

MINUTES

MEETING OF THE BOARD OF EXAMINERS

December 14, 2010

The Board of Examiners met on December 14, 2010, in the Annex on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 10:00 a.m. Present were:

Members:

Governor Jim Gibbons, Teleconference
Attorney General Catherine Cortez Masto, Teleconference
Secretary of State Ross Miller
Clerk Andrew K. Clinger

Others Present:

Katie Armstrong, Attorney General's Office
Jim Spencer, Attorney General's Office
Kimberlee Tarter, Department of Administration, Purchasing Division
Dawn Rosenberg, Department of Corrections
Dorrie Kingsley, Department of Health and Human Services, Division of Health Care Financing and Policy
Lisa Young, Department of Public Safety, Records and Technology Division
Carrie Skenkhuizen, Department of Public Safety, Records and Technology Division
Jason Holm, Department of Health and Human Services, Division of Welfare and Supportive Services
Mike Worman, Department of Health and Human Services, Division of Welfare and Supportive Services
Robert Nellis, State Office of Energy
James Wells, Public Employee Benefits Program
Donna Lopez, Public Employee Benefits Program
Jon Hager, Public Employee Benefits Program
Kateri Cavin, Public Employee Benefits Program
Nancy Bowman, Attorney General's Office
Shannon Berry, Department of Administration, Purchasing Division
Jim Lawrence, Department of Conservation and Natural Resources, Division of State Lands
Lori Myer, Department of Business and Industry, Division of Industrial Relations
Greg Tanner, Department of Health and Human Services, Division of Health Care Financing and Policy
David Marlow, Department of Conservation and Natural Resources, Division of State Lands
General Burks, Office of the Military
Gloria Macdonald, Department of Health and Human Services, Division of Health Care Financing and Policy
Janice Prentice, Department of Health and Human Services, Division of Health Care Financing and Policy
Brenda Ford, Department of Employment, Training and Rehabilitation
Greg Weyland, Department of Education
Jeff Mohlenkamp, Department of Corrections
Phil Weyrick, Department of Health and Human Services, Health Division

Peggy Bowen, Public Comment

Press:

Geoff Dornan, Nevada Appeal

Sandy Cherub, Associated Press

Ed Vogel, Las Vegas Review Journal

Sean Whaley, Nevada News Bureau

***1. APPROVAL OF THE NOVEMBER 9, 2010 BOARD OF EXAMINERS' MEETING MINUTES**

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

Governor: Good morning everyone. We will begin the Board of the Examiners meeting scheduled for today, December 14, 2010, at 10:00 a.m. We have a rather full agenda today. Mr. Clerk note for the record the presence of all Board members. We will begin with agenda item number 1 which is the approval of the November 9, 2010 Board of Examiners' meeting minutes. Are there any comments or questions with regards to the minutes?

Secretary of State: Move for approval.

Governor: It has been moved for approval by the Secretary of State, is there a second?

Attorney General: Second the motion.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item number 1 has passed unanimously.

***2. REQUEST FOR GENERAL FUND ALLOCATION FROM THE INTERIM FINANCE COMMITTEE (IFC) CONTINGENCY FUND**

Pursuant to NRS 353.268, an agency or officer shall submit a request to the State Board of Examiners for an allocation by the Interim Finance Committee from the Contingency Fund.

A. Department of Corrections – Prison Medical Care – \$467,929.00

Pursuant to NRS 353.268, the Nevada Department of Corrections requests an allocation of \$467,929 from the IFC Contingency Fund to support medical expenditures processed by a third party administrator for fiscal year 2010.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

Governor: We move on now to agenda item number 2 which are requests for general fund allocation from the Interim Finance Committee Contingency Fund. The first request is for the Department of Corrections, Prison Medical Care in the amount of \$467,929.00, Mr. Clerk.

Clerk: Thank you Governor. The item before the Board today is a request from the Department of Corrections for a stale claim from their medical expenditures processed by their third party administrator. This is a claim for fiscal year 2010. We do have Jeff Mohlenkamp here from the Department of Corrections if the Board would like to hear testimony on this item.

Governor: My only question is why is this a stale claim of this amount?

Clerk: Governor we have Jeff coming to the microphone now.

Jeff Mohlenkamp: Good morning Governor, members of the Board. For the record, Jeff Mohlenkamp Deputy Director of Support Services. Every year the department has claims that are processed during the last four hospitalization specialty providers, outside the federal claims, that come in the form of stale claims. They are incurred in the prior year, but they need to be paid in the subsequent year. In this case, fiscal year 10 expenditures that are to be paid in fiscal year 11. In this year, fiscal year 11, we have the number 1.5 million. We have 1 million that we are using from prior year reversions and the remainder of \$467,000 that you have before you, is being requested from the Contingency Fund. We met with the Budget Office and LCB and discussed this at length several weeks back and determined that this was the best course of action.

Governor: Mr. Mohlenkamp, I would presume that this is a standard accounting practice that has been done time and time again in the past where unemployment one year stayed in the following year, is that just an accounting principle that takes place that allows us the benefit of having the money without paying it?

Jeff Mohlenkamp: Governor, yes this is. It has been a constant practice with the Department. Obviously, we would like to see going forward that we have funding available through the current year to pay for those prior claims as opposed to constantly having to go back to prior year funds. In fact, we have a budget initiative going forward in the next biennium to try and resolve that issue. We have had some money set aside in another category. If it goes forward in Budget for fiscal year 12 and 13 that would alleviate this issue.

Governor: Is there ability to have predictability, I should have said. Is there predictability for those kinds of claims?

Jeff Mohlenkamp: Unfortunately, not really. We have tried to do our best estimate in the Budget Division for these dollars. If I go back and look at prior year stale claims, it ranges from the high of 1.467 million this year, to as low as \$449,000 a few years back. It has ranged quite a bit. Our population and the nature and size of our population demographics don't really provide for the economies that are going to give you predictability. And as a result, I think it is going to be somewhat hard to hit on the mark. The other option that we have looked at (and right now it has not been feasible without a law change) would be to allow us to pay in the year which the bill is received.

Governor: In a budget with a stale claim, is there a penalty to the State of Nevada for paying it late?

Jeff Mohlenkamp: No, because we did pay the bill on time. We paid with reoccurring funds and are seeking reimbursement. If we had waited and did not pay the claim on time then we would lose the discounts that we would receive otherwise, so we paid it timely and we did get the discounts.

Governor: Thank you Mr. Mohlenkamp. Are there any other questions or comments from any member of the Board?

Clerk: Governor, this is Andrew. I just want a point of clarification on stale claims for the Board's application since we do have item 2C which also relates to this. Typically, agencies are allowed to process stale claims based on the amount of general fund appropriations that they refer each year. So, they have to have sufficient funds reverted each fiscal year and if a claim comes up against that fiscal year, then we go back and check the log which shows all of the expenditures that have been posted since they closed and once they run out of funds that have reverted they either have to go to the Contingency Fund as they have in this case, or they have to ask for a supplemental appropriation. We have a stale claims account that we pay those claims out of and again keep track of their prior year reversions to make sure they have not exceeded those reversion amounts.

Governor: Are there any other questions or comments?

Secretary of State: I move for approval of agenda item 2A.

Governor: The Secretary of State has moved for approval, is there a second?

Attorney General: Second the motion.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 2A has passed the Board of Examiners.

**B. Department of Cultural Affairs – State Historic Preservation Office (SHPO)
\$107,234.00**

Pursuant to NRS 353.268, the State Historic Preservation Office is requesting an allocation of \$107,234 from the IFC Contingency Fund to restore agency funding due to a discontinuance of Cultural Resource Bond Program, loss of associated interest income and a reduced level of project review activity for the Department of Transportation.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

Governor: We move to agenda item 2B, which is the Department of Cultural Affairs, State Historic Preservation Office requesting the amount of \$107,234.00, Mr. Clerk.

Clerk: Thank you Governor. This is a request again from the IFC Contingency Fund to restore operating funds. This is due to the temporary discontinuance of the Cultural Resource Bond Program. That program was suspended this fiscal year due to the lack of our debt capacity and our ability to service all of the bonds that were authorized so, this program was discontinued for this fiscal year. The State Historic Preservation Office operates off the interest on those bonds and without those bonds they need this allocation for operating purposes for fiscal year 11.

Governor: Any comments or questions from any member of the Board? Hearing none, is there a motion from the Board?

Secretary of State: Move for approval.

Governor: Moved by the Secretary of State, is there a second?

Attorney General: Second.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 2B has passed the Board of Examiners.

C. Department of Administration Budget and Planning Division – Board of Examiners – Stale Claims Account - \$650,000.00

The Budget & Planning Division is requesting an allocation in the amount of \$650,000 from the IFC Contingency Fund to replenish the Stale Claims account through April 15, 2011.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State **Seconded By:** Attorney General **Vote:** 3-0

Comments:

Governor: We move on now to agenda item 2C, which is for the Department of Administration, Budget and Planning Division, Board of Examiners, Stale Claims Account for \$650,000.00, Mr. Clerk.

Clerk: Thank you Governor. This is a request to replenish the funds in the Stale Claims Account. This is the account that I was just referencing in item 2B. Based on our projections, the \$650,000.00 allocation from the IFC Contingency Fund will give us enough funding in the Stale Claims Account to pay claims through April 15. As part of the stale claims process, through the Department of Corrections, we do have a million dollar claim pending against this account which is part of the driver for the need to ask for the \$650,000.00.

Governor: Any comments or questions from any member of the Board?

Secretary of State: Move for approval.

Governor: Moved by the Secretary of State, is there a second?

Attorney General: Second the motion.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 2C has passed the Board of Examiners.

D. Department of Public Safety – Dignitary Protection - \$325,721.00

Pursuant to NRS 353.268, the Dignitary Protection Division is requesting an allocation of \$325,721 from the Interim Finance Committee Contingency Fund to fund three additional DPS Officer 2 positions and necessary operating costs to fulfill the mission of protecting the Governor-Elect and First Family through the end of the fiscal year.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

Governor: We will move on to 2D, Department of Public Safety, Dignitary Protection in the amount of \$325,721.00, Mr. Clerk.

Clerk: Thank you Governor. This item has actually been amended. The amount that is being requested now is \$103,855.00. This is a request to add one additional Public Safety Officer II position to the Dignitary Protection. This is necessary to fulfill the mission of protecting the Governor and the First Family through fiscal year 2011. With the transition to the new Administration and additional members of the Governor's Mansion, the Department of Public Safety felt it was necessary to add an additional position to the Dignitary Protection.

Governor: Any comments or questions?

Secretary of State: Move for approval.

Governor: Moved by the Secretary of State for approval, is there a second?

Attorney General: Second.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 2D has passed the Board of Examiners, with the corrected amount of \$103,855.00.

***3. STATE VEHICLE PURCHASE**

Pursuant to NRS 334.010, no automobile may be purchased by any department, office, bureau, officer or employee of the State without prior written consent of the State Board of Examiners.

AGENCY NAME	# OF VEHICLES	NOT TO EXCEED:
Department of Business and Industry – Division of Industrial Relations – Safety Counseling and Training	1	\$23,286.25
Department of Wildlife – Administration Division	1	\$29,700.25
Department of Wildlife – Administration	1	\$31,329.25

Division		
Total:		\$84,315.75

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

Governor: We move on now to agenda item number 3 which is state vehicle purchase, Mr. Clerk.

Clerk: Thank you Governor. We have three vehicle requests on the agenda this morning totaling \$84,315.75. The first vehicle is for the Department of Business and Industry, Division of Industrial Relations, Safety Counseling and Training. This is a replacement vehicle. The second item is for the Department of Wildlife, Administration Division. This is a new vehicle for the sage grouse conservation efforts. And finally, the last vehicle request is for the Department of Wildlife, Administration Division, which is a vehicle for the sage brush ecosystem coordination efforts.

Governor: Are there any questions?

Secretary of State: Move for approval.

Governor: Moved for approval by the Secretary of State, is there a second?

Attorney General: I will second.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 3 state vehicle purchase has been approved by the Board of Examiners.

***4. REQUEST TO WRITE OFF BAD DEBT**

NRS 353C.220 allows agencies, with approval of the Board of Examiners, to write off bad debts deemed uncollectible.

A. Department of Public Safety – Records and Technology Division – \$3,043.75

The Division is requesting approval to write-off outstanding debts owed by past due vendors which exceed \$50.00. The total amount of this request is \$3,043.75.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

Governor: We move to agenda item 4 which is the request to write off bad debt. We have two, one for the Department of Public Safety, Records and Technology Division in the amount of

\$3,043.75 and the other for the Public Employees' Benefits Program in the amount of \$2,766.10. Mr. Clerk any comments?

Clerk: Governor, no additional comments on those items.

Governor: Okay, are there any questions from any member of the Board in regard to either 4A or 4B? We will vote separately if it is requested, but I intend to take them together.

Secretary of State: I move for approval of agenda item 4A and 4B.

Governor: Secretary of State moved for approval of agenda items 4A and 4B, is there a second?

Attorney General: Second the motion.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda items 4A and 4B have passed the Board of Examiners.

B. Public Employees' Benefits Program – \$2,766.10

Public Employees' Benefits Program is requesting authority to write off debt that totals \$2,766.10. The reported debt is specifically related to participant health insurance premiums. One account represents collection fees deducted from amounts collected from the Controller's Office, two accounts are bankruptcies, and one account represents a deceased participant.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

***5. STATE LAND LEASE**

A. Department of Conservation and Natural Resources – Division of State Lands

Pursuant to NRS 322.007, the Nevada Division of State Lands (NDSL) is requesting approval, on behalf of the Nevada Army National Guard (NVARNG), to enter into a lease with the Nevada System of Higher Education (NSHE) for the Carlin Fire Science Academy (FSA).

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

Governor: We will move on now to the State Land Lease, which is for the Department of Conservation and Natural Resources, Division of State Lands, Mr. Clerk.

Clerk: Thank you Governor. The item before the Board today is a request from the Nevada Division of State Lands requesting approval on behalf of the Nevada Army National Guard to enter into a lease with the Nevada System of Higher Education for the Carlin Fire Science Academy.

Governor: I have one question. Does this mean that the National Guard will take over the complete operation of the Carlin facility or will the System of Higher Education still have responsibility for portions of it?

Clerk: Governor I will ask a representative from either State Lands or the System to address that question. I think we have Jim Lawrence here who can address your question from the perspective of State Lands.

Governor: Okay, Jim.

Jim Lawrence: Good morning Governor, members of the Board. For the record, Jim Lawrence, Administrator for the Division of State Lands. What you have before you is the lease half of the Fire Science Academy portion to the University. The intent is to have this lease completed at the same time that the property transfers tie up the University System to the State of Nevada. The National Guard would take ownership and management responsibilities of the property out at Carlin and a portion of that property is to be leased back to the University System for use of the Fire Science Academy. The lease calls out some exclusive use for both parties (for the National Guard and the University System for the Fire Science Academy), as well as the shared use of some of the buildings out there to be jointly used and managed by the National Guard and the University System.

Governor: I know this is an advance that we all look forward to, especially the University, because of the extreme burden that the Carlin facility has been placing on the University System. The joining of the National Guard with the System of Higher Education in the operation of this is going to ensure that we can keep that facility, we can keep some of the programs, and we can sow new opportunities for the National Guard. I think this is a win, win both for the National Guard, and obviously the System of Higher Education, but the State of Nevada will benefit greatly from this as well. Are there any questions or comments for either Mr. Lawrence or about the lease agreement?

Secretary of State: Move for approval.

Governor: Moved for approval by the Secretary of State, is there a second?

Attorney General: Second the motion.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 5 has passed the Board of Examiners. Thank you Mr. Lawrence.

***6. STATE ADMINISTRATIVE MANUAL REVISIONS**

The State Administrative Manual (SAM) is being submitted to the Board of Examiners' for approval of an addition to the following Chapters: **Chapter 0500 section 0504 – Insurance and Risk Management; Chapter 1300 section 1322 – Vehicle Utilization Requirements**

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: We move on now to agenda item number 6 which is the State Administrative Manual revisions, Mr. Clerk.

Clerk: Thank you Governor. We have changes before the Board this morning for two sections in the State Administrative Manual. The first section is section 0504 dealing with insurance and risk management, asking the Board to add language that a claim will be denied if the employee violates provisions within the Nevada Revised Statute for the State Administrative Codes. In addition to the Risk Management section, we are also adding under section 1322 Vehicle Utilization Requirements. Vehicle utilization requirements are outlined under tab 6 of your packets. We have five different groups of utilization that were identified by the Fleet Committee. The first group is Pooled Administrative Vehicles. Vehicles in this category must be used a minimum of 80% of the time available or be driven a minimum of 8400 miles annually. Group 2 vehicles are vehicles assigned to individuals. Vehicles in group 2 must be used a minimum of 75% of the time available or be driven 4800 miles annually. Group 3 vehicles are maintenance and support or contractor's equipment type vehicles. Vehicles in this category must be used a minimum of 50% of the time. The final two groups are public safety and specialty vehicles such as "mobile work station" or "mobile tool box" vehicles. Vehicles in this category are exempt from the minimum usage requirements.

Governor: Comments or questions from any member of the Board?

Secretary of State: How would you arrive at the appropriate percentages for proper usage?

Clerk: Mr. Secretary, initially there was a Fleet Committee that was put together. The Administrator of the State Motor Pool Division has been working with various Fleet managers from around the state to look at usage. They had actually come up with a slightly different usage. We had looked at, working with the State Administrator of Motor Pool, what other states do. At a minimum use, for example if you look at the time available, that is adjusted for holidays, estimated training days, and leave days, so it is not 80% of every day available, but 80% of time available as well as the mileage. Again, working with the Administrator of the Motor Pool Division to come up with what we felt was a reasonable amount. These amounts are a little more stringent than what the committee came up with, but we think that they are appropriate especially given the circumstances.

Secretary of State: Is usage defined as a vehicle having to be out on the road, or is available for the agency to use?

Clerk: No, usage is actually that the vehicle would be used that day. The reason that the usage is split between a minimum usage as well as mileage is because you could have a vehicle, for example, that is only used in Carson City but it is used everyday for the purposes of that agency

in accomplishing their mission. That is why we have the two criteria. It is either the mileage or a minimum number of days that the vehicle is to be used.

Governor: Any further questions?

Secretary of State: None for me Governor. I will move for approval.

Governor: It has been moved for approval by the Secretary of State, is there a second?

Attorney General: Second.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 6 State Administrative Manual revisions have been approved by the Board of Examiners.

***7. TORT CLAIM**

Approval of tort claim pursuant to NRS 41.037

A. Breiner, Chapulin, McNeal, Stout – TC15606 Amount of Claim – \$200,000.00

Discussion: The following report of investigation and subsequent recommendation from Nancy Bowman, Claims Manager for the Attorney General, was approved by James Spencer, Chief of Staff. Ms. Bowman's report dated November 1, 2010 states:

Plaintiffs Edward C. Breiner, Loren G. Chapulin, Jimmie L. McNeal, and Randy L. Stout filed lawsuit 2:05-CV-1412-KJD-(RJJ)/09-15568 in regards to employment discrimination based on gender. The incident occurred at the Southern Nevada Women's Correctional Facility when 3 Correctional Lieutenant positions were vacant. The recruitment for these positions included a selective recruitment for female employees only. The plaintiffs were male employees all employed with the Department of Corrections who state that due to the selective recruitment, they were denied promotional opportunity and advancement of their careers.

In July 2010, the 9th Circuit Court of Appeals opined and reversed a prior grant of summary judgment for the State of NV and remanded the case back to the District Court for further proceedings consistent with its opinion. In the opinion, they stated in part that precluding men from serving in supervisory positions in women's prisons is not a substitute for effective leadership and enforcement of work place rules. The correctional lieutenant restriction denied promotional opportunities on the basis of sex and violated Title VII.

A settlement of these remaining 4 cases was reached in the amount of \$200,000. The settlement amount takes into account a judgment against the State for all 4 plaintiffs and past and future attorney fees.

Recommendation: The report recommended that the claim be paid in the amount of \$200,000 to Marcin Lambirth, LLP to be placed into the plaintiffs' attorneys trust account for disbursement to the four plaintiffs represented in this tort claim.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: We move on now to agenda item number 7 which is a tort claim. We have one, Breiner, Chapulin, McNeal, and Stout, Mr. Clerk.

Clerk: Thank you Governor. This is a case that involves a selective recruitment within the Department of Corrections at the Women's Facility. The recruitment stated that the recruitment was available for females only. The plaintiffs were males employees all employed with the Department of Corrections who state that due to the selective recruitment, they were denied promotional opportunity and advancement in their careers. The settlement would be in the amount of \$200,000.00 for these claims.

Governor: Any questions from any member of the Board?

Secretary of State: Move for approval.

Governor: It has been moved by the Secretary of State for approval, is there a second?

Attorney General: I will second the motion.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 7 tort claim has been approved by the Board of Examiners.

***8. LEASES**

Three statewide leases were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: We move on now to agenda item number 8 which are the leases. Mr. Clerk it looks like we have three leases.

Clerk: That is correct Governor. We have three leases for the Board's consideration this morning.

Governor: Any questions from any member of the Board in regard to any of the three leases presented to the Board at this time?

Secretary of State: Move for approval of the three leases.

Governor: Secretary of State has moved for approval of all three leases, is there a second?

Attorney General: Second.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 8 leases have been approved by the Board of Examiners.

***9. CONTRACTS**

Ninety-two independent contracts were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State **Seconded By:** Attorney General **Vote:** 3-0

Comments:

Governor: We move on now to agenda item number 9 contracts. We have ninety-two contracts for review by the Board of Examiners, Mr. Clerk.

Clerk: Governor that is correct. We have ninety-two contracts and I have revisions.

Governor: Are there any questions or comments from any member of the Board with regard to any of the contracts that are before us?

Attorney General: Governor this is Catherine Masto. Just for the Board's information, at our last meeting I asked that agenda item number 71 and 72 be deferred so I had the time to look at them. The questions that I had regarding those items have been answered and I am ready to support those items today.

Governor: Mr. Clerk which items do those reflect on the agenda today?

Attorney General: Actually it is items 71 and 72 today.

Governor: So you are referring to Hunter's Alert and Nevada Alliance?

Attorney General: That is correct.

Governor: Okay, my apologies. Any other comments or questions from any member of the Board?

Secretary of State: Governor I would like to ask if somebody could come up from DHHS to address some questions if they could. Just to explain about \$49.00 of seven contracts.

Governor: Okay, do we have somebody from Health and Human Services there that can answer the Secretary of State's questions?

Clerk: Governor we do. We have Phil Weyrick from the Health Division. These three contracts on the agenda are contracts 26 through 40.

Secretary of State: I was just wondering the nature of these contracts and kind of how they are structured.

Phil Weyrick: For the record, Phil Weyrick, Administrative Services Officer for the State Health Division, representing the Department of Health and Human Services. These contracts are very similar to the DoIT MSA contracts. They are put in place to enable us to execute the provisions of our grant requirements. Just in the Health Division alone we have over seventy federal grants that require things like these assessments, program evaluations, marketing services and so forth. So we have this divided down into eight different service areas. We have selected seventeen different companies and entities around the state that submit proposals for these different service areas they were all evaluated through the (inaudible) process. At the end, each of the vendors were ranked as far as their abilities to perform those types of services and then we determined how often we felt these types of services will be required by various grants. We set up a waiting schedule and then we selected a number of vendors based on those meeting the criteria. The values of these contracts are maximums. There is nothing in the contractor's language that says they will any awards, so it is strictly based on the need of the federal grants.

Secretary of State: Thank you.

Governor: I have one question, if I may while you are there. I noticed on some of these that the funding source will be determined by the using agency. How does this work out?

Phil Weyrick: Well Sir, say they have federal grants, like the federal WIC program that require that we do needs assessment around the state. Then that program would have to be in a situation where the federal grant would have authorized a certain amount of money to do that needs assessment and at that time they would go to the vendors that were selected to perform a needs assessment, there is usually 3 to 5 different vendors out of these sixteen contracts that would be able to perform those services. They could submit a mini proposal for how they would execute that particular needs assessment and at that time we would do what is called a work order against this contract and the budget account for WIC which is 3214 and the category would be assigned to that work order.

Clerk: Governor this is Andrew. Just to clarify a little bit. Since these are similar to master service agreements and are available to all of the accounts within the Department of Health and Human Services the answer on the source of funding...

Governor: Just let me make sure that I understand. The money or dollars for the funding source a portion of which does come from the federal government, correct?

Clerk: That would be correct.

Governor: So, the Division is given a distribution of responsibility whether it is 55, 45, 75, or 25, in the grant is it not?

Clerk: Correct. It just depends on the program that is utilizing these services and how that program is funded.

Governor: Okay, so it is determined by the grant and not by individual agencies?

Phil Weyrick: Yes, and we of course would have to have appropriate budget authority from the Legislature to do that.

Governor: Thank you Mr. Weyrick. Any other comments or questions for Mr. Weyrick? Any other comments or questions for any other contract before the Board at this time?

Secretary of State: I will move for approval of all the contracts on the agenda.

Governor: The Secretary of State has moved for approval of all of the ninety-two contracts before the Board, is that correct?

Secretary of State: Yes Governor.

Governor: Is there a second?

Attorney General: Second the motion.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion?

Secretary of State: Two quick disclosures Governor. With respect to contract number 36, the contract the contractor is R&R Partners. Their post political advisor is my dad, he runs his office out of their offices. Also, Help of Southern Nevada which is the contractor for 44 and 45, I am a volunteer member of their board and I am not compensated.

Governor: Thank you. I have also submitted my disclosure form to the Clerk for the record as well. Are there any other comments or questions with regard to the motion before us? Hearing none, all those in favor of the approval of all ninety-two contracts signify by saying aye. Let the record reflect that the ninety-two contracts under agenda item 9 have passed the Board of Examiners.

***10. MASTER SERVICE AGREEMENT**

One master service agreement was submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By:

Seconded By:

Vote:

Comments:

Governor: We move on now to agenda item 10 which is master service agreements. We have one master service agreement, Mr. Clerk any comments?

Clerk: Governor we do have one master service agreement for GA-SNC Solar. Governor I did receive a letter yesterday from the Attorney General requesting that this item be withheld from today's agenda. It is my understanding that one of the unsuccessful bidders on this master service agreement have appealed and that appeal has a hearing scheduled for Friday I believe. The Attorney General's Office, to my knowledge, has filed a motion to dismiss and that

potentially could be heard Friday. Given that, and the Attorney General's other concerns, she has requested that this item be withheld at this time.

Governor: I presume we are withholding this approval following the hearing, was that the Attorney General's request?

Attorney General: Governor, let me clarify. Not only regarding the appeal that is pending, but I also ask that it be held so I can have the opportunity and the time to take a look at the costs to the state and also talk to the new administration, to make sure that they are aware of this and they are supportive of this master service agreement. Let me put on the record as well, I did have the opportunity to talk to Mr. Groth and the contractor for this particular item and I would be willing to, if the Board members are able to, put this on a Special Board of Examiners meeting for this month or an emergency Board of Examiners meeting this month. I know that they are concerned, from their perspective, about potentially losing federal dollars if it is not approved by the end of this year, this calendar year. So I would be willing to do so, I just ask that we wait until after the appellate process, and then a week or two would give me the opportunity to take a look at some of the concerns that I have regarding this issue.

Governor: Madam Attorney General, I can understand and agree with your concerns. If Mr. Groth is there, perhaps for this Board, at this time, have him direct some of your questions so the other members of the Board could hear what those concerns are and hear what the response is, which might help to expedite this process if we are going to put it on a subsequent hearing.

Attorney General: I am happy to do so. The action of concern with respect to the fiscal impact with the state the consumer advocate in my office has been working with the folks from Mr. Groth and the contractor's office, so they are still working through the questions. I would be happy to obtain that information and share that with the rest of the Board members, I will not be able to have answers today however.

Governor: Okay, my other question is, do we know what the time constraint is for the federal grant that they are working under to achieve this? It was my understanding when this process began that the state would not be paying for the installation of it, but would be contracting for the delivery of electricity at a solar, substantially lower rate, over a fixed period. I do not want the state to lose out on an opportunity to be green. I do not want it to lose out even more so on the taxpayers being green, in other words, keeping a little more money in the taxpayer's pocket.

Attorney General: Sure, and I appreciate that Governor. I think that is why I am willing to, with the opportunity to get some of my questions answered, bring back that information to the Board prior to the end of this year in an emergency Board of Examiners meeting so that we can have that information before us, and make that decision whether to support it or not prior to the end of the year.

Governor: With that in mind, I think what I would recommend is that we do withdraw item number 10 pending the Attorney General's review and subsequent to the conditions that it would be brought back on an emergency Board of Examiners meeting once the questions and answers in the appeal have been processed.

Secretary of State: I would just like to add. I have also been tracking this issue and it is my understanding that the tax credit is an issue that is set to expire, has been included in the ominous bill at the federal level. By many observations it is expected to pass, so it may not be necessary to hold a Special Board of Examiners meeting.

Governor: So I believe what we will do Mr. Clerk, is bypass agenda item number 10 for now and move on to agenda item number 11, is that suitable to the Board?

Attorney General: Yes Governor.

Secretary of State: Yes Governor.

11. INFORMATION ITEMS

A. Department of Administration – Purchasing Division – Laboratory Corporation of America (Contract # 11746)

Pursuant to NRS 333.700, the Clerk of the Board of Examiners has approved this good of the state contract for \$24,999.00 with Laboratory Corporation of America (LabCorp). The current vendor has not met all of the contractual requirements set forth in RFP 1770 and the required services' affects the health and welfare of Nevada citizens.

Governor: Okay, we will move on to agenda item number 11 which are the information items. 11A is for the Department of Administration, Purchasing Division, Laboratory Corporation of America contract, Mr. Clerk.

Clerk: Thank you Governor. This is an information item as required pursuant to NRS 333.700. As the Clerk of the Board, I approved an emergency contract with the Laboratory Corporation of America in the amount of \$24,999.00. This was necessary because the current vendor was unable to perform their contractual requirements as set forth in the RFP. This is a contract that was approved under my authority as outlined in statute, as an emergency.

Governor: Mr. Clerk, does the state have recourse for recovery under the previous contract that this one had to be substituted for?

Clerk: Governor, I am not sure at this time. We would have to pursue that with the Attorney General's Office.

Governor: Okay. Any comments or questions with regard to information item A?

B. Victims of Crime Coordinator's 2010 Biennial Report

This report is presented for submission to the Legislature pursuant NRS 217.250, which requires the Board of Examiners to report to the Legislature when it meets on a biannual basis. This section provides: **NRS 217.250 Reports.** The Board shall prepare and transmit biennially to the Legislature a report of its activities, including:

1. The amount of compensation awarded;

2. The number of applicants;
3. The number of applicants who were denied compensation; and
4. The average length of time taken to award compensation, from the date of receipt of the application to the date of the payment of compensation.

Governor: Hearing none, we will move on to information item 11B for the Victims of Crime Coordinator's 2010 Biennial report, Mr. Clerk.

Clerk: Thank you Governor. This is a report required under NRS 217.250. The report includes the amount of compensation awarded, the number of applicants who were denied compensation and the average length of time taken to award compensation from the date of receipt of the application to the date of payment of compensation.

Governor: Any comments or questions from any member of the Board with regard to 11B?

12. BOARD MEMBERS' COMMENTS/PUBLIC COMMENT

Governor: Hearing none, we will move on to agenda item number 12 which is Board members comments. Any member of the Board wishing to make a comment at this time?

Secretary of State: Yes Governor. I have three comments in one area of concern. First I would like to make an announcement that I am pleased to have launched the ability to file articles of incorporation online. Obviously, that has impacted this Board ensuring that the companies are in compliance. They can now file those articles of incorporation online. It is a major service that our office now offers. It is going to be very beneficial. The second is that I would like to explore, working with the Attorney General's Office and Mr. Clinger's Office, whether or not this Board could enact, as a matter of policy, a new rule requiring private employers who are awarded state contracts to use the federal E-Verify Program to ensure that only eligible workers are hired by companies. I have been out to DC and met with the E-Verify people and representatives out there. I got the full understanding of what it takes to be in compliance, it is something that is infinitely at the federal level, President Bush put it in place through Executive Order for all federal contractors. This is not why I think it is a reasonable step. I don't think it would be too much of a barrier for the Department of Administration to administrate it in cooperation with our office. The other area that I need to explore is whether or not this Board would have the legal authority to pursue such policy through the contracts of the Board of Examiners. So I would like to work with all parties that are interested and bring that back on a future agenda. Finally, the last area concerns the Legislative Audit dealing with contracts with consultants. I have had the opportunity to discuss with Mr. Clinger and we had some alarming findings. So I just wanted to comment as to how we plan to address that and make sure that these types of issues are not falling through the cracks again.

Clerk: Yes, thank you Mr. Secretary. We are putting together a task force to review the current policies and procedures that are in place. We actually have our first meeting tomorrow. We are provided representatives from the Attorney General's Office, the Purchasing Division, Department of Health and Human Services because a large number of these consultant contracts run through their office, as well as, Bill Chisel from the Executive Branch Internal Audit Division, to work on putting together more stringent policies and procedures to help prevent

these sorts of violations from happening in the future. What I envision is it would be some changes to the State Administrative Manual, possibly some changes to the contract summary form, as well as, the electronic system that we use to enter contracts in. So again we have our first meeting scheduled for tomorrow. We plan on bringing something, hopefully, to the Board of Examiners by February for their approval.

Governor: Any other comments from any member of the Board? Hearing none, we move now to public comment. Is there any member of the public wishing to make a comment before the Board of Examiners at this time? Mr. Miller, is there anyone there wishing to make a public comment?

Secretary of State: Yes there is Governor.

Peggy Lee Bowen: Speaking as an individual I know that you have been working very hard this year and especially this last month. I just really wanted to take a moment to wish you a Happy Holidays and I hope that you have a joyous new year, thank you.

Governor: Thank you Peggy Bowen, and the same to you. Any other member of the public wishing to address the Board of Examiners?

Secretary of State: No other members of the public Governor.

***13. ADJOURNMENT**

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

Governor: Then we will move now to agenda item number 13, the infamous adjournment of the Board of Examiners. Is there a motion?

Secretary of State: So moved.

Governor: Moved to adjourn by the Secretary of State, is there a second?

Attorney General: Second.

Governor: Seconded by the Attorney General. All those in favor signify by saying aye. Let the record reflect that the Board of Examiners is adjourned. Happy Holidays everybody!

Respectfully submitted,

ANDREW K. CLINGER, CLERK

APPROVED:

GOVERNOR JIM GIBBONS, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER