

MINUTES

MEETING OF THE BOARD OF EXAMINERS

June 5, 2012

The Board of Examiners met on June 5, 2012, in the Guinn Room on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 10:00 a.m. Present were:

Members:

Governor Brian Sandoval
Secretary of State Ross Miller
Clerk Jeff Mohlenkamp

Others Present:

Julia Teska, Department of Education
Heather Elliot, Department of Peace Officers Standard Training
Amy McKinney, Department of Motor Vehicles
Grant Nielson, Department of Employment, Training, and Rehabilitation
Gary Cardinal, University of Nevada Reno
William A.S. Magrath II, McDonald Carano Wilson LLP
Betsy Baker, Department of Business and Industry
Lisa Figueroa, Department of Business and Industry
Bill Maier, Department of Business and Industry
Shannon Chambers, Department of Business and Industry
David Schmidt, Department of Employment, Training, and Rehabilitation
Shannon Canfield, Department of Employment, Training, and Rehabilitation
Diane Comeaux, Department of Health and Human Services, Welfare and Supportive Services
Sue Smith, Department of Health and Human Services, Welfare and Supportive Services
Celestena Glover, Department of Administration, Budget Division
Steve Fisher, Department of Health and Human Services, Welfare and Supportive Services
Dave Stewart, Department of Health and Human Services, Welfare and Supportive Services
Linda Delooch, Department of Administration, Purchasing Division
Norman Allen, Attorney General's Office
Dennis Gallagher, Attorney General's Office
Nancy Baiman, Attorney General's Office
Alicia Lerud, Attorney General's Office
E.K. McDaniel, Department of Corrections, Director's Office
Bill Chisel, Department of Taxation
Michael Torvinen, Department of Health and Human Services
Clark Leslie, Attorney General's Office
Mark Costa, Department of Employment, Training, and Rehabilitation

PRESS

Sandra Cherub, Associated Press
Ed Vogel, Las Vegas Review Journal
Sean Whaley, Nevada News Bureau
Geoff Dornan, Nevada Appeal

***3. FOR POSSIBLE ACTION – AUTHORITY TO PAY MINING CLAIM REFUNDS**

A. Department of Taxation – \$19,210

Pursuant to Senate Bill 493, Section 16.7 of the 2011 Legislature, the Department of Taxation must submit mining claim refund requests to the Board of Examiners for approval. The Department of Taxation is requesting authority to pay six refund requests totaling \$19,210.

Clerk’s Recommendation: I recommend approval.

Motion By: Secretary of State Seconded By: Governor Vote: 2-0

Comments:

Governor: Agenda Item No. 3. Mr. Mohlenkamp, authority to pay mining claim refunds.

Clerk: Thank you, Governor. Before the Board is a claim requested for the amount of \$19,210. This brings the balance available left essentially not refunded to date of about 1.2 million.

Governor: I know I ask this question often, Mr. Mohlenkamp. When is the deadline for seeking these refunds?

Clerk: Yeah. And the deadline is at the end of this biennium, so that would be June 30, 2013.

Governor: So there’s still a lot of time. I have no further questions. Any questions, Mr. Secretary?

Secretary of State: No, Governor.

Governor: Chair will accept a motion to approve the authority to pay mining claim refunds in the sum of \$19,210.

Secretary of State: So moved.

Governor: I will second the motion. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

***4. FOR POSSIBLE ACTION – APPROVAL TO PAY A CASH SETTLEMENT**

Pursuant to NRS 41.037, the State Board of Examiners may approve, settle or deny any claim or action against the State, any of its agencies or any of its present or former officers, employees, immune contractors or State Legislators.

A. Department of Transportation – Administration – \$5,900

This is an eminent domain action filed by the Nevada Department of Transportation (NDOT) to acquire a land parcel of 8,880 square feet (.20 acre) from Khoury Leasing for use as part of a

turnabout on State Route 227 (Lamoille Highway) in Elko County. Negotiations resulted in a cost of .60 per square foot, plus accumulated interest for a total lump sum settlement of \$5,900.

Clerk's Recommendation: I recommend approval.

Motion By: _____ **Seconded By:** _____ **Vote:** _____

Comments:

B. Department of Transportation – Administration – \$19,000

This is an eminent domain action filed by the Nevada Department of Transportation (NDOT) to acquire three parcels from Spring Creek Association for use as part of a turnabout on State Route 227 (Lamoille Highway) in Elko County. Negotiations resulted in lump sum settlement of \$19,000, including land value and accumulated interest.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State _____ **Seconded By: Governor** _____ **Vote: 2-0** _____

Comments:

Governor: Agenda Item No. 4, Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board is a request by the Department of Transportation for two separate cash settlements. The first one is an eminent domain action, and the request is in the amount of \$5,900. The second is once again an eminent domain action, and this for the sum of \$19,000.

Governor: Thank you, Mr. Mohlenkamp. I have no questions. Mr. Secretary?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion for approval to pay a cash settlement in two separate sums, one for \$5,900, the other for \$1,900.

Secretary of State: So moved.

Governor: I'll second the motion. Any questions on the motion? Hearing none, all in favor, please say aye. Motion passes.

***5. FOR POSSIBLE ACTION – REQUEST FOR GENERAL FUND ALLOCATION FROM THE INTERIM FINANCE COMMITTEE 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 Public Safety – Nevada Highway Patrol – \$15,766

The Nevada Highway Patrol is requesting an allocation of \$15,766 from the Interim Finance Committee Contingency Fund to cover costs associated with visiting dignitary protection. The requested funding will allow the Division to reimburse the Governor's Protection and Highway Patrol budgets for costs incurred when securing visiting dignitary.

Clerk's Recommendation: I recommend approval.

Motion By: _____ **Seconded By:** _____ **Vote:** _____

Comments:

B. Department of Corrections – High Desert State Prison and Northern Nevada Correctional Center – \$31,880

The Department of Corrections is requesting an allocation of \$31,880 from the Interim Finance Committee Contingency Fund to cover two pending stale claims:

1. High Desert State Prison - Military Leave for fiscal years 2008, 2009 and 2010 in the amount of \$23,950
2. Northern Nevada Correctional Center - A hearing decision for salaries owed in fiscal year 2010 in the amount of \$7,930

Clerk's Recommendation: I recommend approval.

Motion By: _____ **Seconded By:** _____ **Vote:** _____

Comments:

C. Department of Employment, Training and Rehabilitation – Employment Security Division – \$23,900,000 in SFY 2012 and \$40,100,000 in SFY 2013

Pursuant to Assembly Bill 484, Sections 3 and 4 (2011 Session), the Division is requesting an allocation of \$23,900,000 in SFY 2012 and \$40,100,000 in SFY 2013 from the Interim Finance Committee's Contingency Fund for interest payments due to the federal government for the loan made available to the state upon depletion of Nevada's Unemployment Compensation Fund.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State _____ **Seconded By: Governor** _____ **Vote: 2-0**

Comments:

Governor: Agenda Item No. 5, Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are three separate requests for Interim Finance Committee contingency fund allocations. The first is the Department of Public Safety, and this is requesting an amount of \$15,766 to provide dignitary protection. And I want to provide that this is visiting dignitary protection, and you have a detailed schedule of those events that they have provided coverage at which is triggering this request.

The second is with regard to High Desert State Prison Northern Nevada Correctional Center. There are two separate requests. The first is for contingency fund allocation to cover military leave costs related to an individual for three separate years, 2008, 2009 and 2010, totaling \$23,950, and a second is for salaries related to a hearing officer decision for 2010 in the amount of \$7,930.

We have a third item on here, and this is, you know, much larger dollars. This is, as you may recall, we received an extension from the federal government on the payment of our interest on the amounts due to an employment insurance trust. This is coming back before the Board, and it will have to go back before the Interim Finance Committee. The amount requested is \$23,900,000 for fiscal year '12. And since we're nearing fiscal year '13, we're also requesting that amount, and that's \$40,100,000.

Governor: First, Mr. Mohlenkamp, we've provided for this in our budget, correct?

Clerk: That's correct. This was an allocated amount that will be paid out of the contingency fund.

Governor: And this is actually interest payments?

Clerk: This actually -- yes, it is. It's interest payments that are due -- the balance of the actual loan amount varies obviously, but it's been in the range of \$800 million for some time now.

Governor: Any questions, Mr. Secretary?

Secretary of State: No, Governor.

Governor: Hearing none, the Chair will accept a motion for approval of the request as described in Agenda Item 5A, B and C.

Secretary of State: So moved.

Governor: I'll second the motion. Any further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

***6. FOR POSSIBLE ACTION – REQUEST FOR HIGHWAY FUND ALLOCATION FROM THE INTERIM FINANCE COMMITTEE 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 Motor Vehicles – Central Services – \$39,313

The Department of Motor Vehicles, Central Services Division is requesting an allocation of \$39,313 from the Interim Finance Committee's Highway Contingency Fund for one new position for the License Plate Factory.

Clerk's Recommendation: I recommend approval.

Motion By: _____ **Seconded By:** _____ **Vote:** _____

Comments:

B. Department of Business and Industry – Transportation Authority – \$37,802

The Department of Business and Industry, Transportation Authority is requesting an allocation of \$37,802 from the Interim Finance Committee's Highway Contingency Fund due to an anticipated shortfall in the Personnel Services category.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State _____ **Seconded By: Governor** _____ **Vote: 2-0** _____

Comments:

Governor: Agenda Item No. 6, Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are requests for highway fund contingency allocations. You have two in front of you. The Department of Motor Vehicles is requesting allocation to cover a position that will help them move the -- well, currently, as you know, NSP is closed, but the license plate factory still operates within the old prison. They are using minimum security inmates to do that. For a longstanding practice they were using medium security inmates that were long-term workers. They're moving away from being reliant on inmate specialty skills, and they're going to be hiring a graphic design artist to basically do all these special plates and designs that they do. This will not only allow them to move forward and to continue to use minimum security inmates, but also be conducive to a relocation of that tag plan which we expect to incur next biennium. The second item is Transportation Authority and they are requesting allocation of \$37,802, and this is related to a shortfall in their personnel services category.

Governor: And with regard to 6A, Mr. Mohlenkamp, my understanding is all of those skills with regard to the graphic design now reside with an inmate?

Clerk: Yeah, you know, my prior employment I was over at the Department of Corrections, and when I discovered that, one of the things that we realized is that we really needed to rectify that because while inmates certainly can provide some great labor, I don't think it's probably prudent to be reliant on that skill set for some specialized things that DMV needs to make sure that they do not lose. And in this case, I think the director of DMV was very receptive to that.

Governor: And is -- will the inmate be training the new employee?

Clerk: I think I'm going to have to defer that question to others.

Governor: I don't think I want an answer. I have no further questions. Mr. Secretary?

Secretary of State: With regard to the Transportation Authority, it looks like about \$30,000 of their potential shortfall results from the fact that they have an employee in step ten which was budgeted at a step three. Do have any reason -- do you have any idea how that could have happened, Mr. Mohlenkamp?

Clerk: We did receive a response from the agency on that. In this particular case, we had an individual that was essentially I believe on the lay-off list, and they came off the lay-off list at a step ten. I believe that's the situation. I think we have representatives from the agency here though to be able to any questions, maybe down in Las Vegas.

Unidentified Male Speaker: Thank you, Mr. Mohlenkamp, Governor. Actually, I'm from the Director's Office of Business and Industry. The agency doesn't have a representative here. It's my understanding though that that is the case.

Secretary of State: And when you bring in somebody from the lay-off list that was previously at a higher step level, you have to bring them in at the higher pay; is that right?

Unidentified Male Speaker: Yes. And actually in this case there was an individual there that was at the higher grade, and he moved into the step. The other position was laid off. That's exactly what happened. The way these budgets are built is they're built for maximum savings as well as that position, this division also had vacancy savings built in as well that added about \$60,000 to the shortfall.

Secretary of State: Just for my own edification, I think I had a misunderstanding as to what the rules were. I thought if you were on the lay-off list and there was a position that was open, you would have to agree to the lower step level, or otherwise pass on the position, but that's not the case?

Unidentified Male Speaker: No. In this case there was a -- the position that moved into the agency -- the position that was bumped out had seniority rights and was able to bump down into the lower position, and the position was eliminated.

Clerk: And, Mr. Secretary, I may not have my information totally clear on that. Whether the person was actually laid off or bumped down in lieu of a layoff, I'm not exactly clear on the facts here.

Unidentified Male Speaker: I believe that's the case, yes, that the individual was bumped down in lieu of a layoff. And unfortunately then they bumped out the individual that was in the position that was at a lesser step.

Secretary of State: I thought if you bumped down, you would have to accept the lower pay though at whatever step level the position was currently budgeted at. Are you saying that that's not the case, that they have the latitude to increase the step level to a step ten in this instance?

Unidentified Male Speaker: Oh, actually, that's a good question. I don't know. I apologize.

Figueroa: Good morning. I'm Lisa Figueroa with the...

Governor: Ms. Figueroa.

Figueroa: I'm sorry.

Governor: Thank you. If you'd repeat...

Figueroa: I'm Lisa Figueroa with the Department of Business and Industry. Regarding this agency, the position had two -- the agency had two positions equivalent classifications. The position that was eliminated was at a step three. The incumbent in the step ten position, which was eliminated, I'm sorry, I'm confusing matters here, that person bumped into the other position control number which is the same classification. So it was a lateral bump. They therefore got to maintain their step ten.

Governor: Any further questions? Thank you very much. Any further questions with regard to Agenda Item No. 6?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion to approve the request as provided in Agenda Item 6A and B.

Secretary of State: Second. I'm sorry. So moved.

Governor: All right. I'll second the motion. Any further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

***7. FOR POSSIBLE ACTION – SALARY ADJUSTMENTS**

Distribution of retirement buyouts and terminal leave for eliminated positions to Departments, Commissions and Agencies, pursuant to Assembly Bill 487 of the 2011 Legislative Session.

The 2011 Legislative Session made appropriations from the General Fund and the Highway Fund to the Board of Examiners to meet certain salary deficiencies created by the elimination of positions resulting in a layoff and consequently a payment for employee retirement buyouts and terminal leave payouts. Under this legislation, the following amounts from the General Fund and/or Highway Fund are recommended:

BA #	BUDGET ACCOUNT NAME	GENERAL FUND ADJUSTMENT	HWY FUND ADJUSTMENT
2666	Commission on Post Secondary Education	\$1,562	
3922	Department of Business and Industry Transportation Services Authority		\$26,281
	Total	\$1,562	\$26,281

Clerk's Recommendation: I recommend approval.

Motion By: Item Pulled

Seconded By:

Vote:

Comments:

Governor: Mr. Mohlenkamp, my understanding is Agenda No. 7 has been taken off?

Clerk: Yes, Governor. We have a posting issue with this. We'll get it corrected. I did want to comment to the Board that we will have a special Board of Examiner's meeting on June 13 and we will get this item back on that special BOE. I believe it's been coordinated with all your calendars.

***8. FOR POSSIBLE ACTION – AUTHORIZATION TO CONTRACT WITH A FORMER EMPLOYEE**

A. Department of Education

Pursuant to Assembly Bill 240, Section 1, Subsection 2 - 3 of the 2011 Legislature, the Department of Education requests authority to contract with a former employee for assistance with Distributive School Account (DSA) payments.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Move on then to Agenda Item No. 8.

Clerk: Thank you, Governor. Before the Board is one request for authorization to contract with a former employee. This is the Department of Education. They are seeking to have a former employee come back for a short-term basis to provide some specialized training with regard to how the distributive school account payments are organized, and that's, as you know, a very complicated area and since it's such a short term, I think it's a very reasonable request.

Governor: Thank you, Mr. Mohlenkamp. I'm a little unclear with regard to the explanation from the Department of Education that's dated May 9, 2012. In the last paragraph it says to allow for brief period of training anticipated to be one day.

Clerk: I believe we have a representative here, and I'm not sure if that's a misprint, or whether - because it says April 14 to August 14, but I'm not sure if it's just August 14. We'll let...

Governor: Good morning.

Teska: Good morning. I'm Julia Teska. I'm actually the person taking over doing the distributive school account administration for the department, and there's actually two components to this. By statute the department was required to recalculate and re-estimate the 2013 basic support amounts, based on updated property tax information. At the time that that statutory deadline was occurring, both the top fiscal positions at the department were vacant, and it was determined that it was in the best interest of everyone to have the former DSA administrator come in and handle that responsibility. So he did some recalculations of the fourth quarter payments for the current year, the re-estimations for the 2013 amounts, and then he is also -- so he did some work prior to beginning on the April 14th date, and then he is also going to come back and give -- it's not going to be on a single day, but it amounts to approximately one day's worth of training to me so that we can ensure that there's a correct and continued distribution of the funds to the districts. So, sorry that wasn't clear.

Governor: I understand. Thank you very much. Any further questions?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion to approve the authorization to contract with a former employee.

Secretary of State: So moved.

Governor: I'll second the motion. Any questions or further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

***9. FOR POSSIBLE ACTION – VICTIMS OF CRIME 2012 3rd QUARTER REPORT AND FY 2012 4th QUARTER RECOMMENDATION**

NRS 217.260 requires the Board of Examiners to estimate available revenue and anticipated claim costs each quarter. If revenues are insufficient to pay anticipated claims, the statute directs that claim payments must be reduced proportionately. The Victims of Crime Program Coordinator recommends paying the Priority 1 & 2 claims at 100% and Priority 3 claims at 100% of the approved amount for the 4th quarter of FY 2012.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Mr. Mohlenkamp, Agenda Item No. 9.

Clerk: Thank you, Governor. Before the Board is the quarterly report from the Victims of Crime unit. They are recommending that we allow payment for both priority one, two and also three claims at a hundred percent. This would still allow the maintenance of a very significant reserve that would balance forward. I would point out that in your commentary or in the dialogue, it does talk about a reduction in federal funds that's anticipated going forward, and so I think that's something we'll have to watch on an ongoing basis if that materializes and the federal funds are reduced. Then we may have to watch this a little more closely going forward. Currently there's pretty adequate reserves to carry forward and balance and help us out next year as well.

Governor: So are we proceeding with the assumption that we will have lesser funding in the future, in other words, being more conservative with the amount that we pay out now in anticipation of less money later on?

Clerk: I think that this still allows for a fairly significant reserve to carry forward. I think it's in excess of \$2 million that's actually being added to the reserves this year, and so I believe that, yeah, they're still being conservative, but my comment is that as we start to see federal funds decline, it may be that we can be less lenient with regard to those priority three claims, but I don't think we're there yet.

Governor: I have no further questions. Mr. Secretary?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion for approval of the Victims of Crime 2012 third quarter report and FY 2012 fourth quarter recommendation.

Secretary of State: So moved.

Governor: Second the motion. Any further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

***10. FOR POSSIBLE ACTION – 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 Administration – Public Works Division – Building and Grounds Division	1	\$32,500
Department of Business and Industry – Industrial Relations	2	\$53,022
Peace Officer Standards and Training	1	\$5,600
Total:		\$91,122

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Mr. Mohlenkamp, Agenda Item No. 10.

Clerk: Thank you, Governor. Before the Board are three separate requests for purchase of vehicles. The first is to Public Works Division for one vehicle, Department of Business and Industry two vehicles, and Peace Officer Standards and Training for a single vehicle. I have no comments other than all of these vehicles are appropriate at this time.

Governor: Thank you. I have no further questions. Mr. Secretary?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion for approval of the state vehicle purchase as described in Agenda Item No. 10.

Secretary of State: So moved.

Governor: Second the motion. Any further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

***11. FOR POSSIBLE ACTION – STATE ADMINISTRATIVE MANUAL**

The State Administrative Manual (SAM) is being submitted to the Board of Examiners' for approval of additions in the following Chapter: **1600 – Information Technology.**

Clerk's Recommendation: I recommend approval.

Motion By: Item Pulled

Seconded By:

Vote:

Comments:

Governor: Mr. Mohlenkamp, Agenda Item No. 11 I understand has been removed from the Agenda.

Clerk: Thank you, Governor. I had some discussions with the administrator, and he has some concerns over some of the language changes, so I'd like to pull this and revisit this maybe possibly at another time.

***12. FOR POSSIBLE ACTION – TORT CLAIM**

Approval of tort claim pursuant to NRS 41.037

- A. Parker Nelson & Associates Client Trust Account – TC 15717
Amount of Claim - \$450,000**

Recommendation: The report recommended that the claim be paid in the amount of \$450,000.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Thank you. And we will move on to Agenda Item No. 12.

Clerk: Thank you, Governor. Before the Board is a tort claim payment request. This is a settlement in the amount of \$450,000. I believe representatives from both the Department of Corrections and the Attorney General's office are here if you have any questions.

Governor: Is the Attorney General's office representative here?

Lerud: Good morning. Alicia Lerud and Nancy Baiman on behalf of the office of Attorney General, and E.K. McDaniel on behalf of the Department of Corrections.

Governor: Good morning. Will you provide some background with regard to this tort claim?

Lerud: This tort claim arises from a lawsuit that was filed arising from the death of an inmate that occurred in November of 2009. The inmate passed away during the course of a cell extraction that was necessary in order to administer psychiatric meds.

Governor: And there has been a -- this is in litigation, correct?

Lerud: Yes, Governor. This was -- the lawsuit was filed in October of 2011, and we reached settlement in this matter in April of this year.

Governor: How far -- or how close to trial -- where were we in the process in terms of litigation?

Lerud: We were about midway through discovery. Some discovery deadlines had been kicked out. And through the course of discovery enough facts came that a jury could have found the department liable in this matter. Based on similar cases nationwide, liability it appeared to be in the range of \$350,000 to 3.5 million. And some of the claims in this matter were brought under the federal civil rights statute which if a jury was to find the department liable, we could have also been liable for attorneys' fees and costs. And at the time of settlement, Mr. Parker had already -- he was right in the range of \$160,000 in attorneys' fees and costs which also played into the settlement.

Governor: So at least in your estimation, the upper limit of exposure was 3.6 million?

Lerud: 3.5.

Governor: Plus attorneys' fees.

Lerud: 3.5 plus attorneys' fees, yes.

Governor: And was this settlement the result of an independent negotiation, or was this a settlement conference before a judge, or a product of mediation?

Lerud: We used a private mediator in this matter.

Governor: Do you believe that this settlement is in the best interests of the state?

Lerud: Yes, I do, Governor.

Governor: I have no further questions. Mr. Secretary? Hearing no further questions, thank you very much, Chair will accept a motion for payment of the tort claim in the amount of \$450,000.

Secretary of State: So moved.

Governor: Actually, I apologize, Ms. Lerud. May I ask you one more question?

Lerud: Of course.

Governor: This settlement includes attorneys' fees and is the final closure to this case? This includes a Release of all Claims against the State of Nevada?

Lerud: Yes. The total settlement is in the amount of \$450,000, and that includes attorneys' fees and costs, and there will be no further litigation arising from this matter.

Governor: Thank you very much. I apologize, Mr. Secretary. Chair will accept a motion for approval of payment of the tort claim in the sum of \$450,000.

Secretary of State: So moved.

Governor: Second the motion. Any further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

***13. FOR POSSIBLE ACTION – LEASES**

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

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Mr. Mohlenkamp, Agenda Item No. 13, leases.

Clerk: Thank you, Governor. Before the Board are six leases for consideration. The first from the Taxicab Authority, the second the Nevada Film Office, the third is the Board of Massage Therapists, then we have Mental Health Developmental Services, Child and Family Services,

and Welfare and Supportive Services. I point out that a couple of these contracts are showing some meaningful savings, and so we continue to be able to see some of those savings. And I'm not sure how long it will continue, but right now I'm enjoying it.

Governor: As an I, Mr. Mohlenkamp. For example, lease number five, there's a five-year total savings of \$470,000, lease four \$25,000, lease three \$78,000. So I think that's incredibly significant. I do have a question with regard to lease number one, the Taxicab Authority. I see Mr. Harvey in Southern Nevada. Are you there, sir?

Harvey: Yes, Governor.

Governor: My only question is, I understand the need to move locations, and it's better for you to be in this location in terms of servicing your constituency. There's a furnishing cost of \$121,000 and a data cost of \$170,000, and I just was -- I'm asking for a few more specifics with regard to those expenses.

Harvey: Governor, you're asking about the furnishing?

Governor: Yes, yes, excuse me.

Harvey: Okay. Where appropriate the Taxicab Authority is looking to utilize existing furniture, however, most of the furniture that we have is broken and held together by nails. So we're looking to -- that furniture would not stand up to being disassembled and reassembled at our new facility, so we're needing to purchase new furniture for some of our employees. In addition, we have a request for file storage, and our current file storage is at full capacity, and it's no longer sufficient. It's currently in a room that has to be left open because of the heat in the room. This room also houses our servers, and it's not secure and it's located next to our -- the drivers that come into our office. That file storage system would be a space-saving system that would provide us with storage space well into the future and meet our needs for a lockable file storage system.

Governor: So is that storage system included in the data \$170,000 figure?

Harvey: It's not included in the data -- one second.

Governor: And for your benefit, I'm looking -- I don't know if you have the same sheet that I have. I'm looking at page two of two on your lease information document that was provided.

Harvey: Okay, Governor. The data has to do with mainly the phone system that's in our current facility that is a shared phone system with some of the other agencies that are co-located. We would not be able to take that phone system with us, so we would need to purchase a new system. And I see we have representatives from the Director's office in Carson City who could speak on that.

Governor: Thank you. And I just -- these numbers jumped off the page, and so that's the reason I'm asking these questions today.

Unidentified Female Speaker: If I can add regarding the filing system, I believe the spreadsheet you're looking at does have it reflected under what you would think is to be data column, but no it technically is under furnishings. So it's just on the wrong sheet. The column that you're looking at I believe is for anticipated needs within the next three to five or seven years, and so basically they are at full capacity with the filing system so they would need to purchase additional filing and secure it (inaudible).

Governor: And the furnishings, do you have anymore specifics? \$120,000 for furnishings.

Unidentified Female Speaker: As Administrator Harvey had indicated, currently they're utilizing old desks that are three by five desks -- wood desks with drawers. They're not lock capable, and they do have investigative position where they do need that ability to do so, as well as they are, although not technically law enforcement officers, they have equipment as such, so that needs to be able to be maintained in a secure location as well.

Maier: And if I can add as well, I'm also (inaudible) from the Director's office. My name is Bill Maier. Director Harvey has also developed work stations right now that most of his positions are investigators, so they're moving into cubicle work stations. There's about 25 -- I think there's 29 spaces, but there's 25 within the bid. And then he's also developed an area for testing stations, and those are custom made as well so that it could -- so that licensees that come and test and take the driver's test can be reviewed by the individuals that are working at the front counter. So there's -- so it includes that as well.

Governor: All right. I understand. Again I just get this top line figure. We are using Nevada vendors for this?

Maier: Yes, sir.

Governor: I have no further questions. Thank you very much. Thank you, Mr. Harvey. Any questions, Mr. Secretary?

Secretary of State: (Inaudible).

Governor: Chair will accept a motion for approval of the leases one through six within Agenda Item No. 13.

Secretary of State: So moved.

Governor: Second the motion. Any questions on the motion? Hearing none, all in favor, please say aye. Motion passes.

***14. FOR POSSIBLE ACTION – CONTRACTS**

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

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Move on to Agenda Item No. 14. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are 135 contracts. I wanted to point out that Contract No. 59 and Contract No. 122 need to be removed from the Agenda. No. 59 will be reconsidered by the Board at the special meeting, and No. 122 has been removed at the request of the agency.

Governor: Thank you, Mr. Mohlenkamp. I have questions with regard to Agenda Item 4, 8 through 19, 40, 42, 45, and because those other two were withdrawn, that's all I have. Mr. Secretary, did you have any contracts (inaudible)? And 115. All right. We'll begin with Contract No. 4. Good morning, Mr. Magrath.

Magrath: Good morning, Governor Sandoval, Secretary of State Miller. My name is Bill Magrath. I'm a partner in McDonald Carano Wilson. I am the responsible attorney for this particular matter, and I'm prepared to answer any questions you have. I'm prepared to give you a summary of the status of the litigation also.

Governor: And, Mr. Magrath, I have no questions with regard to the specifics of the litigation. I see Mr. Monroe here. I think he's anticipating what my question is, is that we are spending a significant amount of money, and this isn't questioning the amount of your legal fees, but in this particular case for the university system that comes out of our contingency fund, and I've always -- perhaps this question has been answered before, but why is the state paying the university's attorneys' fees, and is there a mechanism for reimbursement of those monies?

Monroe: For the record, Keith Monroe. This is how the state has always handled these special contracts pursuant to statute. Mr. Magrath may correct me, but I believe this contract has been in effect since '05 or '06.

Magrath: That's correct. The original contract special counsel agreement was instituted in 2005. Unfortunately, this litigation has continued, and just last week petitions for writs of certiorari were filed in the United States Supreme Court, which will require two responses. But we're this close to the end of this case, and we have obtained a judgment for over \$1,141,000 against the attorney and Dr. Hussein, and hope that we can collect that at least from the attorney as we proceed.

Governor: And again, Mr. Magrath, I know you've done a great job, and we -- and these are tight budget times, and I guess my question is more for Mr. Monroe, is that is this something that will be ongoing in terms of -- this isn't the only case. We've had other items on our Agenda for BOE for the payment of attorneys' fees, and I don't mean to pick on the university system (inaudible), but we have millions of dollars that are going out in this regard.

Monroe: For the record, Keith Monroe. I had the opportunity to talk with Director Mohlenkamp before the meeting about whether or not an effort should be made to change the reimbursement schedule with respect to these types of contracts, and I think that's a good discussion that can be had. I'm not sure a resolution can be reached, but I think a good discussion can be had. With respect to this contract, Mr. Magrath referenced a million dollar in sanctions. I believe it's appropriate, pursuant to this contract to make it a requirement that any funds recovered by returned to the statutory contingency fund.

Mohlenkamp: Governor, if I might add, after you asked these questions, we looked into this on a more global basis, notwithstanding this one contract, but looking at in general. As you know, the Attorney General's office, you know, for their own staff, is allocated out to all the various funding sources in the state, and there's a cost allocation methodology that works. With special counsel, which is under NRS 41, they're paid out of the statutory contingency fund, but there is no current mechanism where we've recaptured that or had those costs spread out. So there's not only the potential reimbursement when we have a sanction or a settlement or something of that nature, but there's also the ability to out -- that we need to look at the ability to allocate costs related to these services out to the various funding sources, so it's not just the general fund picking up the tab, and that's something I'm starting to work in earnest on right now.

Governor: Thank you, Mr. Mohlenkamp. And I don't want any of my questions to be interpreted in any way of being critical of the Attorney General's office because I've been there. I know that there are limited resources and there are major litigations that just aren't the available attorneys to handle that, and McDonald Carano firm is a very well-respected firm that does great work.

Monroe: Yeah. No. For the record, Governor, we're not taking any of your questions that way. This was a really unique case back in '05, and -- where university counsel was challenged as to some of their decisions, and so we think it was a good decision to get somebody independent, and through the course of the litigation, now that it's coming to an end, very unusual for a federal judge to sanction the parties a million dollars. I'm not saying it hasn't been done before, but I'm not aware of it, and so that might give an indication of how unique the circumstances were in this case, and I think we work very well with McDonald Carano, had a good free flow of information, as well with the university, and I think the just result happened in this case.

Governor: No. I'm -- yeah, I'm aware of the representation in this case, and there is some other examples of sanctions that have been assessed against this individual, but in any event, I have no further questions, and I'll follow up with Mr. Mohlenkamp. Mr. Secretary, any questions on this one? Thank you, Mr. Magrath.

Magrath: Thank you, Governor.

Governor: Next were Contracts 8 through 19. Good morning. And by way of background, I understand that historically the state has entered into these contracts with individual attorneys to provide professional services as hearing officers, and each one of them is for \$350,000, and I know that not each one of them will be paid \$350,000. But to get to the nut of the question is,

will there come a day where we need to do this in-house, or do we continue to pay out attorneys fees?

Easton: For the record, Lee-Ann Easton, Human Resource Administrator. Yes. We are currently researching the possibility of doing an in-house hearing officer signing. We currently do have a \$350 contract maximum, not to exceed total for all 12 hearing officers.

Governor: Oh, so it's \$350,000...

Easton: Total.

Governor: ...globally.

Easton: Globally.

Governor: Okay. All right. I didn't know that.

Easton: And we haven't ever come close -- I can give you a couple little -- in FY '11 it was \$180,000 total.

Governor: And do we measure how they're doing? I mean, do you...

Easton: Yes, we do. We have stats that we provide to the Personnel Commission upon reappointment of these hearing officers.

Governor: And how do you decide who is going to be a hearing officer on a particular case? Do you give the litigants a list of possible hearing officers and they have an opportunity to knock off those that they would prefer not to have hear the case?

Easton: Yes. What we do is we go through the stats and we provide the Personnel Commission a listing of all the hearing officers, and it's up to them. We recommend who we feel that they would want to interview based on their stats, but then we also let the hearing officers know that they can request an interview, and the Personnel Commission are the ones that appoint the hearing officers. And Shelley could probably provide further.

Blotter: Thank you. Shelley Blotter, Deputy Administrator. I believe the question you had is how was a particular hearing officer assigned to the case, and we provide a list of five hearing officers. We have six that primarily serve in the north and six in the south, and then both parties have the opportunity to strike names. And if there are names left on that list after they each are able to strike two, then we assign the hearing officer that has the least caseload. So that it's always trying to balance out over time.

Governor: Thank you very much. That's all I have. Mr. Secretary, did you have any questions? Good morning again, Ms. Teska.

Teska: Good morning.

Governor: Will you provide more detail with regard to Contract No. 40?

Teska: Contract No. 40 is for an outside consultant to come in and over the next couple of months really look at the resources and the structure of the Department of Education in relationship to what should we be doing and are we properly positioned to do that. There's really not been a thorough outside evaluation. I know as superintendants have come on board they have done their own restructuring, but Dr. Guthrie felt that this was a good time to take a look at -- to get some outside influence on, you know, given our priorities, Dr. Guthrie's priorities, are we properly structured to accomplish those. And that's what these folks are supposed to do. They're supposed to get us a result. I feel sorry for them a little bit because they're supposed to get us a result by the end of July so that we can incorporate any of their recommendations into our agency request budget.

Governor: Have they agreed that they'll get it done by that time?

Teska: They seem to think that they will.

Governor: Then moving on to Contract 42, I was just curious about what exactly is monitoring visits for the 21st Century Community Learning Center Program is.

Teska: I apologize. I don't have a great deal of information on this, but most of our grants require some sort of actual field visits to sub-grantees or to those agencies we give the money to, to ensure that there's compliance in terms of the program that's being operated and is in compliance with the terms of the grant. Sometimes, and I apologize, I don't know the case for this particular grant, there are times where the grant specifically stipulates that it must be an outside entity that does the monitoring.

Governor: And thank you. I just was curious what this 21 Century Community Learning Center is.

Teska: You know, I don't actually have that information with me, but I'd be happy to get that.

Governor: If you could supplement later on. I'm not questioning the propriety of the contract. I was just curious reading the detail that there are several schools that are funded, and I want to know essentially what the mechanics are of what that program does.

Teska: Absolutely. I will get that information to you.

Governor: Okay. Mr. Mohlenkamp, Contract 45.

Clerk: Thank you, Governor. Before the Board is this request to extend out the second amendment. And what this does is library archives goes out and they acquire -- they have a company that goes out and acquires periodicals and brings the information in as a database that can be used by those people in Nevada. What was interesting to find out when we started doing a little research -- I started doing a little research is how much of this is used by the educational

system. It was interesting to find out that there's literally hundreds of thousands of hits of uses of this within the educational system and other parties. And so -- because I initially questioned this as part of my department, and initially questioned, no, that seems like a lot of money, but really the extensive use by the education K-12 and even into higher ed is pretty substantial here.

Governor: Mr. Mohlenkamp, more specifically, I think the figure you gave me was pretty astounding about the number of uses that it has.

Clerk: And I apologize, I don't have the details in front of me. I had that when I met with you, but I don't have it know. Yeah, it's pretty significant, and I was -- once I found out how extensively these databases are used by different groups, it made a lot of sense to me.

Governor: Thank you. We'll move on to Contract 115, Department of Motor Vehicles. Good morning, Mr. Breslow.

Breslow: Good morning, Governor.

Governor: Or Director Breslow, I should say, excuse me.

Breslow: You can call me anything you like.

Governor: Will you provide a little detail with regard to this contract?

Breslow: I'd be happy to. For the record, my name is Bruce Breslow. I'm the Director of the Department of Motor Vehicles. So -- and, Mr. Secretary, good to see you.

Secretary of State: Good to see you.

Breslow: My staff will shoot if I don't point out at first that the Off Highway Vehicle Program is not a program of the Department of Motor Vehicles, but we are assisting the OHV commission chaired by Paul Jackson. In this case, this contract was part of an RFP through state purchasing. The company that was selected was called ITI. The contract and the program begin in July. Nobody knows how many off-highway vehicles there are in the State of Nevada. The group that brought this forward to the legislature wanted to use Utah as a model, so this number, the dollar figure you see here is based on that model. It's not a contract that we're obligated to pay in total. It's a two-year contract. This is how it works. For every person that registers an off-highway vehicle, \$1.72, which goes to printing the registration decal and then mailing it to the person, would go to this company that has those contracts. For every title that they print and mail, it's .70 cents, and for drafting, printing the renewal notices and mailing them out is .56 cents. So based on the estimated numbers of what they pulled out of the State of Utah, if every one of those numbers came through in Nevada, and everybody registered under the law their off-highway vehicle, the total amount over two years would fall under this number and this contract. So it's similar to the DMV in the box process in which it's paid for by the user, by the people who are registering it. It's not a check that the state is writing. It comes out of the registration and titling fees.

Governor: And how do we define off-highway vehicles?

Breslow: Well, it's a little embarrassing for me that I can't give you every answer, but dirt bikes, snowmobiles, quads. Since this program was developed, I kept telling my staff that they're going to be the experts on this and not me, and then I saw my name here called today, so it's -- I knew this day was going to come. But there are specific other off-highway vehicles that I don't know the name of. Dune buggies, things like that, that fall under this category. It does not include watercraft. So beginning July 1 the public will have one year to register their existing vehicle. So members of the public may not rush all out that first month to register. They may wait until the final month to register. It's a registration by mail. You go through the OHV dealers to get a VIN inspection. And on vehicles that don't have VIN numbers or don't have serial numbers, will have come into a DMV for an inspection, and we will stamp or issue a number to that vehicle. For new vehicles, rather than buy them in another state and skirt the tax consequences, there's no incentive to do that now. So hopefully to the dealers in Nevada that sell these sort of recreational vehicles, they'll be registering them at point of sale for the customer, and again, the DMV portion of it is our back office will process with this company the titles.

Governor: Will there be an effort to put out PSAs to make people aware of this responsibility?

Breslow: Governor, Bruce Breslow again for the record. Yes. There are all small contracts with billboard companies and radio stations around the state that will begin in July, along with public service announcements. Everyone in our offices will have a little card that they can hand out to customers telling them how to go about registering an off-highway vehicle. We will provide that same thing to all the dealers in the state that they can help educate their customers as well.

Governor: Thank you, Mr. Breslow. And before you leave, I wanted to congratulate you for becoming a part of the Smithsonian Institution. It's my understanding that the Smithsonian has made an official request for the license plates for the autonomous vehicle.

Breslow: Thank you very much. Yes. Nevada will be part of the historic display. It's the evolution of the automobile, and the U.S. History Museum in the Smithsonian. They had the original Darpa Challenge vehicle that was donated to them. The Defense Department put up funds for testing unmanned vehicles, and the progression to which we're going to see, as you know, the State of Nevada approved the first testing license which will be a red license plate to Google, and there are other auto manufacturers that have expressed interest in doing testing in Nevada as well that we expect to see. Once the vehicles are actually sold by a manufacturer to a customer, or certified by a third-party certification facility and licensed in Nevada, the green plates will go on the car. That means the car should have the capability of all of the pertinent rules of the road. I don't anticipate you seeing a green plate for a little while. If you do, call me. The red plates though should be visible in the state starting this week, I believe.

Governor: This week?

Breslow: Google has their plate, so they'll be doing testing on the Las Vegas Strip and in Carson City. And my -- I've been told that they are trying to develop an attraction to create awareness of this somewhere in Las Vegas, and that they are operating -- they have brought some staff to Las Vegas to work on this project and a couple other projects.

Governor: Thank you very much.

Breslow: Thank you.

Governor: Any questions, Mr. Secretary?

Secretary of State: No, Governor. I understand these off-highway vehicle meetings have been fairly contentious, so I'm glad that you and Paul Jackson have to deal with.

Breslow: No. Let me clarify. Bruce Breslow again for the record. Not our program.

Governor: Thank you. And I skipped over a contract, I apologize. Contract 52. Director Willden? Good morning, Mr. Willden, or Director Willden.

Willden: Good morning, Governor.

Governor: And this is a big sum in terms of the amount of money involved. Would you please provide some background with regard to the contract?

Willden: Thank you again, Governor. For the record, I am Mike Willden. I serve as the Director of Health and Human Services. Item 52 and 53 actually are related. They are the continuing work of the department to implement what we call the eligibility engine which is related to the Affordable Care Act, or Health Care Reform. The one-page chart that I handed out to you, you may have seen a couple times before in presentations, but the box in the middle of that chart is the eligibility engine. If you will, the black box that we are developing that will handle eligibility-related issues for health care reform. You can see in that box in there that it's sort of the interfacing machinery software between the Medicaid program and all the eligibility rules that welfare runs to make people Medicaid eligible, and then the Silver State Health Insurance Exchange. This is roughly a \$33 million project over -- from now to fiscal year '17.

The contract before you in Item 52, the actual design development implementation of the eligibility engine is being awarded Deloitte Consultants. That contract is for \$24.7 million. And then Item 23 is a contract being awarded to Public Consulting Group who is what we call our IV&V contractor, and IV&V stands for Independent Validation & Verification, or kind of the quality control contractor that reports to state management and the federal government as to whether the project is on time, on budget, being implemented properly. The Board may also remember that in February you approved a contract with IBM for I think it was around six or \$700,000 to convert our NOMADS, which is our welfare eligibility system code from CSP which stands for Cross System Product to a code called EGL which is Enterprise Generation Language, and that's being done, so it's a three-stage process, update our code, which is

underway at IBM, Deloitte would start the design development and implementation of the eligibility engine, and PCG will be the quality control vendor.

Governor: Thank you, Director Willden. We are -- in the first week of June there is a case before the United States Supreme Court that is considering the constitutionality of the Affordable Care Act. If it is found unconstitutional in total, what effect or consequence will it have on these contracts? And I know you're not an attorney, but if you have anything that you could provide to the Board, that'd be helpful.

Willden: Thank you again, Governor. The contract has termination clause language in all these contracts. And one of the things we've been insistent on with our vendors is that, you know, we don't know how the Supreme Court will rule. I mean, they could find the Affordable Care Act unconstitutional in its entirety, so we have language in I think it's Section 10B of the contracts that basically say if state or federal funding ceases, then we immediately fund out of the contract. We would serve these vendors notice that game's over, if you will, and there would be sort of a quick wrap up, you know, whatever incurred costs they had we would have to pay, but we would end the work on the project. There's also language in the contract that allows for modification of the contract, that let's say the Supreme Court rules that parts are unconstitutional, but parts will go forward and we may have to repackage the work that's being done. Then we would open up negotiations with state purchasing and others to repackage the contract and make adjustments there. So I think between the scope of work in section ten of the contract, we're, if you will, safe either way the Supreme Court rules.

Governor: Yeah, that was going to be my next question, Director Willden, was that we're covered regardless of the outcome of the case?

Willden: I believe so, Governor. Obviously, we've had the discussions with these vendors that they know the risk that we all are facing right now. We've spent a lot of time gearing up, and whichever way the Supreme Court rules, we're prepared to either stop, retool or let the horses loose.

Governor: Thank you, Director Willden. Any questions, Mr. Secretary?

Secretary of State: Can you describe a little bit about how the federal funding comes into play with this? I mean, if hypothetically the Affordable Care Act was thrown out in court, is there any risk to the state that we would have bills that we had anticipated paying with federal funds that the funds may disappear and the feds may not forward that payment in order for us to meet our obligations?

Willden: Thank you for the question. The work for the Affordable Care Act is primarily being funded through an organization that we call (inaudible), which is the Center for Information and Computer stuff. I can't remember what that acronym stands for, but it's the federal agency that oversees the implementation of the Affordable Care Act. And so all the work being done today has been funded through a series of four or five grants that the state has received, millions of dollars worth of grants, and the eligibility engine and the IV&V contractor are partially funded through that federal agency, and that funding -- there's a cost allocation process between three

funding sources. (Inaudible) which is the federal agency in charge of the Affordable Care Act, CMS which is the oversight agency for Medicaid, and then there's also some TANF related money which is temporary assistance to needy families. And so in this cost allocation process, we have various federal funding sources, and a small amount of state match that is required. These projects we're talking to today again have this about \$27 million, about four percent of that is state general fund, the rest is federal dollars.

So if the (inaudible) funding, the Affordable Care Act funding goes away, we've had that question many times with them, they will pay for stuff up until the date that the Supreme Court rules that, you know, it's no longer allowable, and then they would fund wrap up costs. So we're not at risk for any of the work we've done for the last 2 years and 13 months. I mean, in good faith we obtained grants, they've awarded grants and we've been doing the work that the current law says we're supposed to do. And so in good faith we're not at risk. That's been made very clear to us. But once the Supreme Court rules, again, either we stop, retool or finish the project in the next two years.

Secretary of State: Just so I'm clear, so hypothetically, if they did come down with a Supreme Court decision invalidating the program, if Deloitte, for example, took six months to invoice us for the work that had already been performed, the wrap up costs would be included in your understanding. The feds wouldn't pay for that. There wouldn't be an immediate cessation of the ability to pay those funds with the federal funding that we had anticipated.

Willden: Yes. We wouldn't allow Deloitte to take six months, but, yes, whatever length of time it takes to wrap up the costs, and we believe that we have the authority through the federal grants we've obtained to pay the wrap up costs.

Governor: Thank you, Director Willden. I have no further questions with regard to Agenda Item No. 14, contracts. The Chair will accept a motion for approval of Contracts 1 through 135, excepting Contracts 59 and 122.

Secretary of State: So moved, Governor. I have a brief disclosure with regard to Contract No. 15. The contractor is my Chief Deputy Secretary of State's father, but I don't believe -- I've been previously advised by the Attorney General's office that should not preclude me from voting. So moved (inaudible).

Governor: The Secretary of State has made a motion for approval of Contracts 1 through 135, excepting Contracts 59 and 122. I will second the motion. Any questions with regard to the motion? Hearing none, all in favor, please say aye. Motion passes.

15. INFORMATION ITEM

A. Department of Administration – Overtime Report

Comments:

Governor: Mr. Mohlenkamp, Agenda Item No. 15.

Clerk: Thank you, Governor. Before the Board is an informational item which is actually an overtime report. We're actually supposed to be providing this to you quarterly, and I apologize that since I've been here, we have not. This is the first report since I've taken this position. In my defense, we were trying to do a lot of work to try and automate these processes to make sure we had good numbers for you and reports that can be replicated on a regular ongoing basis.

So what you have is four-page report providing for an overview of overtime statewide. And on Page 1 is essentially a summary sheet, and what you will see is that the overtime incurred by the state for the first three quarters, so this is June through September 30 of each of the respective years, Fiscal Year '12 being the year that we're in -- I'm sorry, this is through March 31. June through March 31. We are at 3.08 percent of our base pay, and that's the way it's calculated. You take base pay and then we identify the amount of overtime. Keep in mind that this is looking at overtime for pay and overtime for comp. Some previous reports that have been out there in the past only looked at pay. I thought it would be more appropriate to look at it globally, all overtime for any type of compensation. And that compares to 2011 favorably. We're slightly down. That was 3.14 percent, and then in fiscal year '10 for the same period of time, it was 3.5 percent. So overall our overtime is down compared to the last two fiscal years that are presented. And then you will see also on Page 1 is showing those with the highest percentage of their base pay overtime, and those with the highest percentage as a percentage of the total pay and their highest in the number of dollars. So some of these are no surprise. The Department of Corrections is at the top of the list. They run 24/7 facilities. The Department of Public Safety also 24/7. Transportation not a big surprise. Then you'll see some others down there.

When you go to the next page, it provides a little bit of a different perspective. Now we are saying those that have had the largest increases or decreases in overtime, and we've taken essentially the top five for those, and show it on a quarter-by-quarter basis. And I'll get in a moment to why I think that's important. And then you'll see at the bottom of that page is a cumulative amount that takes those quarters. And so we're talking about those that now have increased are showing increases or decreases from a prior year.

Now, if you go forward to the last two pages, it just provides detail on all of the different departments, and these happen to be stratified using percentage of base pay as the key definer. You can do them by dollar amount or any other parameters that are identified here. What's interesting to me, and what I'd like to point out on an over -- the last page basically does the same thing, but shows it comparative from year to year. So it does the same stratification. Third page is showing you on a quarter-by-quarter basis so you can see some of the seasonality that's (inaudible), and then that very last page shows a comparative year to year to see -- so you can see where all departments are ranking compared to where they were in the prior year.

The thing that I wanted to point out, and I haven't -- I know that there was no request for any agency representatives to be here specifically to testify, is that I think there's a -- by some people there's a conception that overtime is a bad thing. And excessive overtime certainly is, but what we want to do is work a budget division working with the departments to analyze these numbers on a going forward basis to identify the optimum amount of overtime. Because there's some cases where it's just fiscally prudent, it's business prudent to have some levels of overtime

because you don't want to be staffing up if you have peak seasons, for example, fire season, budget season or whatever it happens to be. You don't want staff up year round for some things that are seasonal in nature. There's other cases where we use intermittent employees or temporary employees in order to mitigate over time. So what I think this provides is a good overview and a good jumping off point for a more in depth analysis of some of these overtimes that are either seasonal or consistent, and to identify maybe where those optimum levels need to be.

Governor: Thank you, Mr. Mohlenkamp. I really appreciate the presentation, the way it's been provided. It's very informative for me. And you said our overtime is down overall compared to the past two years, but did you find anything within state government that you found to be of a concern based on the findings of this report?

Clerk: You know, Governor, there were some concerns early on. I have to say having come from the Corrections Department that the first two quarters they had some pretty high overtime, but they were very -- they were explainable. You know, they were closing down a prison, they were holding positions vacant, and I think because of those situations, they're overtime peaked higher for those first two quarters. Now, it did come down in the third quarter, and so I think that the closing of the prison a little bit early had a positive impact of bringing that overtime down.

Some of the things are seasonal in nature. We haven't had a chance to really dive into details about where that optimum level of staffing is. There's a few areas where we may look and we may come back to you and say, you know, because of the consistency of the overtime, it makes sense to address that through maybe adding some positions in certain areas or reallocating resources. In other areas we may come back and say actually it's more cost effective to probably actually increase the overtime to the extent that it makes sense, if there's such a seasonal nature of the expenditures. I haven't done that full analysis, but we intend to work on that. I think that's a project that I actually look forward to.

Governor: Thank you very much. Mr. Secretary, any questions?

16. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS

Comments:

Governor: Any Board member comments?

Secretary of State: Briefly with regard to scheduling, Governor. I'm having a potential scheduling conflict for the July meeting. My office didn't know we'd moved it from the second Tuesday to the first Tuesday, and I hear through the grapevine that the Attorney General may not make it. So if that's the only day that works for you, I'll certainly keep working my schedule to try to make it there, but if there's any way of finding another date, that would be helpful.

Mohlenkamp: Governor, I'll look for a reschedule date that works for all the Board members if possible.

Governor: Is there any public comment here in Carson City? Anyone in Southern Nevada who'd like to provide public comment?

***17. FOR POSSIBLE ACTION – ADJOURNMENT**

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: The Chair will accept a motion for adjournment.

Secretary of State: So moved.

Governor: Second the motion. Any questions on the motion? Hearing none, all in favor, please say aye. Motion passes. This meeting is adjourned. Thank you, ladies and gentlemen.

Respectfully submitted,

JEFF MOHLENKAMP, CLERK

APPROVED:

GOVERNOR BRIAN SANDOVAL, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER