State's water resources for Nevada citizens, be fully staffed and resourced to meet this challenge.

The Division recently completed its strategic plan, which includes seven goals to help it achieve its mission to responsibly manage Nevada's limited water resources. We are pleased to see funds for the Nevada Water Initiative and the digitization initiative in the proposed budget. This will help the Division work towards two of those goals.

The Division needs additional staff to improve the timeliness of processing water right applications, proof of beneficial use, extensions of time and change of ownership, complete adjudication of water rights in Nevada's groundwater basins, and expand and enhance the dam safety program.

Full funding for NDWR is important to our economy. They cannot do the work in a timely manner without better resources and staffing. This affects not only the economy but businesses and industry directly. The future of Nevada's water resources and economic stability depends on the effective management of our water resources. We urge the Legislature to provide sufficient funds for the Division to achieve its goals.

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CHAIR HARRIS:

There is no further public comment. This meeting is adjourned at 10:27 a.m.

RESPECTFULLY SUBMITTED:

Dee Chekowitz-Dykes,
Committee Secretary

APPROVED BY:

Senator Dallas Harris, Chair

DATE: _____

Assemblyman Howard Watts, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
	C	2	Adam Sullivan, Department of Conservation & Natural Resources	Department of Conservation and Natural Resources Budget Presentation Forestry, Water Resources, Nevada Natural Heritage
	D	38	Jay Dixon and Robert Coache Water Strategy Group	Public Comment on Budget Account 4171
	E	38	Kyle Roerink, Great Basin Water Network	Letter of Intent for Budget Account 4171