

MINUTES

MEETING OF THE BOARD OF EXAMINERS

August 14, 2012

The Board of Examiners met on Tuesday, August 14, 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
Attorney General Catherine Cortez Masto
Secretary of State Ross Miller
Clerk Stephanie Day

Others Present:

Karissa Vero, Attorney General's Office
Rudy Malfabon, Department of Transportation Las Vegas
Maureen Cole, Department of Employment, Training and Rehabilitation
Kimberlee Tarter, Purchasing
Rebecca Salazar, Department of Administration
Nancy Bowman, Attorney General's Office
Mark Mathers, Office of the State Treasurer
Steve Hill, Governor's Office of Economic Development
Kat Miller, Nevada Office of Veterans Services
Lynn O'Mara, Department of Health and Human Services
Bill Chisel, Department of Taxation
Dr. Tracey Green, Department of Health and Human Services
Mike Torvinen, Department of Health and Human Services
Lynda Parven, Department of Employment, Training and Rehabilitation
Grant Nielson, Department of Employment, Training and Rehabilitation
Dennis Correa, Department of Employment, Training and Rehabilitation
Dave Haws, Department of Employment, Training and Rehabilitation
Jon Hager, Silver State Health Insurance Exchange

1. PUBLIC COMMENTS

Comments:

Governor: Good morning, everyone. I'd like to call the Board of Examiners meeting to order. All members are present. Madam Attorney General, can you hear me loud and clear in Las Vegas?

Attorney General: We are here. Yes, we can hear you.

Governor: All right.

Attorney General: Governor, can you hear us okay?

Governor: Yes. We can hear you loud and clear. I'll begin with Agenda Item No. 1, Public Comment. Are there any members of the public in Las Vegas that would like to provide public comment to the Board of Examiners? I will say that public comment will be limited to three minutes.

Attorney General: Public comment down here anybody? No one down here, Governor.

Governor: Okay. Is there any member of the public that would like to provide public comment here in Carson City? Yes, sir.

Ty Robben: Where do I stand, or just...

Governor: No. You can sit right there, sir, and if you identify yourself for the record.

Ty Robben: Sure, right here?

Governor: Yes.

Ty Robben: Right here?

Governor: Right there in the middle. And again, to remind you, it will be three minutes.

Ty Robben: Oh, sure. No problem. My name is Ty Robben, and I was involved in this hit and run accident by Susan Martinovich last week, and I wanted to give you a copy of the brief I filed.

Governor: You can just leave it there on the table, sir.

Ty Robben: Yes. One for Ms. Masto as well. And as you know, we've been protesting outside your offices, and we've asked you to come out and talk to us, so you haven't done that, so we've come in here to talk to you, you know, and encourage you to talk to us so we don't have to be out there with big signs and a P.A. system and so forth and get some of these issues resolved, Governor, because they are serious and, you know, this is a big cover up, and I encourage you to

read that because it was all over the news last night, and we just really want to get these issues resolved, sir. Okay?

Governor: Understood. Thank you very much, Mr. Robben.

Ty Robben: Thank you.

***2. FOR POSSIBLE ACTION – APPROVAL OF THE JULY 13, 2012 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: We will move on to Agenda Item No. 2, approval of the July 13, 2012 Board of Examiners’ meeting minutes. Have the members had an opportunity to review the minutes from July 13, 2012?

Secretary of State: Yes, Governor.

Attorney General: Yes.

Governor: Any deletions or changes? Hearing none, the Chair will accept a motion for approval.

Secretary of State: So moved.

Governor: Okay. There’s a motion by the Secretary of State to approve the minutes as provided in the binders for July 13, 2012. Is there a second?

Attorney General: Second.

Governor: Second by the Attorney General. Any questions or discussion on the motion? Hearing none, all in favor of the motion, please say aye. Motion passes unanimously.

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

A. Department of Taxation – \$143,955

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 is requesting authority to pay 41 refund requests totaling \$143,955. This results in a remaining balance of \$1,068,278

Clerk's Recommendation: I recommend approval.

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

Comments:

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

Clerk: Good morning. Thank you, Governor. Pursuant to Senate Bill 493 of the 2011 legislature, the Department of Taxation must submit mining claim refunds requests to the Board of Examiners for approval. The department is requesting authority to pay 41 refund questions totaling \$143,955, which results in a remaining balance of \$1,068,278.

Governor: Do the members have any questions with regard to Agenda Item No. 3? Hearing none, the Chair will accept a motion to approve the payment of \$143,955 to pay mining claim refunds.

Secretary of State: So moved.

Attorney General: Second the motion.

Governor: There's a motion by the Secretary of State to approve the payment of the mining claim refund in the sum of \$143,955. The Attorney General has seconded the motion. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***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 – \$650,000

The department requests settlement approval in the amount of \$650,000 to resolve an inverse condemnation claim pertaining to property owned by P8 Arden, LLC. P8 Arden, LLC filed suit against NDOT for the alleged taking of its access at Arden Road and Blue Diamond when NDOT reconstructed and widened Blue Diamond Road from Decatur Boulevard to Rainbow Boulevard as part of Phase IIB of the project. As a result of the lawsuit, the judge issued an order that P8 Arden, LLC was entitled to compensation for the taking of its access rights on Arden.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Agenda item No. 4, approval to pay a catch settlement. Ms. Day.

Clerk: Thank you, Governor. The Department of Transportation requests settlement approval in the amount of \$650,000 to resolve an inverse condemnation claim pertaining to property owned by P8 Arden LLC for access at Arden Road and Blue Diamond when NDOT reconstructed and widened Blue Diamond Road from Decatur Boulevard to Rainbow Boulevard.

Governor: Thank you. Is there a representative of the Nevada Department of Transportation or the Attorney General's office on this matter?

Karissa Vero: I'm Karissa Vero and I'm from the AG's office representing the Department of Transportation on this.

Governor: And I don't know if you can see Mr. Malfabon from your angle. He's here as well. Mr. Malfabon, I -- we have a one-page briefing on this. If you could provide some more background with regard to this matter.

Rudy Malfabon: Yes. The property is next to the railroad, and on this widening project on Blue Diamond Road, NDOT built a bridge over the railroad track. So the property in question didn't have direct access to Blue Diamond Road anymore. They filed an inverse condemnation claim and Karissa Vero from the Attorney General's office negotiated a settlement which I agreed to. We also discussed with the county about providing alternate access. The county will pave the local road, and also NDOT has some additional funds coming from Clark County which total over \$2 million. It will offset some of the cost for the settlement here. The additional funds from the county were for extra work involved in the draining work that that NDOT did on their behalf, and also developer fees that they collected on behalf of NDOT for signals that we put in on that widening project.

Governor: Do you have any idea how much that offset's going to be on -- with regard to this settlement?

Rudy Malfabon: The settlement, since it was NDOT's project, it's really not a direct offset. It's just that the county is going to give us some funds that will offset the cost, but it's not in direct relation to that. So the county is going to do the work on their behalf or the paving of the local street. So I think that that's estimated to cost less than \$200,000.

Governor: And perhaps this question is for counsel. In the memo that we received, it says that the judge issued an order that the plaintiff was entitled to compensation for the taking of its access rights, and then this case settled. So I was curious what the nature of that order was.

Karissa Vero: I'm sorry, the nature of the what?

Attorney General: Judge's order.

Governor: The judge's order.

Karissa Vero: The judge's order. We basically filed the motion to determine liability, both parties did, and the judge did find that there was a taking of access, and the access to the property had been substantially impaired. So if this matter proceeded to trial, then it would be up to a jury to determine the just compensation. And that's why we thought it was in the best interest to enter into a settlement agreement. We actually just tried a neighboring case just a couple blocks down from this case, and it was a bench trial, and the amount of that award was greater than our settlement in this case and we had a favorable outcome in that case.

Governor: I think I recall the case you're talking about. It was a very favorable outcome compared to the demand. Were there dueling appraisals in this case? What was the state's appraisal, and what was the property owner's appraisal?

Karissa Vero: Sure. A total take of the property it came in at 925,000. That's was NDOT's appraisal. The plaintiff's appraisal came in lower at 895,000, for a total take. But in addition to a total take, the plaintiff was seeking damages for precondemnation, and sometimes if they're successful with precondemnation damages, they're given greater than the value of the property and that's what they're entitled to in addition to the value of the property. So, I mean, in some of these cases just those standards alone could be over a million and you're looking at close to another million for the value of the property.

Governor: But in this case it sounds like you've settled it for less than what the state appraised it at as well as what the plaintiff appraised it at.

Karissa Vero: Correct. And that's with attorneys' fees, which the plaintiff is entitled to by statute.

Governor: So it sounds like a pretty good settlement then.

Karissa Vero: Yeah.

Governor: Good job.

Karissa Vero: Thank you.

Governor: Board members, do you have any further questions with regard to this Agenda item?

Secretary of State: No, Governor.

Governor: Hearing no further questions, the Chair will accept a motion to approve a cash settlement in the sum of \$650,000.

Secretary of State: So moved.

Attorney General: Second.

Governor: Motion by the Secretary of State to approve the cash settlement in the sum of \$650,000 as described in Agenda Item No. 4. Second by the Attorney General. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

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

A. Department of Business & Industry

Pursuant to Assembly Bill 240, Section 1, Subsection 2 – 3 of the 2011 Legislature, the Department of Business & Industry requests authority to contract with a former employee to provide services as an Administrative Law Judge/Hearing Officer who would be responsible for holding evidentiary meetings, issuing proposals for decisions on license denial, license revocation or suspensions, administrative fine and unlicensed activity cases coming under the jurisdiction of the entities regulated by the Department of Business and Industry. The term of assignment would be upon approval through June 30, 2013 or when the authorized funds are depleted.

B. Department of Health and Human Services – Division of Mental Health and Developmental Services

Request authority to contract with a former employee to replace the full-time Medical Director position at Southern Nevada Adult Mental Health Services and the .51 position at the Northern Nevada Adult Mental Health Services with a contract for a permanent statewide Psychiatric Medical Director.

Clerk’s Recommendation: I recommend approval.

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

Comments:

Governor: We’ll move on to Agenda Item No. 5, authorization to contract with a former employee. Ms. Day.

Clerk: Thank you. The Department of Business and Industry is requesting to contract with Samuel Thompson, a prior employee with the state for services as an Administrative Law Judge Hearing Officer. The term of the assignment would be upon approval through June 30, 2013, or when the authorized funds are depleted.

Governor. And Mr. Thompson was formerly with the Public Utilities Commission; is that correct?

Clerk: Yes.

Governor: And he was the Chairman of Public Utilities Commission?

Clerk: I believe that’s true, yes.

Governor: I have no questions with regard to this matter. Board Members, any questions with regard to Agenda Item 5A?

Secretary of State: No, Governor.

Governor: Why don't we do both of these, Agenda Item 5B.

Clerk: Thank you. The Department of Health and Human Services, Division of Mental Health and Developmental Services is requesting to contract with Dr. Linda White, a former employee, to replace the full-time medical director position at Southern Nevada Adult Mental Health Services, and a half-time position at Northern Nevada Adult Mental Health Services with a contract for a permanent statewide psychiatric medical director. Dr. White is currently the -- she's the pediatric -- she was employed as the senior psychiatrist at Southern Nevada Adult Mental Health Services, and also employed as the medical director.

Governor: And this is a two-step process. We approve the state contracting with a former employee, and then the contract is contained within the latter part of the Agenda, correct?

Clerk: Yes. This is related to Contract No. 38, which is also on the Agenda for this morning.

Governor: Okay. I have no questions with regard to this Agenda item. Board members?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion for approval to authorize the contract with a former employee as described in Agenda Item 5A and 5B.

Secretary of State: So moved.

Attorney General: I'll second.

Governor: There's a motion to authorize the contract with a former employee by the Secretary of State, second by the Attorney General. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***6. FOR POSSIBLE ACTION – PROVIDER AGREEMENT**

A. Department of Employment, Training & Rehabilitation – Rehabilitation Division

The Rehabilitation Division is requesting Board of Examiners' approval of a services provider agreement and related procedures for the Vocational Rehabilitation and Bureau of Disability Adjudication programs.

Clerk's Recommendation: I recommend approval.

Comments:

Governor: Agenda Item No. 6.

Clerk: Thank you. Agenda Item No. 6 is a provider agreement that is requested from the Department of Employment, Training and Rehabilitation, Rehabilitation Division. The division is requesting approval of a services provider agreement and related procedures for the Vocational Rehabilitation and Bureau of Disability Adjudication programs.

Governor: And do we have a representative from DETR here today? Good morning. If you'd just state your names for the record, please.

Maureen Cole: Maureen Cole. I'm the Administrator of DETR's Rehabilitation Division. With me this morning is Melaine Mason who is the Deputy Administrator for Operations, Rehabilitation Division, and Kimberlee Tarter who is the Deputy Administrator of Purchasing.

Governor: Thank you. And my questions are basic. I went through this. What was happening before, what will this change, and how does that affect the Board of Examiners?

Maureen Cole: Previously we were using a direct purchase authorization that was authorized by the Purchasing Division. Recently there's been a change and a request to use contracts that provide greater protection for the state in terms of insurance, licensure, qualification to do business, those kinds of things. Because the Rehabilitation Division to provide services for our clients uses many, many, many service providers, we asked if we would be able to develop a provider agreement that could be approved one time by the Board and then used more expediently rather than going through the entire contract process, which can sometimes take two, four, six months in order to provide services more quickly to our clients. So that's our purpose here this morning.

Governor: And this is similar to what we -- I don't know if it was last month or the month before, that we did with Health and Human Services, correct?

Maureen Cole: Yes.

Governor: And did these contracts -- did these affect contracts that formerly came to the Board of Examiners and now will not as a result of these provider agreements?

Maureen Cole: Yes, that's correct. We will be able to contract for these services much more quickly and expediently, and therefore provide services to our clients more quickly and expediently as well.

Governor: Is there a threshold that would be reached that it would come to the Board of Examiners' attention?

Maureen Cole: I think we've written these contracts up to \$100,000. So anything in excess of \$100,000 would be contracted individually and therefore come before the Board.

Governor: Is that per provider?

Maureen Cole: Per provider, yes.

Governor: And the main policy for you to do this is again to expedite services. So give me concrete example of somebody who needs services but isn't getting them because of the procedure that we have in place right now.

Maureen Cole: Well, I think a very egregious example would be someone who has a very serious eye condition who is in danger of losing their sight if it's not treated immediately. If we do not have a doctor who was qualified to treat that particular condition, that person might in fact lose their eyesight if they didn't have other insurance or were able to access providers accept through vocational rehabilitation. So if we have a contract provider agreement with a physician, we can obtain those services the same day sometimes.

Governor: And that's hypothetically. Have there been people that have been affected because of this, because of the process that we have in place right now?

Maureen Cole: Well, under the direct purchase authority we were able to provide those services without a contract.

Kimberlee Tarter: And for the record, Kimberlee Tarter of the Purchasing Division. Purchasing worked with DETR on this, and we took a look at it, and some of the issues that were presented to us which we felt this made a good fit was the fact that the clients are not in a situation where DETR can go out and say you need to get three bids. So this was kind of the genesis of the direct purchase authority. The clients are by federal law allowed to go and select which provider they want to use for their services. So that was one piece of it. The second piece was that these providers are not amenable in most instances to sign the state's eight-page contract for these services prior to providing them, and then it was the delay in getting these services to the client because when -- if we waive the procurement process, which the direct purchase authority did, then we still had the contracting process, so we removed 30 days to 45 days of that timeframe, but we didn't remove the timeframe for coming to the Board of Examiners. And when these individuals need to get measurements and fitted for their prosthetic limbs, when they need to get teeth pulled and fitted for dentures, it's more of a medically driven, but not in all instances because it can be more broad than that.

But at the end of the day, what they're looking for is the ability to get core services to clients in a timely fashion. And there are services that don't fit within the realm of the procurement world, but they still have a legal obligation to ensure that the clients that they are allowing to enter into agreements with providers, that they're responsible providers, that they have the appropriate licensure, professionally for the State of Nevada through the Secretary of State's office. So the provider limit doesn't waive all those requirements or obligations, it's simply expediting the approval process so that we are not, and unfortunately, this is what was frequently happening,

providing services outside of a contract. We were doing a lot of clean up. There were retroactive -- the issues with the DPA, there were client -- there were contracts that weren't being done that should have been done, that was a DPA problem, and then the DPA really was commodity focused, and so we were doing a lot of confirming which is purchasing speak for, okay, let's clean the mess up. We've provided the services, now we have to fix it could we can get the provider paid. And so that's really what we're trying to do is stop that other issue of providing services and getting them paid and contracted after the fact.

Governor: And I don't want you to misconstrue. I do not want to stand in the way of clients getting services. And it's important to know administratively that this is an improvement. I just also wanted to ensure that there's that oversight that this Board typically provides, so that you're comfortable with that as well in terms of oversight of these contracts that this Board will no longer see.

Kimberlee Tarter: Yes. We are in essence creating policy through the administration of DETR providing I think what is at the end of the day going to be a greater oversight than what we had in the past, because there were things slipping through that should have come to the Board that didn't, or while they didn't need to come to the Board, we still weren't following proper contracting process. So I think administratively we're doing something that's a little bit more prudent in our course of action, and then for the benefit of the clients as well. And in honesty, the concept really did come from DHHS and the provider agreements and how they came into play, why they came into play, and using that as the basis to move forward today, and we're requesting approval.

Governor: Thank you. I have no further questions. Board members, do you have any questions?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion to approve the provider agreements as provided within our binders.

Secretary of State: So moved.

Attorney General: Second.

Governor: Motion by the Secretary of State, second by the Attorney General. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously. Thank you very much.

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

- A.** The State Administrative Manual (SAM) is being submitted to the Board of Examiners' for approval of additions in the following Chapter: **0300 – State Parks.**

- B.** The State Administrative Manual (SAM) is being submitted to the Board of Examiners' for approval of deletions in the following Chapter: **1900 – Public Works Division.**

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 7, State Administrative Manual. Ms. Day.

Clerk: Thank you, Governor. Would you prefer to take these items together, or would you like them separate?

Governor: Yes. Yes. I'd like them together, please.

Clerk: Thank you. The first item is a change to the State Administrative Manual for the Department of Conservation and Natural Resources, Division of State Parks. It is clean up language due to an elimination of a statute. The second one is with the Department of Administration, Public Works Division. It is also clean up language due to changes in Nevada, revised statutes and some name changes. So they are mainly housekeeping in nature.

Governor: I noticed in this first one it was from a 1999 legislative change?

Clerk: Yes. We should have cleaned this one up already.

Governor: Better late than never though, right? Any questions from Board members on Agenda Item No. 7?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion for approval of the amendments to the State Administrative Manual.

Secretary of State: So moved.

Attorney General: Second.

Governor: The Secretary of State has made a motion to approve the amendments to the State Administrative Manual as provided in Agenda Item No. 7. The Attorney General has seconded the motion. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***8. 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 ADMINISTRATION – \$33,390

The Department of Administration, Director's Office, is requesting an allocation of \$33,390 from the Interim Finance Committee's (IFC) Contingency Fund to fund the first year of a two year contract with Arbitrage Compliance Specialists that will provide assistance to the state in complying with the United States Internal Revenue Service's (IRS) rules and regulations regarding arbitrage.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 8, request for general fund allocation from the IFC Contingency Fund. Ms. Day.

Clerk: Thank you. This is a request from the Department of Administration Director's office for an IFC Contingency Fund allocation in the amount of \$33,390. It will fund the first year of a two-year contract with Arbitrage Compliance Specialists that will provide assistance to the state in complying with the United States Internal Revenue Service's rules and regulations regarding arbitrage. This does relate to Contract No. 10. As a background for this request, this is a service that was previously performed in the Controller's office by an employee who has recently retired, and it was through some meetings with Controller Wallin, she had requested that the Department of Administration take on the administration of this contract.

Governor: Thank you. I have a few questions. Now, this was a responsibility that was with an employee of the Controller's office. We, being the Board of Examiners, approved a similar contract several months ago because there was a dispute between the finding of the person in the Controller's office and the Department of Administration; is that correct? Does my memory serve me right?

Clerk: Yes. There was a contract. It was under the BOE thresholds, so it was approved by the budget division, but there was a contract with the same entity to provide this service.

Governor: And so the person who was within the Controller's office is now retired.

Clerk: Yes.

Governor: There's nobody within the state to perform this function, and we have a deadline coming up for the review of this issue with regard to arbitrage?

Clerk: Correct.

Governor: So why are we contracting for two years? Or I guess one year, and to be more specific, why is it that this responsibility cannot stay with the Controller's office?

Clerk: The Controller had requested that -- the Controller felt that it was more appropriate to be in the Department of Administration as opposed to the Controller's office.

Governor: Is that more of a question for the legislature? I mean, is that -- is this something that is statutory mandated? I mean, I just don't know if we have an authority today to move the responsibilities of a position from the Controller's office to the Department of Administration.

Clerk: The arbitrage calculation is not specifically set in statute on which entity will perform the service. It has historically been performed by an employee in the Controller's office. And since that individual retired, it was not a full-time position in the Controller's office. It was part of that employee's time. But there is nothing in statute that specifically states which entity will perform the service.

Governor: So if it does move to the Department of Administration, will the money that paid for it previously move to the Department of Administration to pay for it?

Clerk: The Controller is not requesting that the position nor the funding for the position that provided the service transfer for the Department of Administration. She prefers that it stay in the Controller's office.

Governor: But what if we made as a condition of the transfer the responsibility -- or the approval of this contract and the transfer of the responsibility from the Controller's office to the Department of Administration contingent upon the funding following it. Can we do that? Or can I -- I mean, that would be my suggestion, but...

Clerk: The position that was performing the function in the Controller's office, it was not the full-time function of that position, so I believe without reducing the -- from a full-time equivalent position to a lower amount could there be available funding without talking to the Controller to see if she has possible savings in her budget elsewhere, I cannot answer that question.

Governor: Well, the other issue is precedent, and what I'm concerned about is if there are different offices within the state who decide they don't want to do anything and do a function anymore and then move it to the Department of Transportation, but the money doesn't follow it, then it's going to create some budget issues. So is that valid?

Clerk: Yes, it absolutely is. There is also going to be some work on the Department of Administration staff, whether it's on State staff to still perform some work related to this contract, although we are contracting for the calculation itself through this arbitrage consultant, there is still State staff time that is required to compile information for that consultant.

Governor: So it's a double whammy in terms of the contingency fund absorbing the cost of having to perform the function as well as staff time to review the results of the contractee or -- that it is performing the service.

Clerk: Correct.

Governor: Or contractor, excuse me.

Clerk: To provide the information required for the contractor to complete the calculation.

Governor: Well, we need to retain this consultant or this contractor to get the work done, but I have a lot of outstanding questions and concerns with regard to some of the consequences if we were to approve this. So if we're to approve this Contract No. 10 and approve this allocation from IFC just to get us through this next time period for the arbitrage reporting requirement for the state, can we revisit these issues that I've brought up today?

Clerk: Absolutely.

Governor: Okay. I have no further questions. Questions from other Board members?

Secretary of State: Governor, I probably a lot of follow-up questions, but since we're going to revisit it, I'll withhold until it's brought back before us.

Governor: Well, we -- Mr. Secretary of State, are your questions similar to mine or...

Secretary of State: Somewhat similar. I mean, I'm wondering, sort of generally, this position that was authorized within the Controller's office that previously had oversight over these responsibilities, was oversight over the arbitrage issues listed in the class specs or the performance measures of that position?

Clerk: Thank you, Mr. Secretary. I don't know if they were specifically listed in those class specs. It was a (inaudible) accountant that performed the arbitrage calculations in the Controller's office as part of her job function, so I don't know if it's specifically lined out in that position that that function resided there, or if it's a generic -- more of a generic class specification that kind of falls in the other duties as assigned area.

Secretary of State: Okay. So we may be able to find out when the legislature in fact authorized this position whether or not they contemplated the specific performance of these duties.

Clerk: Yes. We can look at that.

Secretary of State: So, Ms. Day, if we approve the first year of -- if we approve this in the sum of \$68,190, that's for two years, correct?

Clerk: Correct. I just found an error in the posting. The first item, the title says \$68,190. In the body of the item, it's the correct amount of \$33,390, which we are -- that's the amount we are requesting. The \$68,190 would be for the full contract for both fiscal years, and we only need one year to get us through the biennium. The second year of the contract would end up going to

the legislative session through the executive budget process for the funding of the second year of the contract.

Governor: So if we approve the 33,390, but we only spend the money to get us through this next arbitrage requirement, are we still bound to the contractor for the rest of the year, or can we just get us through this and then have this further discussion as to whether we're going to approve the rest or that this responsibility has to reside with the Controller?

Clerk: The contract has a funding out clause in it, so we could request the contract be terminated through the funding out clause, and then revisit the balance of any arbitrage calculation that would be due through the end of the biennium in a subsequent contract if we choose to contract with -- it changed the agency that the contract is with.

Governor: So how do we frame a motion to, you know, this question for counsel, but...

Clerk: We'd have to defer to the Attorney General's office.

Governor: ...how would we frame a motion to capture that intent?

Katie Armstrong: Thank you, Governor. To capture the intent to bring it back?

Governor: Yes.

Katie Armstrong: And we're currently on Item No. 8, which is the request for the general fund allocation. So this item, you're just going to recommend the amount of the allocation and indicate you want to bring it back in two years, or it wasn't two years, I don't know what was your timeframe?

Governor: I guess my next question then would be when is the reporting deadline?

Clerk: Thank you. There are some arbitrage calculations that are due. There is one that's a statutorily required recalculation that must occur, and then we have ten annual checkup calculations that are not statutorily required that they should be done between now and November, 2010 -- excuse me, 2012. It's not retroactive.

Governor: You almost brought up a whole set of new questions there. Why don't we do this, I think the best way is to take a motion to approve the 33,390, and then -- but also provide that the matter will be revisited upon answering the questions that have been asked today. Perhaps we can put it on next month's Agenda.

Clerk: Absolutely. We will bring it back.

Governor: That may have been not real clear, Mr. Secretary, but...

Secretary of State: I'll move to approve Agenda Item No. 8, the request for general fund allocation from the Interim Finance Committee Contingency Fund in the amount of \$33,390,

contingent upon the request that it be brought forward next month for the Controller and the Department of Administration to respond to the questions that we raised today.

Governor: Thank you, Mr. Secretary.

Secretary of State: I'm not sure if it was clear, but...

Governor: Thank you, Mr. Secretary. It was clear. It was very clear. We have a motion by the Secretary of State. Is there a second? Can you hear me, Madam Attorney General?

Attorney General: Sorry. I had you muted. I second it, but with further discussion. I have a quick question, and it may be for the staff. On our Agenda, which is the Consent Agenda, Item No. 10 is the actual contract for approval that they want us to approve today. So are we saying that we're going to go ahead and approve the allocation of the funds for one year, and approve the contract -- entering into the contract for one year so that Item No. 10 would be adjusted for the amount?

Clerk: Governor, if I may, the contract as agenda'd is a two-year contract. So if you vote on the contract, it has to remain as put in place in the Agenda.

Governor: All right. So now we have to approve a two-year contract because if we hold it up for another month what will the consequences be if we're gonna put this on the next Agenda.

Clerk: Thank you. The consequences of placing it on the next Agenda is that the contractor cannot start the arbitrage calculation process. We do have a few that are due immediately. There's mainly one recalculation that is due immediately, and it's a statutorily required recalculation.

Governor: But there is a funding out clause. So even if we approve it for two years, and this item is put on next month's Agenda, and we answer the questions -- or we get our questions answered and we decide we don't -- we can't or won't do this and have the movement permanently to the Department of Administration, we have the ability to cancel the contract?

Clerk: Yes, that is correct.

Secretary of State: One follow-up question. Don't you have the ability to approve an amount below \$10,000 within the Department of Administration? Is it possible to have the contractor work under an interim contract for an amount under \$10,000 to complete the immediate work that needs to be completed this month and then bring the remainder of the balance forward next month?

Clerk: We could absolutely do that. The only problem that I see with that, without approving the IFC Contingency Fund allocation, is we will have to find money in the Budget Division's budget to cover that contract. So that way that -- I guess one way that we could handle it is to approve either -- not approve the contract, and we can do a contract under \$10,000, and then either approve the IFC Contingency Fund allocation at a lower amount, the current amount or not

approve that piece at all and ask for that to come out of the Budget Division budget which will be pretty tight this year with building the executive budget.

Secretary of State: The IFC Contingency Fund request is just a recommendation that we make that goes to the legislature. So we could recommend approval of the full amount. You could then put in place an interim contract of not less than \$10,000 to get them through the work, in which case we could revisit next month, and possibly approve or reject the entire contract?

Clerk: Yes. The other thing that could happen is if the full amount of the IFC Contingency Fund request were approved, both by Board of Examiners and by the IFC, any amount that is not spent automatically reverts back to the IFC Contingency Fund. So if we only do a contract for \$10,000, the balance of the IFC Contingency Fund would revert -- allocation would revert back to the IFC Contingency Fund. So it would not all be spent.

Secretary of State: I guess we have a few options.

Governor: The current motion to approve the first year of the contract in the sum of \$33,390. And the Attorney General has seconded, but has brought up a question on discussion on the motion. Does that satisfy your question, Madam Attorney General?

Attorney General: Yes.

Governor: Do you still wish to proceed with your motion, Mr. Secretary of State?

Secretary of State: Yes, Governor. I think we can move forward with approving the request of the Interim Finance Committee in the full amount, and then with respect to the individual contract, make a recommendation that the Department of Administration enter an interim contract in the amount less than \$10,000 which they have the authority to do, that that would give us some flexibility to have more time to consider this next month, in which case the contract could be brought forward for approval.

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

***9. FOR POSSIBLE ACTION – VICTIMS OF CRIME FY 2012 4TH QUARTER REPORT AND FY 2013 1ST 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 1st quarter of FY 2013.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: Agenda Item No. 9, Victims of Crime, Fourth Quarter Report.

Clerk: Thank you, Governor. The Victims of Crime Program on a quarterly basis comes back to the Board of Examiners and estimates the available revenue and anticipated claim costs for the quarter. The program recommends paying Priority 1 & 2 claims at 100% and Priority 3 claims at 100% of the approved amount for the 1st quarter of FY 2013.

Governor: My only question is there's a reference in the report, and you may not know the answer to this, but it's on page five, that the federal grant was in the sum of 4,541,000, which was higher than last year's grant, and is there a reason why we got more money than we thought we were going to get?

Clerk: I would like to defer to Evan Dale of the Administrative Services Division. He might know the answer to that question. Oh, he just left.

Governor: Bad timing. It's not that important. I can get the answer later.

Clerk: I actually do know a little bit about this federal grant, and the federal grant does -- or has historically kind of had peaks and valleys in the grant. There are reserved balances in the Victims of Crime Program that we are able to offset medical costs when the grant goes -- the grant amount goes up and down.

Governor: The program is performing extremely well.

Clerk: Absolutely.

Governor: And they're reserving money for later in the event that we don't get as much money next time, and I get all that. I just was curious as to why that changes each year and why we get more some years and less others. So, again, that can be provided in a separate memo if you'll do that for me.

Clerk: Okay. Sure.

Attorney General: Governor, there's a representative down here that might have the answer. I don't think she actually could hear your question though.

Governor: Am I not speaking...

Rebecca Salazar: Governor, I'm Rebecca Salazar, Program Manager for Victims of Crime. Could you repeat the question, please?

Governor: And I'm sorry if I wasn't speaking loud enough for you to hear. Just simply why this year's federal grant was more than you thought it was going to be, and what's the policy, or how is the determination made as to how much money you're going to get each year, or the Victims of Crime Program is going to get each year.

Rebecca Salazar: The federal grant, what we receive is based on a state match. So for every 60 cents that we spend, we get -- I think -- I'm not sure exactly the calculation, but it's a 60 percent match. So it dates back two years. So what we spent in FY10, then we get the grant in FY12. So in FY10 we spent more than usual, so it resulted in this very large grant that we received this year.

Governor: Okay. Thank you very much. Then we'll move on to Agenda Item No. 10, Victims of Crime Program appeal.

Clerk: Thank you, Governor.

Governor: Ms. Day, I'm sorry. Is that an action item? It says for possible action. Do we need to approve the report?

Clerk: Yes.

Governor: Okay. Then we'll move back to Agenda No. 9. The Chair will accept a motion for approval of the Victims of Crime FY 2012 fourth quarter report, and FY 2013 first quarter recommendation.

Secretary of State: So moved.

Attorney General: Second.

Governor: Motion by the Secretary of State, second by the Attorney General. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***10. FOR POSSIBLE ACTION – VICTIMS OF CRIME PROGRAM (VOCP) APPEAL**

Pursuant to NRS 217.117 Section 3, the applicant or Clerk of the Board may, within 15 days after the appeals officer renders a decision, appeal the decision to the Board. The Board shall consider the appeal on the record at its next scheduled meeting if the appeal and the record are received by the Board at least 5 days before the meeting. Within 15 days after the meeting the Board shall render its decision in the case or give notice to the applicant that a hearing will be held. The hearing must be held within 30 days after the notice is given and the Board shall render its decision in the case within 15 days after the hearing. The Board may affirm, modify or reverse the decision of the appeals officer.

A. Thomas Shea

Mr. Shea appeals the denial of his Motion for Reconsideration for VOCP assistance. Mr. Shea's claim was closed due to harassment of and threats to the Hearings Division and Victims of Crime Program staff.

Clerk's Recommendation: It is recommended that the Board uphold the denial of this claim.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: Now, I'm sorry, Ms. Day. Agenda Item No. 10.

Clerk: Thank you. Pursuant to NRS 217.117, an applicant, through the Victims of Crime Program, may within 15 days of an appeals officer rendering a decision, appeal the decision to the Board. In this case, the individual, Mr. Thomas Shea, has requested appeal of the denial of his motion to reconsideration. And as a little background, Mr. Shea appeals the denial of his Motion for Reconsideration for the Victims of Crime Program assistance. His claim was closed due to harassment of and threats to the Hearings Division and Victims of Crime Program staff.

Governor: Thank you. And, Ms. Salazar, are you here for this matter?

Rebecca Salazar: Yes, sir, I am.

Governor: Okay. Now, I'm going to briefly go through the process as I understand it, and I may be skipping some parts, but I just want to make sure that I have it right, and then we'll get to the fundamental question which was the specific nature of the harassment and the denial of his claim. But Mr. Shea was seriously injured back in 2003 I believe it was. He was hit in the eye with a shot glass outside a bar, lost his entire one eye and loss the sight in another eye. He -- the Victims of Crime Program paid for all his medical expenses. He came back and asked for a year's worth of salary for his compensation as well as some dental fees. That matter was heard and ultimately the salary was approved for the lost wages and it was bifurcated for a separate consideration of the dental costs. And that's where I kind of lose the trail, but ultimately I think what I saw was that his time for appeal passed, and so he did a Motion for Reconsideration, but somewhere during that time period there was some statements made to your office by Mr. Shea that was the underlying reason for the dismissal of his matter. And I guess I'm curious as to, you know, I'm not going to condone that kind of behavior, but I'm curious as to what the nature of those phone calls and the statements that were made by Mr. Shea.

Rebecca Salazar: Sure. The Victims of Crime, we're used to dealing with people who are very emotional. This is something that we deal with every day. Mr. Shea's threats, however, were a little more serious. He said things about how many people he's stabbed, and, you know, he's been thrown in the hole while he was in prison for stabbing people, and he'll do whatever he has to do to get what he wants, that type of thing. Once I transferred the claim here to Las Vegas, he made a statement to me about -- I was explaining to him policy views and, you know, saying things that he didn't agree with. And he said that he'd come down to Las Vegas and see me in person and see if I still said no, that kind of thing. He was just a -- on a different level than we're used to dealing with. You know, people get mad at us all the time. That's not the issue. This was a little bit more serious. You know, I mean, he went into great detail about things he'd done to other people, and tweeting that he would do those things to us. And the Northern offices he was visiting every day, which was one of the reasons I transferred it down to Las Vegas so then

it's a little less threatening, you know, it's easier to deal with him by phone. But they don't have security in those offices. They were intimidated and in fear.

Governor: And again, I -- I'm sorry that you had to go through that, and I just think it was important that we know specifically what was going on. We being the Board. And, you know, this is the ultimate sanction in terms of dismissing a case based on that type of behavior, but I just don't -- given what you've today me, I have no reason to question that, and I will be supportive of that. Did I get through the procedure correctly though in terms of the process?

Rebecca Salazar: You did. His ultimate dismissal by the appeals officer didn't have anything to do with the threats. It was simply just because he was filing outside of the timeframe allowed. The appeals officer didn't know anything about the threats. So they were totally separate, just the timing is, you know, prior to his Motion for Reconsideration is when I had closed the claim because during that time period he was, you know, harassing the staff, but the AO decision didn't have anything to do with it. That was simply based on the timeline.

Governor: Thank you. Then I believe, Mr. Shea, is that you? Okay. I'll give you an opportunity to speak. Do Board members have any further questions of Ms. Salazar? Okay. Mr. Shea, are -- is that you here today?

Thomas Shea: Yes, sir.

Governor: Okay. If you would please step forward and I'll give you an opportunity to present your case.

Thomas Shea: For the record, Thomas Shea. It's an honor. Basic stated facts were presented to Ms. Salazar in Vegas concerning the stability of somebody who deals with such a traumatic experience, and then following it up with the Department of Corrections era of one's life can be very hard on somebody as far as their mental stress and the capacity to accept the wanton behavior of certain entities when trying to file claims and get things moving in a proper manner. Never would I ever disrespect the staff of an agency that is trying to help me gain my footing back into society and get back to where I was originally before the crime. I do believe that there was a (inaudible) twist on words to an extent where there might have been assumptions of, it's hard to say the word, you know, threats and harassment, but, you know, if you just state the statutes, I don't think that would be a threat. We'd all be guilty. I simply just -- like I said, I do apologize if it was taken the wrong way, however, I just don't believe it was so.

Governor: And we'll get -- I'll get to the nub of it, Mr. Shea. So you disagree? Do you deny that you made threats to...

Thomas Shea: Oh, yes.

Governor: ...to representatives of the Victims of Crime Program both in Northern Nevada and Southern Nevada?

Thomas Shea: Oh, yes, absolutely. And I do have from Northern Nevada, George Crown actually wrote out a statement. You know, actually I don't believe I have that copy. I do believe I faxed a copy to your office, excuse me.

Secretary of State: I have a copy.

Thomas Shea: Because he, of course, is very distraught that such allegations were made, and he doesn't understand. Of course, he understands the traumatic experiences I've had to deal with, and then, of course, when my case was taken to Las Vegas, since then it's just been a nightmare to try and solidify the conclusion to this matter in a reasonable timeframe without having to state certain facts, policies, rules, regulations concerning 217.

Governor: Ms. Salazar, do you have this statement by Mr. Crown who is the...

Rebecca Salazar: I do not.

Governor: Because he's, as you know, the Compensation Officer with the State of Nevada Board of Examiners Victims of Crime Program, and I'll read it. It says, I George Crown hereby declare that Thomas Shea has conducted business in regards to claims in a profession -- I think he meant to say professional manner. Never have we ever had anything remotely close to the accusations stated. Thomas Shea is very courteous and diligent. We are very pleased to have Thomas Shea and his commitment to success in surpassing the elements that surround being a victim of such a violent crime. I declare under penalty of perjury under the laws of the State of Nevada, that the foregoing is true and correct. Executed August 13, 2012 in Reno, Washoe County, Nevada. So now we have a -- I guess I'll give you an opportunity to respond to that.

Rebecca Salazar: That confuses me. George Crown told me by phone -- he never put anything in writing, but he told me he felt threatened and afraid of Mr. Shea. I do have an email that I didn't include in my packet, but it's from a representative of the appeals office who Mr. Shea made the direct threat to. I can read it. I just didn't include it because I didn't want there to be any retaliation. I didn't know how Mr. Shea would react seeing that in writing. But I -- that confuses me. Mr. Crown's statement confuses me.

Governor: Me as well, because Mr. Crown is the one that's been directly involved in the case, and if I recall, he was the one who appeared in the proceedings of January 19, 2012, and has been the one that's been dealing directly with Mr. Shea.

Rebecca Salazar: Yes, he did.

Governor: So of all the people in your office, Mr. Crown would be the one who's dealt with Mr. Shea the most, correct?

Rebecca Salazar: I'd agree with -- correct, yes.

Governor: So as I said, you know, I've got a sworn statement that's dated yesterday, or day before -- is today the 14th?

Thomas Shea: It was yesterday.

Governor: Yeah, yesterday, by Mr. Crown.

Rebecca Salazar: I don't know what to say about that, Governor. I -- like I said, it conflicts with what he told me. I don't know why he would say that. I'm sure that over the last few months since Mr. Shea's claim has been moved to Las Vegas, I doubt that Mr. Crown's had any problems with him.

Governor: Yeah. And...

Rebecca Salazar: But that's not what he relayed to me. He told me he was in fear. So I don't know why he would put that in writing.

Attorney General: Governor, can I ask a question? What -- where did we get that letter?

Secretary of State: (Inaudible) direct questions to Mr. Shea. This letter was faxed to me, the first page of which is a letter signed by Mr. Shea. The second page was the witness statement that was just read into the record. Did you fax this to my office?

Thomas Shea: I did.

Secretary of State: And did you write this first letter? Is this your signature on...

Thomas Shea: That is -- that was my cover letter.

Secretary of State: Okay. And with regards to the witness statement, how did you come into possession of this witness statement?

Thomas Shea: Upon visiting Mr. Crown. I asked him if it was appropriate for me to do so and he said without a doubt, completely beside himself with wonderings of why such accusations would even be directed towards me. So...

Secretary of State: When did you visit with Mr. Crown?

Thomas Shea: That was yesterday, first thing in the morning, and then later on -- about noon for the finalization for him to sign the...

Secretary of State: Did you prepare the statement, or did he prepare...

Thomas Shea: We both -- well, we both prepared it. We went over it and agreed that certain stating of legal statutes wouldn't be quite appropriate for the matter, so he said just keep it -- to cut out the legal statutes which actually was a page, so I basically just deleted a couple paragraphs and had to print it out.

Secretary of State: Did you write the statement for him in advance, or did he write it himself?

Thomas Shea: He scribbled notes on the back one of the pages I had. It was formulated together, yes. And he read it and signed it and we both agreed and...

Secretary of State: So these are his own words?

Thomas Shea: Yes, sir.

Secretary of State: Okay. And who took the statement and actually put it on the legal pleading?

Thomas Shea: Well, the legal pleading was on my Word spread -- my Word program. I'm very new to computer technology and the whole realm of computers as a whole.

Secretary of State: Okay. And then finally, this witness, Eileen Wood, is that somebody you know personally or...

Thomas Shea: Eileen Wood is the Assistant Coordinator Number 3, I do believe, of the Victims of Violent Crime Program.

Secretary of State: Okay. So this was prepared and signed at the Victims of Crime Program office?

Thomas Shea: And witnessed by Eileen Wood. Yes, sir.

Secretary of State: Okay.

Governor: And just one other follow up. Did Mr. Shea do this of his own free will? Was he intimidated -- did you intimidate him in any way?

Thomas Shea: Oh, absolutely not. George Crown is a very solid gentleman. He's been a family friend for many, many, many years and besides that, he has no idea why the statements were made. We both read this Agenda and were completely blown away.

Governor: When you say he's a family friend, do you have a social relationship outside of this matter with the Victims of Crime Program?

Thomas Shea: Well, I remember him from the neighborhood. He had a couple dogs that he used to -- that would help get the horses when they would leave the pasture when I was a kid, so the dogs used to round up the horses and that's how I remember him. Yeah. But we never spoke though. He was an older gentleman, you know, and I was just a child.

Governor: So you knew him as a kid, Mr. Crown, as a child, right? Is that what you said?

Thomas Shea: Oh, yeah, eight, nine, ten years old, I remember.

Governor: Did you have any dealings with him between that time and the time you were injured?

Thomas Shea: Absolutely not, no.

Governor: Okay. And then were all of your dealings with Mr. Crown from the time you were injured until now based upon his responsibilities and functions as the compensation officer at the -- with the State of Nevada?

Thomas Shea: Absolutely. At the most professional level. And reason being we have no idea why it was transferred to Las Vegas, and the denials and the repercussions it's had on medical bills and time periods have been a constraint.

Governor: Well, you can understand why we're having all these questions, because we have Ms. Salazar who's telling us one thing...

Thomas Shea: Right.

Governor: ...and she likely would not have had the case transferred to Southern Nevada if Mr. -- it sounds like Mr. Crown would be the one who would want to have it moved if he was the one that was dealing with you most often, and it was moved to Southern Nevada to avoid the confrontations that Ms. Salazar has described in Northern Nevada.

Thomas Shea: It was moved to Southern Nevada by Ms. Salazar at the Southern Nevada Las Vegas office unbeknownst to George Crown. He had no idea that it had even been moved until we got the letter of denial. And, of course, that was just a statement of fact, as I, you know, was trying to deal with Rebecca Salazar down in Vegas, and stating facts of the last few years, and my grammatical parameters as far as legalese terms, it's just what it is. I didn't mean for her to take anything the wrong way as far as...

Governor: Again, what Ms. Salazar has presented, it's kind of hard to take that a different way. I mean, it's pretty direct.

Thomas Shea: It's very direct, it's very overwhelming, and unfortunately it feels as if I'm a victim again, in a very sinister way, and it's just something that I'm dealing with.

Governor: Ms. Salazar, you've represented that Mr. Crown had made statements to you that he was concerned as well. Did he provide any of that in writing, or -- it sounds like you've been...

Rebecca Salazar: No.

Governor: This is all news to you today?

Rebecca Salazar: It is, yes. He didn't provide anything to me in writing. It was all over the phone. The catalyst for the claim closure was, again, the email that I received from a

representative in the Hearings Division, which is a separate office, and that contains quite graphic threats. So at that point, I just felt, you know, we had dealt with this kind of thing enough, and closed the claim.

Thomas Shea: If I may speak, one of the reasons for the anticipation of me to visit Las Vegas office was because a certain time period of a Wednesday morning needed to be met and the inter department mail service was mailing the said document through the postal service when it could have been hand delivered and done appropriately that day. Instead it had to be delayed a week was -- it was very hard to comprehend why I was being deferred in such a manner. So seven hours Las Vegas. We all love Vegas.

Governor: Mr. Shea, I don't want to get into any of that issue. I want to stick with the issue that's before us today which is the nature of the dismissal which is, you know, again, we're getting two very different stories today, and now Ms. Salazar is hearing for the first time -- it would be very helpful for me to have Mr. Crown himself appear before the Board.

Attorney General: Actually, Governor, I have a suggestion. Because pursuant to statute we can only look at the record before us, and clearly, this is outside of the record, if we still have further questions, our options may be to continue this for a hearing and we ask that Mr. Crown appear and anybody else that works with the Victims of Crime Compensation Fund who had interactions with Mr. Shea, that had concerns of -- that he harassing. That is an option for us. But I do -- I have to object to this letter coming into us now and us considering it at this time because it's not part of the record.

Thomas Shea: I apologize for that.

Rebecca Salazar: Can I make a statement also, please?

Governor: Yeah. Ms. Salazar.

Rebecca Salazar: The claim closure is secondary to the issue at hand, so that, you know, we may want to consider that also. What Mr. Shea is appealing today is his denial for dental work based on that Motion for Reconsideration, so there's also that to consider aside from the claim closure.

Governor: That isn't before the Board today though, is it? I thought there was...

Rebecca Salazar: It is.

Governor: ...some procedural requirements that had not been met.

Rebecca Salazar: I'm sorry. What was that?

Governor: Weren't there some procedural deadlines that were not met by Mr. Shea, which is ultimately the reason for the denial of his claim?

Rebecca Salazar: Right. And my understanding from Mr. Shea's written appeal to the Board is that that is what he is appealing, is his denial with his Motion for Reconsideration which concerns the dental work.

Thomas Shea: That would fall under NRS 217.200...

Governor: Mr. Shea, just a moment, please.

Attorney General: So, Governor, this is Catherine. Can I ask a couple questions? Because here's my understanding of the facts. Besides getting to the denial of the motion for consideration, which I understand was denied because it was filed beyond the timeline within which he has to file the motion. So that's clearly a statutory issue. But prior to that, when he originally had his hearing, there was supposed to be two issues the hearing officer was going to hear, lost wages and dental. She only heard the lost wages, so at the end of that hearing, recognizing that the hearing officer had only heard one portion of it, agreed to have another hearing to address the dental portion of that. That was scheduled twice, and for some reason, Mr. Shea and his counsel did not appear or submit, is my understanding, the documentation that the hearing officer wanted to have that second hearing. So if you look at the hearing officer's order, and it's dated April 10, 2012, apparently there were two previous orders, one on January 25 and February 16 that the hearing officer had issued trying to get this information regarding dental so that she could make a determination. She never heard from either the counsel or Mr. Shea. So that order basically considers the appeal abandoned and dismissed. So my question is for Mr. Shea, why did not respond to the follow up with respect to the dental documentation that the hearing officer had requested of you?

Thomas Shea: I'm not quite at liberty to discuss the finite details of that, however, my counsel has been removed due to his malpractice. I had no idea that the request was made by Ms. Gallagher. I was aware that she had pointed out several times, and indicated to my counsel at the time to file motions for the remainder of 217.200(4) and medical i.e. dental. And like I said, can't really divulge what is happening there, however, my attorney is -- my attorney is guilty of that.

Attorney General: I'm sorry. I missed that. Your attorney did what?

Thomas Shea: He did not submit the proper motion during the proper time and never even entertained the letters from Ms. Gallagher. I had absolutely no idea anything had transpired between the two and was waiting for my attorney to submit the proper motions.

Attorney General: Okay. So I'm confused. Either you weren't informed from your attorney that you were required to provide it, or you knew about it and were waiting for your attorney to submit the documentation, which was it?

Thomas Shea: I clearly knew that there was some motion to be filed between my counsel and Ms. Gallagher. I knew that Ms. Gallagher was stepping down from her bench, and I knew that we would be in front of another justice. However, I was not aware that that had been sent by Ms. Gallagher, and the ball was moving so fast, and since then I've terminated counsel and taken up

matters myself. So to answer your question, yes, I did know, however, the time period I figured would be in the hands of my counsel since that's what I paid him for.

Attorney General: I have no further questions. Thanks. Thank you.

Governor: So if I heard your answer right, Mr. Shea, you were aware of the deadline, your counsel didn't meet the deadline.

Thomas Shea: I was -- sorry. Mr. Shea, for the record. I was not aware of the deadline whatsoever. That phase of the procedures was not something I had studied.

Governor: And did you receive mailings from Victims of Crime Program and all the orders in the proceedings because I -- I haven't looked through all of them, but is your address 25924 Vianna (sp?) Avenue, Number 6, Lomita, California?

Thomas Shea: No. I have not received any one of those, and that was all mailed to my counsel, and if he were to forward it, it would have been to 128 Palos Verdes Drive, Redondo Beach, to my prior residence. I don't know why...

Governor: So where is this -- what's this Lomita, California address?

Thomas Shea: That was my mother's address. That was a backup address. I have no idea why -- do you have copies?

Governor: It's on the certificate of mailing for most of what I see is...

Thomas Shea: Really?

Governor: ...the mailing. So is that still your -- that address, did you provide that address to the Victims of Crime, or did your counsel?

Thomas Shea: That address was provided to the Victims of Crime some time ago. The only thing that I have is this right here, and it is the hearings from Deborah Gallagher, and I had to request this personally here in Carson.

Governor: And then I guess there was an address change. There's a new address of P.O. Box 12662, Reno, Nevada 89501. Is that your current address -- your current mailing address?

Thomas Shea: Correct. Yes, sir.

Governor: And, Ms. Salazar, is there any Notice of Withdrawal by Counsel in this matter?

Rebecca Salazar: Not that I've received, no.

Governor: And did Mr. -- did the attorney, Mr. Pakele P-A-K-E-L-E, did he at any time advise your office that he was no longer representing Mr. Shea?

Rebecca Salazar: No, he did not. And if I can state also that in April, I believe, Mr. Shea and I discussed this appeal to the Board. And when I looked at the decision, I realized that the Hearings Division had used the incorrect appeal rights. They used a form that they normally use for workers' comp claims. So I had the appeals office redo that on the correct form, giving Mr. Shea the correct appeal rights, which started the clock again. He was aware of all of this. We talked about it at the time. We sent emails back and forth. So there was a period that he could have appealed within -- and been within the timeframe. He had double the normal appeal period because of the mistake.

Governor: Mr. Shea, do you have any explanation for that? According to Ms. Salazar, you were aware of the appeal and still didn't meet the deadline.

Thomas Shea: I was aware of the appeal, however, I was not aware of the transgressions that had taken place with my counsel at the time. It was in the latter weeks of April that the official civil complaint was filed, in lieu of the transgressions of my counsel regarding this case. And when one is thrust upon such a monumental task to take on without having any trust in anybody having to deal with it himself, it does require some time.

Governor: Well, did you ever call the Victims of Crime Program and say I'm having issues with my lawyer, I need more time?

Thomas Shea: That's where I do believe these accusations came rolling about because there was no understanding, there was no trust. I could not trust anybody. I had no cooperation whatsoever and laughing.

Governor: No. But that -- that wasn't my question. Did you -- I've read some of your statements with regard to your issues with your attorney. That's in the record. But did -- if you were having those issues, did you communicate with the Victims of Crime Program and say, I need more time, and I think they probably would have granted more time had they been aware that you were no longer represented by counsel.

Thomas Shea: I tried. However, I have not received any communication from the Victims of Crime down there in the southern jurisdiction of Las Vegas. I can't remember when.

Governor: No. But they wouldn't have any reason to believe otherwise. I mean, they -- you were aware of the appeal time. From what you've said today, you had some issues with your attorney, and then there was no further communication between the Victims of Crime office and you, but they would have no reason to because as far as they're concerned, the time's ticking and they're waiting to hear from you or your attorney. And what you've stated is that you had an issue with your attorney that you separated from him, and then the time ran out and then you decided you needed to seek reconsideration of this decision.

Thomas Shea: Correct. I needed to seek reconsideration in this subject, and the appeal...

Governor: But why wait until after the appeal time had run if you knew that it was running?

Thomas Shea: The only appeal date that we missed was when I was with my counsel. There was no other appeal that was lapsed in any type of amount of days, hours or minutes by me.

Governor: No. But, like I said, I'm trying to understand the facts, Mr. Shea, and we've got to get to a point of decision here. But I just want to make sure that I have a full grasp of the facts before I accept a motion. But you just said -- or Ms. Salazar said that there was an appeal time, that it was communicated to you and counsel, that you separated from your counsel and then the time period ran. You never communicated with the Victims of Crime Program to let them know that you had separated from your counsel, and then ultimately the time period ran and the order was issued by Ms. Gallagher.

Thomas Shea: All my homework was turned in on time when I was representing myself. Anything that happened during my -- when I was represented by counsel, I do believe there was one timeframe that was lapsed, however, we surpassed that and Ms. Gallagher decided and ruled upon it. However, everything I have turned in has been up to par.

Governor: I mean, I don't even know, Ms. Salazar, as I also seek the assistance of my Board members, but according to the order, the latest order, which is June 26, 2012, there was a Motion for Reconsideration filed on June 20, 2012 in regards to a decision of April 10, 2012, which the Attorney General has referenced. The appeals officer no longer holds jurisdiction pursuant to NRS 217.117, appeal had to have been taken within 15 days of April 10, 2012. The Motion for Reconsideration is denied which brings us to where we are now, which is the appeal of this order. I don't know if there's anything in statute that gives this Board any authority outside of the statute to make a decision otherwise. I guess one last question, Mr. Shea, have you taken this -- if you have a dispute with your attorney, have you taken this matter to the State Bar Association? Have you filed a complaint with the State Bar?

Mr. Shea: I have filed a complaint, sir. Yes, I have. Because it is completely unnecessary, does not show any type of professionalism whatsoever. Clearly not amused.

Governor: Any further comments from the other Board members?

Attorney General: Governor, this is Catherine. So let me just tell you my dilemma here. There's no doubt that there was a hearing and Mr. Shea and his attorney were there. And right along with having that hearing, the hearing board of that was then sent January 25, 2012, along with that was a (inaudible) order where the hearing officer recognized that she did not consider a particular issue, so she then invited the parties to submit any arguments with regard to that particular issue in writing, and that also is dated January 25. By February 16, not receiving anything, the hearing officer then issued another order saying we haven't received anything with response to that second issue, if I don't receive anything, I am going to dismiss that second issue on March 3, 2012. So on April 10, then this order is filed again saying that she hasn't received anything and feels that the second issue has been abandoned by the parties and she's going to dismiss it.

Now, I'll give Mr. Shea the benefit of the doubt that he was relying on his attorney, but during that course of time I guess I'm concerned that I didn't hear Mr. Shea saying that he was either trying to contact his attorney to figure out what was going on with his case and/or contacting the Victims of Crime during this period of time explaining to them that he was having problems with his attorney. So I'm kind of confused about that, because at some point in time Mr. Shea realizes that an order is issued and he files a Motion for Reconsideration. I'm not sure how he found out about what was going on enough to then file the Motion for Reconsideration. So that is confusing me here.

I want to give him the benefit of the doubt that if he was relying on his attorney and the attorney was not communicating with him and fell short of his duties, then, yes, Mr. Shea should have an opportunity to have his case heard. But if he was just as negligent in follow through and knew about it and was not -- not only not following through, but at the same time harassing the staff, which I still am not clear on and would like more information, I do have concerns about letting him come back and have his day hearing with respect to the second issue. I just -- if it is true that he is harassing the staff, he knew well about what was going on and didn't take advantage of his opportunities, and now is come at the 11th hour, I think it's too late. But I don't have enough information with the record that is before us to make that determination.

Governor: Neither do I.

Attorney General: So my suggestion would be if we really need more information that is above and beyond the record, that we continue this, we have a hearing so that we can gather the additional information we are hearing about to make this determination.

Governor: And when you -- how much time will it take Ms. Salazar to -- when you say -- let me back up. Madam Attorney General, when you say to hear this, are you saying that -- for the Victims of Crime Program to hold another hearing to develop the record or for that to be before the Board of Examiners?

Attorney General: No. I'm saying pursuant to NRS 217.117 (inaudible) before us, and we have certain statutory options that we can follow. One of them is within 15 days after this Board meeting we either render a decision on the case or give notice to the applicant that a hearing will be held, and that hearing must be held within 30 days after the notice is given, and the Board will then render its decision after that second hearing. That is the only -- from my understanding, unless there's something else in the statute, that is the only way that we as a Board can gather additional information. It's pursuant to the statutory obligations that we have. And so, you know, short of having a full blown hearing, I would say that we have a hearing so that we can at least gather the additional data that's outside the record to help us make a determination.

Governor: I agree. I mean, we've heard a lot of new things today. There's a lot of contradictory presentations that have been made, and it would be helpful to me in order to reach an informed decision to have those facts presented one way or the other. So I'd be agreeable to following the statute and scheduling another hearing so that we can gather that information.

Rebecca Salazar: Governor, this is Rebecca. At the heart of this is the dental issue and whether or not Mr. Shea has the documentation that relates his current needs to the crime. So can we ask Mr. Shea if he has that at this point? I've never seen any dental -- anything dental other than one letter from a doctor. So that's kind of what we've been waiting for this whole time. So I'm wondering if he has that.

Thomas Shea: For the record, Thomas Shea. I've had several dental assessments done. I would count them to be five or six from Scottsdale, Arizona to Pacific Palisades in Southern California, and they've all been submitted to the Victims of Crimes in the southern district of Las Vegas.

Governor: So, Ms. Salazar, I don't know if you could hear Mr. Shea, but he says that he's provided the dental records to your office. It sounds like you haven't received them. I think there was underlying issue as to whether the dental treatment related to the crime itself as well.

Rebecca Salazar: Right. Okay. I haven't received those. I've received one dated I think 2012, but it didn't clearly relate the current needs to the crime of 2003. So that would be my only hope is if we did hold a hearing at some point that we could see a record of, you know, clearly dating these current needs back to 2003.

Governor: All right. Well, then...

Rebecca Salazar: So that we could pay for them if the claim was sent back to us so that we could even help with the current needs.

Governor: So if I hear you right, Ms. Salazar, you're not aware -- or you have one dental record from 2012.

Rebecca Salazar: Right.

Governor: You're not aware of, or have not received, the other records that Mr. Shea has represented that he's provided your office. If indeed they're provided to you, that would give you the opportunity to review them and make a determination as to whether (a) they're valid and (b) whether they're related to the crime itself.

Rebecca Salazar: Correct. The one from 2012 that I have says that it's not clear that it's related to the crime of 2003.

Governor: So if we continue this matter and ask Mr. Shea to again provide your office with copies of those records, will that give you sufficient time to review them and provide the Board with your findings by the time we hold the hearing?

Rebecca Salazar: Yes. Mm-hmm. Yes, sir.

Governor: Yes. Is that helpful to you, Madam Attorney General?

Attorney General: Yes.

Governor: So we -- what I'm hearing from the Attorney General, and I don't know how the Secretary feels on this, is that we will continue this matter pursuant to statute. What are the time deadlines again that we're working under?

Clerk: Governor, per the statute, the hearing has to be held within 30 days after notice is given that you're going to hold the hearing, and then a decision has to be rendered within 15 days after the hearing.

Governor: So how much time between now and when a notice is provided will it be?

Clerk: Governor, that's not clear. So it just has to be held within 30 days after you give him notice.

Governor: All right. Well, Ms. Salazar, how much time do you need to get all the information that you need so that we can have a hearing to resolve this case once and for all?

Rebecca Salazar: I would think 10 or 15 days would be fine. Probably not even that long.

Governor: And I -- in my experience on this Board, I don't know if we've ever had a separate hearing aside from the regularly scheduled Board of Examiners' meeting. It sounds like there's not enough time between now and the September Board meeting within which to hold the hearing, so perhaps we could schedule the hearing for the Board of Examiners' meeting in October. Any objection to that from the Board members?

Rebecca Salazar: I don't have an objection, but for me the September meeting would be fine. October's fine too.

Attorney General: Governor, I don't have a problem with that. The only thing I'm going to request is that we make sure that Victims of Crime compensation fund (inaudible) witnesses or evidence to address the harassment issue.

Governor: Right. I just don't want any hiccups between now and September. That's why I was a little more comfortable with the October date.

Rebecca Salazar: That'd be fine.

Governor: Okay. Mr. Shea, do you have any objection to continuing this matter to October so that you can have a full hearing to present for the presentation of all the facts and give you an opportunity to provide, if you have not already, I'm not disputing whether you did or not, but if you provided the records once, I'd respectfully ask that you provide them again to Ms. Salazar, your dental records. And then in the meantime, give Ms. Salazar an opportunity to prepare her presentation. So again, Mr. Shea, do you have any objection to continuing this matter to October?

Thomas Shea: No objections whatever, Governor Sandoval. Sounds great.

Governor: And further questions or comments from Board members? Okay. Then the Chair will accept a motion to continue Agenda Item No. 10 until the October meeting of the Board of Examiners.

Secretary of State: So moved.

Attorney General: Second.

Governor: We have a motion by the Secretary of State, a second by the Attorney General. Any questions or discussion of the motion? Hearing none, all in favor of the motion, please say aye. Motion passes unanimously. Thank you very much, Mr. Shea.

***11. FOR POSSIBLE ACTION – LEASES**

Thirteen 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'll move on to Agenda Item No. 11, leases.

Clerk: Thank you, Governor. The statewide leases on the Board of Examiners' Agenda, there are 13 statewide leases that were submitted for review and approval.

Governor: Thank you. I have no questions regarding any of the leases described in Agenda Item No. 11. I do want to make a comment that in Lease No. 13, there's a savings of \$331,632.16 over the term of the lease, so kudos to the individuals associated with the negotiation of that lease. Any other questions or comments from Board members?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion for approval of the leases described in Agenda Item No. 11.

Secretary of State: So moved.

Attorney General: Second.

Governor: The Secretary of State has made a motion to approve the leases described in Agenda Item No. 11. The Attorney General has seconded the motion. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***12. FOR POSSIBLE ACTION – CONTRACTS**

Seventy- Seven 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: The next item on the Agenda is Agenda Item No. 12, and I want to give the Board members an option. I have many questions on many matters within the contracts. Do you wish to take a break now, or do you want to go ahead and get started with Agenda Item No. 12?

Attorney General: Actually if we could take a five-minute break, that would help me, and I'll be right back.

Governor: All right.

Attorney General: Thank you.

Governor: The Board of Examiners will be in recess until 15 minutes to the hour. Thank you. Call the meeting back to order, please. We will proceed with Agenda Item No. 12, contracts. Ms. Day.

Clerk: Thank you. There are 77 independent contracts that were submitted for Board of Examiners' approval and -- review and approval this morning.

Governor: Thank you. I have a few hold outs. I'll start with Contracts 5, 7, 8, 9, 10 -- are we pulling 10 off the Agenda? That's the arbitrage.

Clerk: Yes, 10 was denied in the last motion.

Governor: Then move on to 22, 23, 24, 26, 30, 32, 38, 43, 66, 67 all the way through 73, I just have questions on these Nevada Works Workforce Connections contracts, and 75 and 76. Madam Attorney General, Mr. Secretary of State, do you have any other contracts you wanted to hold out?

Secretary of State: Contract 74.

Attorney General: No, Governor.

Governor: Alrighty. Then we'll begin with 5 and 7. And my only question on those two, are they with the same individual? And I was wondering why we had to do two separate contracts with the same individual.

Nancy Bowman: Good morning, Governor, Board members. Nancy Bowman, for the record. I'm the Tort Manager for the Attorney General's office. Mr. Bates is an ombudsmen for the

Department of Corrections. Tries to settle inmate mediations early on. The second one, number 7 is an amendment. That increases the funding -- his original contract was set to expire June 30, and we were doing new contracts. We were required -- the state purchasing requested that we do a solicitation for these services, so with the new contract, instead of extending the existing contract out for an additional two years, we did a solicitation labor to start a new contract process. So Item No. 5 is the new contract effective September 1, and the amendment is Item No. 7, and that's just to get the current contract out until the new contract starts.

Governor: So he'll be performing the same function for both contracts?

Nancy Bowman: That is correct.

Governor: All right. That's all I had. Thank you.

Nancy Bowman: Thank you.

Governor: Agenda Item No. 8, which is the contract with the Glen Group. Are you going to handle that, Mr. Secretary?

Secretary of State: Governor, I can probably address the bulk of the questions. If there's anything related to the RFP process, I do have some staff here that could address that also.

Governor: No. No questions regarding the RFP process. I was just looking -- we didn't -- I didn't get a copy of the media plan until late, but essentially what the functions are going to be performed by the Glen Group and the purpose of contract.

Secretary of State: The purpose of the contract is to do an educational awareness campaign around voter registration, most specifically about the new online voter registration system that we're offering which was part of a pilot program in 2010 in Clark County only, but will be available statewide for this election. Nevada is seeing about less than ten percent of all registrations currently using the online voter registration. Compared with other states that had implemented that, that's relatively low. Arizona has about 63 percent usage in 2010. Washington had 55 percent. There are ten states now implementing it and there are a number of benefits that come with the online voter registration system. It's cleaner and easier to administer for the clerks. It helps us clean up our voter rolls. It reduces the dependence on third party groups including the political parties and some of the out-of-state groups which is going to be increasingly prominent this election. We have had some problems with voter registration fraud that had brought us some unwanted national attention, and so this is a much more secure system.

In order to use it, you have to have a driver's license or a DMV issued ID card. We want to get that message out there. You can now register online and doing so requires only five easy steps, so we want to encourage usage of it, and you'll be immediately registered. It also allows us to verify the information immediately, which is a big step and creates a much more secure system. So the contract is the contract with an advertising firm that will help us get that message out there through paid media.

Governor: And it's all going to be performed essentially within six weeks? What's the deadline to register to vote?

Secretary of State: The voter registration deadline is October 6 in order to access the online system. In truth it's going to be tough to afford any advertising after that date as we get closer to the election and we're certainly paying a premium this cycle because of some of the outside groups coming in, but it would be focused around voter registration month which is September.

Governor: And will it be via television, radio? What are the...

Secretary of State: We've had some initial discussions, although obviously nothing finalized contingent upon the approval of this contract, but the Glen Group is recommending it would pursue a strategy that's heavily based on online advertising to focus on the online registration, TV, and then some outdoor media as well.

Governor: Are there any target groups or is this kind of a blast to get all those that aren't registered to register?

Secretary of State: The primary target age is 24 to I believe 44 year olds, with a secondary target age that expands a little bit, 18 to 24, and 44 to -- I think they add another six years or so. They looked at the demographics of the number of registered voters and the number of people that are eligible to register to vote and compared that with census data to find out where we could potentially move the needle the most, and so that's how they arrived at that target group.

Governor: And so they won't be actually registering voters, they'll just be soliciting people to register online?

Secretary of State: Correct. They'll put together the media plan and help drive the awareness strategies so that people are aware that this new tool is out there.

Governor: Okay. I have no further questions. Thank you very much, Mr. Secretary. Next is Agenda Item No. 9, the contract with Hamilton Lane and the Treasurer's office. Good morning. Or afternoon, almost afternoon.

Mark Mathers: Mark Mathers, Chief Deputy Treasurer.

Governor: Thank you, Mr. Mathers. I got an updated -- or some updated information because I did have a question whether there was an RFP process, but there were several entities that bid for this contract.

Mark Mathers: Yes. We distributed the RFP to more than 25 firms, and we received 12 proposals back.

Governor: And when -- if you could go into a little more specific on how they're going to be paid and, you know, I know this is an outgrowth of SB 75, and it's an opportunity for -- to use some dollars to invest in state firms and what have you. So how will Hamilton Lane be paid?

Mark Mathers: There are two components to their fee, and I guess I would recognize the dollar amount you see is pretty daunting. The first component of their fee is a management fee, and so this would be analogous to an expense ratio for a mutual fund you or I might buy. And so that's the only fee that guaranteed. That fee starts at one percent of committee capital and decreases ten percent a year after the commitment period. And so the management fee is estimated at roughly \$3.5 million over the ten-year program, so it averages to 350,000 a year, which computes to an expense ratio of .7 percent or 70 basis points, which is very reasonable, very low if you consider probably the median expense ratio for an actively managed public equity mutual fund is closer to 100 basis points. So very reasonable management fee. It's just over ten years that they're paid.

The second component to their fee is what's called carried interest or carry, and this is their share of the profits from any returns they make, and we estimated here 3 million or so, 3.14 million of carry that they would receive. Again, this is their share of the profits, so they have to generate a positive return, and we'd have to be reimbursed our management fee before they share in any of the remaining proceeds, and those are split 90 percent to the state, 10 percent to Hamilton Lane.

Governor: And I haven't done the math. What are you estimating their performance is going to be?

Mark Mathers: This is based on an estimate of a net internal rate of return of 9.75 percent. So close to ten percent return, which far exceeds what we're earning on this portfolio which is closer to one percent.

Governor: And the length of the contract, 10 years and 15 days, that's a long time.

Mark Mathers: It is a long time. It's the usual -- ten years is kind of the usual and customary term for a private equity investment. In a structure like this, private equity is different than public equity in that we're not necessarily flipping companies. We're taking companies, start-up companies or smaller companies, that are growing, we will take an equity position in those companies in return for our capital, and help grow them and nurture them. So Hamilton Lane most likely will set on the board of directors of that company, mentor them, help them grow, provide access to other capital and markets, and then allow that company to grow over time, so a ten-year period is the normal period.

Governor: So we won't expect to see returns for some time, because you've got to give these companies an opportunity to be successful.

Mark Mathers: That's generally true. There may be cases where in a buyout situation a more mature company we invest in that the company could be flipped for a profit. So we might see returns beginning in year two, but, yeah, it's a much longer investment horizon than other kinds of assets like fixed income for instance where we have a five-year maturity. So probably between years two and ten we'll see those returns come in.

Governor: And I don't want to get too far into the policy and make this into a legislative hearing, because we've been through all that, and I've signed the bill.

Mark Mathers: And you signed the bill.

Governor: Yes. Understood. So I guess the bottom line is if there's a small company -- if somebody owns a pizza company and this Hamilton Lane sees that there's some potential there, they stake a position in that. Two years from now if it's being -- if it's wildly successful and, as you say, they can flip it, or if it starts to be profitable, we -- the fund would share in the profits?

Mark Mathers: That's exactly right.

Governor: Okay. And what if they're not performing well?

Mark Mathers: If it's a co-investment that we're making, certainly Hamilton Lane will participate again in the management of the company, and so it's not unheard of to replace the management of the company if things aren't going well, and that's the reason for the underperformance. If it's an underlying fund investment, the underlying fund manager can make those kind of decisions too. Certainly there's an intense screening process that goes on with firms to make sure there's potential there for growth and profitability, and so there are all kinds of strategies these managers use to make sure that happens.

Governor: I think you've answered all my questions. Thank you, Mr. Mathers. Any questions from other Board members?

Secretary of State: No, Governor.

Governor: All right. Thank you. Move on to Contract 22, Commission on Tourism. Nobody here? All right. Ms. Day, my only question there was how do we measure performance on that contract? I mean, this is to induce or to try and increase the amount of visitors from China which is a very fertile market in terms of bringing tourism to the State of Nevada, and I was just curious how they determine whether this entity is performing well. That was going to be my question.

Clerk: Thank you. As far as I know, the Commission on Tourism looks at a lot of the data that comes out of their system on different visitors that actually come from those areas. I don't know exactly what all they use. A lot of it is return on investment, but the agency would have to give you specific details.

Governor: And as I said, if you could communicate with Ms. Vecchio and get just a paragraph on how they determine how they're doing.

Clerk: Absolutely.

Governor: All right. Contract 23, Governor's Office of Economic Development. Good morning, Mr. Hill. Good afternoon.

Steve Hill: Good afternoon, Governor, members of the Board. My name is Steve Hill. I'm the Director of the Governor's Office of Economic Development. We have five contracts before you today. I wasn't sure if you wanted an explanation of all five. I can be very brief. Three of them are, including No. 26, which is the Las Vegas Regional Economic Development Council's contract. Those three are the last three of ten that we have brought before the Board. The prior seven during the last Board of Examiners' meeting. The Las Vegas contract is for \$1,375,000 which is approximately 50 percent of the grant funding that we have provided to regional development authorities. The reason for the two different meetings for these ten contracts was not really a content issue, it was just a process issue. There was a relatively short timeframe between the deadline for the last meeting and the time that we had to get contracts signed. These three organizations were not able to just get that done in about a week's period of time.

In between the last Board of Examiners meeting and now we had a meeting of the Board of Economic Development at which this Las Vegas contract was discussed. There was some discussion regarding the amount. I think that has been explained, and we've talked about that actually at the last Board of Examiners' meeting as well, and I'm happy to answer any questions on that. There was also some concern expressed with respect to some of the language in how we were measuring some of the things on who could be involved in the economic development process. That has subsequently been worked through I think to the satisfaction of everyone involved. The Board of Economic Development will take out that contract for approval again on Thursday. My understanding in discussing that with those who have been involved that they are more than satisfied with the resolution of that.

Governor: And that was going to be my question, Mr. Hill, with regard to the Las Vegas Regional Economic Development Council is that there were some outstanding questions with regard to the form of the agreement between the state and that entity, and that was it premature to approve this contract today if we hadn't approved to the form of the agreement in the first place between the state and the entity, so...

Steve Hill: Thank you, Governor. I don't believe it's premature, and I think it is important that we approve the contract today because the funding for the development authority is contingent obviously upon approval. I have talked with Mrs. Marin (sp?) who is the Board member who raised the concerns, and also talked with the university system about the issues that were raised as well the Las Vegas Regional Economic Development Council. They have signed that contract obviously, and both Ms. Marin and the folks from NSHE are completely satisfied that the contract is approvable at this point.

The other Agenda Item is No. 24 which is a contract between our office and the System of Higher Education. And this is a program that is federally funded. The money originally comes through DETR. DETR sets aside a portion of their career enhancement fund for training for companies that we are trying to incent to either grow or move to Nevada. So this follows the same process as our other incentive process. Originally this is a \$500,000 contract with the System of Higher Education, because in one of two ways, the system takes oversight of that training process. They may actually provide the training process through the community colleges or this can be on-the-job training which is overseeing and audited and then signed off on by Nevada Industry Excellence which is a part of the System of Higher Education. So the

contract in total is with NSHE. That may then go directly to community colleges or it may flow through the Nevada Industry Excellence part of that organization.

The companies involved with these training funds must match dollars. The grants are typically \$1,000 per employee on a maximum, and that is actually the typical amount. But in the case of more technical training, particularly once Nevada Industry of Excellence has looked at what those training requirements are, grants have been made up to about \$3,500 per employee, and again that's the federal grant portion. The companies have to match that amount. Happy to answer any questions.

Governor: The last one was 23, and I was just curious how we got to this contract with regard to improving an existing business or starting a business within the north Las Vegas area and the special impact zone.

Steve Hill: That is a contract that we have had with the Small Business Development Corporation. They provide that service in that area. The city of north Las Vegas is also a participant financially in that grant, but it's a program that we have been able to leverage money against. We see a need there and feel it is worthwhile supporting and is very much in line with our economic development efforts.

Governor: That's all I have. Thank you, Mr. Hill. Any other Board member questions? Thank you. Next was Contract 30, Veterans Gift Account, Office of Veteran Services.

Kat Miller: Good afternoon, Governor, Board members.

Governor: Howdy.

Kat Miller: I'm Kat Miller, the Deputy Director for the Nevada Office of Veteran Services. Sir, did you have a specific question, or do you just want me to discuss the contract in general?

Governor: Yeah. Why don't you turn -- if you'd please restate your name for the record.

Kat Miller: Yes, sir. Kat Miller, Deputy Director, Nevada Office of Veteran Services.

Governor: No. My only question is it seems like a significant amount of money to rebuild a website.

Kat Miller: Yeah. I don't like the wording on there, sir. Let me restate what it's for. What this contract will do is it will create a social networking platform that will connect our veteran service members and families to services, programs and opportunities. As you're probably aware, there's a sea of good will out there. There are many, many programs aimed at helping our veterans with health issues, educational issues, employment issues. The problem is there is no one single entry point for Nevada veterans, family members and service members to access all of this. So what this will create is that single entry point. It doesn't create many new services and programs. What it does is it creates a delivery system for our veterans to come in. I get calls all the time, as does my boss Caleb Cage from employers for example that say, boy, I'd love to hire

a vet, or from folks that will say I'd like to contribute to this, or a veteran that says I'm not sure how to handle this, and it takes a lot of time. We're backlogged six to eight weeks handling veterans that come into the office that want to handle things on a face-to-face basis. We need to provide better delivery of services and this social network platform will do that for us.

Governor: And this entity will continue to provide maintenance and services later on?

Kat Miller: It will. The cost, sir, the \$340,000, the initial project cost is 250,000, and then annually it's 41,000. As we get it developed, as we -- we're hoping that that 41 -- correction, 45 K will go down, but for the first two years, it's 250,000 for the project cost, and then 45,000 annually for maintenance.

Governor: And this is funded through the gift account, so primarily through license plate fees?

Kat Miller: Yes, sir. This is from the license plate gift account.

Governor: You guys of doing well on the license plates.

Kat Miller: Yeah. I'm really excited about this one, because this directly takes the mission of the license plate gift account to provide service and outreach to our veterans, and this program will do exactly that.

Governor: Yeah. No. Congratulations. I just wanted a few more of the specifics. I think it's a great idea and it's going to be extremely beneficial to our veterans. Thank you. Any further questions from Board members?

Secretary of State: No, Governor.

Governor: Thank you. I hope your knee's okay.

Kat Miller: (Inaudible) ski instructor.

Governor: The next contract is 32, Health and Human Services.

Lynn O'Mara: For the record, Lynn O'Mara, State Health IT Coordinator, Department of Health and Human Services. Governor, did you have some specific questions?

Governor: Just I was curious when I looked at this the connection between the Northern Nevada Development Agency and Health and Human Services.

Lynn O'Mara: Interesting. It's been an interesting development, actually exciting. Under our stimulus grant that we have to establish health information exchange throughout the state, we are required both by our state plan that's been approved, and also by requirements under that grant to have a governing entity that will oversee the statewide infrastructure that was established under Senate Bill 43 during the last session. That bill allows the Director of DHHS to establish that non-profit entity. We don't normally do that, so we -- NNDA has been very, very supportive of

all of the both, I'm going to say, the health information exchange effort, as well as getting electronic health records adopted statewide. And when we were working with them, they have a lot of experience establishing new businesses, and this is going to be a non-profit. Our biggest concern is we need to assistance and guidance to be sure we meet federal and state regulations for establishing that business, and we also would like to pursue 501(c)(3) status for it. They have expertise to do that, and also to help us to make sure we have the appropriate operating policies and procedures in place, and for the governing body to ensure they have the right kind of by-laws. So that's what they'll be assisting us with.

Governor: Great answer. You answered everything. Thank you. Any further questions from Board members. Thank you very much. Move on to Agenda Item No. 38. Good afternoon, Dr. Green, Mr. Chisel.

Bill Chisel: Governor, for the record, Bill Chisel, with ASO with MHDS, Dr. Green, the State Medical Director, and Robin Aker (sp?), the ASO at MHDS too. Is there any specific questions you have on this contract?

Governor: Just the amount. You know, I understand that we've eliminate one and a half positions to pay for this, but a brief foundation as to what this position is and what it will be doing, and then a little more explanation with regard to dollars.

Bill Chisel: As far as the dollars, we're looking at \$300,000 per year, and it's up to 2,000 hours of work at \$150 an hour. We're looking at \$48,000 in travel for the biennium, so the total's going to be about 648,000. And for the biennium we're looking at around \$19,000 in savings by freezing those -- that position and a half. As far as what their specific -- the position is specifically going to be doing, I'll have to defer to Dr. Green.

Dr. Tracey Green: For the record, Dr. Tracey Green, Medical Director for Mental Health and Developmental Services, (inaudible) Health Officer. Good afternoon, Governor. This role will primarily be doing a number of things. First of all, on a statewide basis, with the two hospitals, we do have CMS or Medicare licensing requirements for psychiatric medical directorship. In the past we've had quite difficulty recruiting that position in the north, and we've had a lot of instability in the position, and I think this was also reflected by our inadequate workforce as a whole from the specialty departments. So this position will represent our CMS licensed position in both the north and south hospitals.

In addition, the position is responsible for oversight of physician time, as well as developing policies surrounding attendance and productivity, working with me in the integrated part of this as well and also doing recruitment and residency work. So it will be fairly comprehensive and I really see us moving forward with a statewide role for many of our medical leaders. And, in addition, I think that, you know, from a life safety issue, it will give us stability in our statewide hospitals so that we aren't continually looking for contracting and/or locum positions.

Governor: And so this individual will hold -- remember, we had a historic problem with accountability and such, so this person will have the responsibility to ensure that everyone's doing what they're supposed to do.

Dr. Tracey Green: For the regard, Dr. Green. Absolutely. In fact, in her previous role when she was doing some of the medical leadership at Southern Nevada Adult Mental Health, she was responsible for reviewing and doing any disciplinary or any communication with physicians at the time, and if there were any further issues we did them together. So this would be a statewide approach to develop standardization.

Governor: That's all I have. Thank you very much. Questions from other Board members? Thank you. Contract 43, which is Division of Child and Family Services and University.

Mike Torvinen: Hi, Governor, members of the Board. Mike Torvinen, Deputy Director for DHHS.

Governor: Thank you, Mr. Torvinen. Just as more of a curiosity than a question, but we're spending \$1.8 million for a training program to train child welfare workers regarding child welfare processes, statutes and regulations. So is this continuing ed? I mean, or is it part of the curriculum for the university?

Mike Torvinen: My understanding is it's the same exact contract we approved last time for UNLV. So it's both, I think. It's for new staff and -- I think I'm getting an email, but it's for new staff and existing staff, and I think as Amber Howell described to me, it's kind of a police academy for the child welfare workers. So it is both ongoing and new staff.

Governor: So if I'm graduating from the university and I'm getting my degree in social work, this is, as you say, kind of a boot camp to provide additional training for these individuals, and then if I've been a social worker, I can come back here and get up to date on what I need to do or with regard to my responsibilities as a social worker?

Mike Torvinen: I believe that's a good description and that's pretty much what Amber described to me also. So once you come out of school with your degree, you really don't have the nuts and bolts of how to deal -- how to go right to work in the child welfare system, so you're educated as a social worker, but there are some nuances in the child welfare system that they're educating people on.

Governor: That's all I have. Thank you, Mr. Torvinen.

Mike Torvinen: Thank you.

Governor: The next contracts that I have questions are essentially the series of contracts between DETR and the Board of Regents, Nevada Works and Workforce Connection. Good afternoon. Will you provide your names for the record, please?

Lynda Parven: Good afternoon, Lynda Parven, Deputy Administrator for the Employment Security Division within DETR.

Grant Nielson: Grant Nielson, EFC Program Chief for DETR.

Governor: With regard to 66 and 67, I asked this at a previous meeting, but this is to provide funds to CSN's apprenticeship program, but it says electrical, plumbing and carpentry, and I guess my question is, is we have a lot a unemployed electricians, plumbers and carpenters already. Are we training more people to come into an area where there's already a big amount of workforce that exists?

Grant Nielson: We're going to get some additional information.

Dennis Correa: Good afternoon, Governor, members of the Board. The apprenticeship program is training in those specific traits. It was a program that came over from the Department of Education in the last legislature where you were using Workforce Investment Act Governor's reserve dollars to fund that program, but they are training those specific fields.

Governor: So there's no flexibility? Like I said, I'm concerned because our highest unemployment rate is in construction already, and if you've -- you're training more people to come to compete with those there are already unemployed, are we serving a good policy?

Dennis Correa: I believe that is correct, that we are training people in the education field in those apprenticeship programs. It's been an ongoing program I think that has just continued year after year.

Governor: So there's no flexibility in these funds to say if we have another need in a different area to direct it that way?

Dennis Correa: Not as it's currently designed, no.

Governor: So we're looking at almost \$450,000...

Dennis Correa: Just as a side note, this program was funded through Governor's Reserve dollars, and there were some carry forward dollars to cover that, but Governor's Reserve has been eliminated. We do not know if we're going to receive those funds in the future. So for the program to continue past the current biennium, we need to identify other sources of income or whether it's priority.

Governor: And do we -- since we've been doing this, historically, do we have any idea of how many of the people that were trained are getting placed?

Dennis Correa: Actually, it's one of the problems that we've had since we've taken over the program is since it's funded with federal dollars, we've asked for more reporting on this program and we've had a difficult time, because in the past it was pretty much just a transfer of funds. We don't have that information, but we have just recently discussed with CSN setting up training to let them know what the expectation on that reporting is.

Governor: Because, you know, I don't know if I want to describe it as a dilemma, but a concern is, you know, I don't want to eliminate the ability for somebody to get trained in a skill or in an

apprenticeship program, but at the same time, are we doing them any good if we get them trained as a plumber or an electrician or carpenter and they have to get in line behind all those that are already aren't working, or competing with those that are in the unemployment line?

Dennis Correa: It is a bit inconsistent with the direction that we're going to provide training in the eight identified sectors.

Governor: And what if we -- this is I guess federal funds, so if we weren't to approve this, I mean, it really wouldn't -- all it would do is harm those that are seeking to get this type of training, correct?

Dennis Correa: Or we would have to shift those priorities to fund something else.

Governor: So this would -- if we weren't to approve it today, it would give us -- give you a little bit more discretion in terms of how those dollars are spent? I mean, again, I don't want to harm anyone at the university system, I don't want to harm someone who's participating in this, but when you look at the policy, I don't know if we're moving the ball forward, if we're training people in areas that we don't really -- we don't have a need.

Dennis Correa: I'd have to -- I wanted to qualify it by trying to figure out what the age of the money is that we're using to fund it to make sure that we could actually expend that money before it ages out, but I believe the answer is yes, that that money could be allocated in other directions.

Governor: That could be -- I mean, is that something that you would oppose? I mean, how would you feel about that?

Dennis Correa: I, you know, as a policy decision, we don't have enough money to do all the training that we want to do in all the places that we want to do it, so it's just picking the priorities of where to allocate those training funds.

Governor: Well, for instance, and I apologize, I'm just thinking out loud asking these questions, but we have a need in the healthcare field and if we have -- we don't have enough money in that area, wouldn't it be a better policy or wouldn't it be more prudent to move this money to an area where there's more of a need?

Dennis Correa: We have done limited funding -- we're actually moving forward with some limited funding on the healthcare sector as it pertains to electronic medical records. It isn't funded at the level that it may should be.

Governor: Yeah. And I'm not trying to be critical. I just want to make sure that we spend this money the best possible way that we can. You live this every day, and I'm really going to rely on you in terms of what is the best use of these dollars instead of, you know, just approving a contract because we've always done it. We have very limited money, and we have a huge need, and I want to make sure that we're spending those dollars the best possible way that we can.

Dennis Correa: Not to stumble on it too much, I do believe that there may be higher priorities than this. I don't know that the College of Southern Nevada has had in the south and community colleges in the north had a successful program in the past to say that that's where we should be allocating our money now. If you're asking for my professional opinion, I would say that there may be other pressing priorities.

Governor: Would it be prejudicial to continue at least these two contracts to give you an opportunity instead of off the cuff having to answer these questions to be able to see if there is a better use of this money?

Dennis Correa: I do believe that as we're going through the budget process now, we know that we're going to have resource problems. Our resources are going to go down, not up in the next biennium, so as we lay out the path for the next biennium, I think we'd have to reevaluate this one as whether it's a priority of the administration or not.

Governor: But if I -- I'm going to speak for myself. If I were not to be supportive of at least this money going in this direction and we were to continue this, would you lose these dollars, or would you be able to reprogram them?

Dennis Correa: I don't believe so. I believe that there's enough age left on these dollars to redirect those funds.

Governor: Okay. Board members, do you have any questions or comments on at least 66 and 67?

Secretary of State: So first off, could you identify yourself for the record?

Dennis Correa: I'm sorry. Dennis Correa, Deputy Director for the Department of Employment, Training and Rehabilitation.

Secretary of State: And suppose if there were better priorities for these dollars to be used, why would these contracts (inaudible) forward?

Dennis Correa: This program was brought to DETR during the last budget talks. This program had been funded under general fund dollars previous to this biennium, and the decision was made during the budget process to bring those over to DETR so that they could be covered with federal dollars to take pressure off general fund. It was in the budget and that's why we went forward with it since it was approved.

Secretary of State: Okay.

Governor: So does this cause any, I mean, there are -- you're going to have to go back before IFC, or can you do that -- do all this internally?

Dennis Correa: I believe we would have to go back in front of IFC with a program to establish to move the authority.

Governor: Well, what -- and again, I -- these are all questions that you weren't expecting. What I'd like to do is take these off the Agenda or continue them so that you can have an opportunity to really dig in and see what can be done with the money. As I said, I'm just really concerned with moving it in a place where it's not needed, and I'd much rather benefit folks where there's a need in the state and there's more opportunity to get employment rather than to train them to do something that there's not a job for them to do. So I'm only speaking for myself. I wanted to ask the -- or seek the input of the other Board members.

Secretary of State: You know, he's represented I think -- I would be in agreement. I mean, he's represented that he thinks there's age enough on the dollars to be able to repurpose them, and there doesn't seem to be immediate fire, so it seems like we would benefit from some more time to get some of these answers.

Governor: Madam Attorney General, did you have any comment?

Attorney General: No, Governor. If you -- I'm hearing 66 and 67 you want to pull and hold for the next meeting so you can get more information; is that correct?

Governor: Yes. And as I said...

Attorney General: Okay. Yeah. No. I don't have a problem with that.

Governor: All right. And then, Mr. Correa, with regard to this series of contracts with Nevada Works and Workforce Connections, could you provide a little more detail? And there's an explanation on each one that there was a misunderstanding in the use of subgrant documents versus interlocal contracts which caused a delay in the preparation of a contract, and also historically you know there's been an issue with regard to the performance of Workforce Connections and Nevada Works. And there's a lot of money involved here in these contracts. And are you confident that if these contracts were to be approved that the dollars would be spent wisely?

Dennis Correa: I believe that particularly in the south where we had the largest amount of concerns that they have moved swiftly to try to get their economic house in order. Whether -- I would say that I'm not real happy with the strategic direction that they've taken with their funds lately, and there's been more of a push to push them out on the street than to strategically target them. But at least they're moving the money forward which is an improvement over what was happening in previous years. Less is being spent on administrative costs now than there were. The Director's and my opinion is is that it's still too high. They're budgeting it about 20 percent of the funds being held at the Board level for Board expenses. We're in the process of talking about ways to limit that even further.

Governor: So if there's a concern with regard to how the money is being spent at least with Workforce Connections, but do you have to release these dollars? Is that the issue that we have today?

Dennis Correa: It's a -- within the federal statute there's a formula that has to be followed, and because there are only two workforce investment areas within the state, we have to release them through that formula and then monitor their progress as it goes.

Governor: So I guess that bring me to the next question. What type of accountability and monitoring is there going to be?

Dennis Correa: We monitor (inaudible) basis for appropriate use of -- fiscal use of the funds as well as their performance. And their performance is tracked depending on the funding stream, but primarily it's around employment, retention and employment, and wages.

Governor: We're talking about \$19 million or -- I can't do all the math because there's too many commas, but as I said, we're -- we've had an issue it sounds like, I mean, there was an audit, it didn't go well. It sounds like there hasn't been much improvement even though we had the findings of that audit in terms of that, but so where are we in that whole process, in terms of trying to straighten things out?

Dennis Correa: Just recently with both Boards, there has been change over in leadership. We do believe that the new Executive Director down in the south is moving to tighten up accountability and to fix these problems. Based off of the history of the problems year after year after year I'm a bit guarded in what the result will be. But we do believe that they're moving in the right direction, maybe not quick enough.

Governor: So is there no longer going to be a consolidation of the Board into one statewide Board?

Dennis Correa: We have submitted a waiver to the Department of Labor asking to move in that direction. We expect an answer within the next month.

Governor: All right.

Dennis Correa: If I may just qualify one part. When we do the monitoring of these Boards, on program and financial side, we're looking at allowability under that, but not reasonability and there's just...

Governor: So what did you mean by allowability versus reasonability?

Dennis Correa: When we go in, we look to see if the expenditures and the way that they're spending their money are allowable under the act. I've always had a real problem with the reasonableness of that at times, and we do have an oversight role there as well to make sure that they're being reasonable with those funds as well, but most of the time the monitoring is limited to allowability under the act.

Governor: So you don't have any kind of stick -- once this money is -- once we approve all these contracts, the money goes, and as long as they're allowable, they can spend as much as they want essentially.

Dennis Correa: And if it purports to some degree with the state plan, that is correct.

Governor: But again, as we sit here today, we need to approve these contracts to get the money out because at the end of the day we need to help people, but I just wanted -- I've said this before, I want to make sure as many possible dollars get to the people that actually need it than having it all eaten up with administrative fees.

Dennis Correa: We would agree.

Governor: All right. Any questions from the other Board members?

Secretary of State: No, Governor.

Governor: Thank you very much. Just a moment. I believe the Secretary of State had held out Contract 74.

Secretary of State: Yes.

Dave Haws: Good afternoon. For the record, Dave Haws. I'm the IT division add minute traitor for DETR and also function as the Project Manager for the (inaudible) Modernization Project. I'd be happy to answer any questions you have.

Secretary of State: Thank you, Mr. Haws. I note that this is the fourth amendment to the original contract. Could you just give us a brief history of how we've gotten to so many amendments, what the nature of the current requirement for an amendment is, and whether or not you anticipate any additional amendments to this contract?

Dave Haws: Certainly. I would be happy to answer that. The (inaudible) Modernization Project is a fairly large project, in the neighborhood of \$30 million. It's an IT contract as well, very complex. We are replacing all of our Legacy applications, 30-year-old Legacy applications with new products that will help us to perform better, be more efficient, watch over payments more closely. I believe the first amendment was actually when you start up the contract, it's a process of verifying the schedule and the amounts and the fixed fee deliverables. So that was the first amendment that was put into place. Then we amended the contract again to -- I'm trying to remember this from memory, but we amended the contract to include dollars for helping to accelerate the reduction of overpayments within the application, and it was the intent to try to implement a portion of the system earlier in order to help us be able to detect overpayments more succinctly. As we got into that particular amendment, what we discovered was that it required us to interface between our Legacy application and the new application, and that it was infeasible to keep the two systems completely in sync. And so while we have taken steps to put into place roles and procedures to help reduce and detect improper payments, we weren't able to hook the two systems up in that fashion that we had originally desired.

We then received -- I'm trying to remember the third amendment. Maybe Linda Deloach (sp?), I don't know if you have that information off the top of your head, but she's been helping there.

But this last amendment is a result of additional federal dollars that had been made available to implement additional federal interfaces into the new application. In particular, we'll be implementing the (inaudible) interface which is a separation of employees from employers, type information to help determine when, you know, an employee leaves an employer so that we know whether or not there may be a potential claim there, that type of thing.

We're also looking to implement the UC Tops interface which allows us to be able to put a lien if you will on federal tax refunds for situations where we may have had overpayments resulting from, you know, either fraud or misinformation. So there was approximately \$2 million were provided in federal grant funds recently to put those interfaces into place. And since they will be very closely connected into the application and the data will flow into the new modernization application, we're putting dollars into this contract in order to have the vendor complete that task. So that's kind of a brief history of what we've been doing there. Will there be additional amendments? You know, I'd like to say that there wouldn't be at this point. We're -- this amendment, one of the key elements of this particular amendment is that we're moving from a December end of this calendar year implementation to a May timeframe of the following year. And the reason for that is that the end of year UI processing is our peak processing period for unemployment insurance benefits. And it was just -- we felt that the number of people that we needed to train, you know, 400 employees that need to be trained, cut over to the new application, start all the new procedures, right when we were doing peak business processing probably wasn't in our best interest. Additionally, we wanted to do a little better job of outreach to our UI constituents to make sure that they are aware of the changes that are coming as far as how to, you know, submit a claim, how to submit their wage reports and so on.

So this shift will do several things for us. One, it will avoid having to do this cut over right in the middle of a peak processing period. It provides us an opportunity to do further data cleansing of 30 years worth of Legacy data that's out there. We also are looking for the vendor to help us to implement more security measures. While we did purchase some significant security modules, there are additional features and functions that we would like to implement as a result of that and so we're asking them to help us out there. So the combination of moving the date, asking for more services to help out with the conversion, provide some additional training to help implement these federal interfaces, that's what causing this particular amendment.

Secretary of State: Do you recall when the contract was first approved when the scheduled launch date was to occur?

Dave Haws: You mean the final launch date?

Secretary of State: The original launch date prior to all the contract amendments and delays?

Dave Haws: I think we were still aiming for a December 2013 timeframe.

Secretary of State: So it hasn't affected substantially the timeline?

Dave Haws: No. There was a -- there was to be an interim interface, so we've implemented release 1A, which was to bring up imaging, and that application is in place, and, you know,

we're processing all our documents by electronic images now. There was to then be an interim release and that's the release that we had to forgo because there was just no one to keep the two systems in sync and keep the Legacy application stable.

Secretary of State: Sure. Thank you.

Governor: Madam Attorney General, do you have any questions?

Attorney General: No, I don't.

Governor: Are you satisfied, Mr. Secretary?

Secretary of State: Yes, Governor.

Governor: Thank you very much. Okay. We'll move on to 75 and 76, Silver State Health Exchange. Good afternoon.

Jon Hager: Good morning, Governor.

Governor: Mr. Hager, if you'd just state your name for the record.

Jon Hager: For the record, Jon Hager, Executive Director of the Silver State Health Insurance Exchange. To my right is Shawna DeRousse, our Chief Operating Officer for the Exchange. I could either provide you a summary of the issued contracts, or take any questions. However you'd like to proceed, sir.

Governor: Will you first provide a summary? I think that would be beneficial.

Jon Hager: Absolutely. So the Silver State Health Insurance Exchange is set up in statute NRS 695(i) to provide a marketplace for health insurance for those citizens of Nevada that are either uninsured or underinsured. To do that, we require a web portal, a business operation solution. So the contract with the Xerox Healthcare LLC, which is the second of the two contracts, is to provide us with, again, a business operation solution. It provides a web portal, (inaudible) navigator, a shop exchange, a small business exchange, as well as the financial management functions to collect premiums from individuals and employers and provide those to -- distribute those to the insurers. It also provides a call center. And so all of the functions of the Exchange, or many of the business functions of the Exchange are contracted -- are included in this contract.

The first contract on the list is with Public Consulting Group for design -- excuse me, for internal verification and validation. It's a contract that is required with any federally-funded IT project. And so that contract goes hand-in-hand with the Voss (sp?) contract. I do need to make note of one correction of the summary page for the (inaudible) contract, the funding is -- it is 99.44 percent federally funded, and .56 with a general fund match. It comes out to \$8,506 for the state general...

Governor: (Inaudible).

Jon Hager: \$8,506 for the state general fund and I apologize for that error. The Business Operations Solution contract has the same cost allocation for the design, development and implementation. The total for the design, development and implementation, which will take us through the next calendar year through 2013, is approximately \$9.8 million, and there is about \$250,000 in change orders in the contract just in case we have to use that. We hope to not have to use that. We think that our requirements are sound, but it's there just in case. And the remainder of the contract is maintenance and operating phase for 2014, 2015 and 2016. So the contract is a four-and-a-half year contract, one-and-a-half years of design development and implementation, and that is the period which PCG will do the independent verification and validation. Once that piece is over, we go into the maintenance phase for three years, again 2014, '15, and '16, so this contract is set to expire December of 2016.

Governor: That's 75 and...

Jon Hager: Yes, sir.

Governor: Okay. Is that your presentation?

Jon Hager: For now, sir, yes.

Governor: All right. And I guess the first -- I have many, many questions, but the amount, \$71,963,299 over four years and 184 days seems like a huge amount of money.

Jon Hager: Yes, sir, it absolutely does. For the record, Jon Hager. So the -- when we were looking at these bids, we were shocked by the prices at first, and I spent several sleepless nights trying to understand where we were in this process and what we needed to do for this RFP process. I will say the RFP committee consisted of upper level management at the Enterprise IT Solutions, Welfare, the Exchange, and the Division of Insurance. It was a well-rounded committee. We were all concerned by the costs and I spent the next two days after that initial evaluation reaching out to other states and trying to determine what is a realistic price. What we found is the State of Washington paid about \$57 million for their implementation only. We found that the non-ACA exchange in Florida has approximately \$40 million in fixed costs. The exchange in Colorado I believe is about the same amount for design, development and implementation. The Massachusetts exchange spent \$90 million to upgrade their system from the current system to the ACA complaint exchange.

So while it didn't make me feel any better about having to approach this body and the IFC when we go forward with all of these items, it did help me get a better handle on how much these projects cost. I do expect that the projects will remain pretty expensive for other states for the next year or so, and they will gradually start to go down in cost so that when we get to 2015 when we need to renegotiate this contract for an extension, or go out to bid again, that the cost should hopefully come down because the technology has promulgated at that point.

Governor: Okay. And I'm going to get into some of the other states, but just curiously, Florida is one of those states that said we're not doing it. We're not going to participate in ACA and

we're not doing exchange -- we're not doing an ACA exchange. So when you say a non-ACA exchange, Florida is building its own state exchange, is that what you mean?

Jon Hager: Yes, sir. They are building a state exchange. From my understanding -- my understanding is the same as yours. They've indicated they are not complying with the ACA, or they are opting for a federally facilitated exchange. However, they are setting up an exchange in Florida for some of their citizens. It's a very narrow scope exchange, but, yes, they are creating a state exchange.

Governor: Let me make sure I clear the record, because I haven't made a decision whether we're opting in or out.

Jon Hager: Yes, sir. I understand.

Governor: But in any event, let's -- now that we're on the money side of this, because I do want to get into some of the policy issues and some of the other states are doing this, some are not, but, I mean, as a fundamental precept, the ACA requires a state to have an exchange. As a policy decision, this state developed a bill, and passed a bill, and I signed the bill that established a state exchange. If we don't do it, if we didn't do it, the feds would do it for us; is that correct?

Jon Hager: Yes, sir.

Governor: So essentially the choice was we could do nothing like some states have done...

Jon Hager: Yes, sir.

Governor: ...and the federal government will come in and build an exchange for us and then send us the bill. Is that accurate?

Jon Hager: Yes, sir. So we don't know yet what a federally facilitated exchange looks like. None of the creation of that exchange has been in public, very contrary to what we've been doing here in Nevada with 31 publically noticed meetings since the Board was assigned. We know that there will be a few for the use of the exchange. We don't know how much it is. We don't know who it will charge, whether it will be the state, whether it will be carriers, consumers, we don't know anything about how that will work. I imagine it will be -- the fees will be pretty low in 2014 because of the funding for the Affordable Care Act, just as our fees to carriers, if that's how we choose to go forward would be low in 2014, but then it would go up in 2015, and we don't know how much that will be.

Governor: And again, that policy decision has been made by the legislature and me signing that bill to have a state exchange. Now, what we didn't know were some of these expenses.

Jon Hager: Yes, sir.

Governor: And so we as a state, we have to have an exchange to be operational by October 1, 2013.

Jon Hager: Yes, sir.

Governor: And if we do not, again, the state -- or the federal government comes in and does it for us.

Jon Hager: Correct.

Governor: And then I, you know, someone gave this to me and Paul Dioguardi who is the Direction of Intergovernmental and External Affairs for U.S. Health and Human Services, he says, if you prefer having certain decisions at the state level which often states do prefer, then you'd want to go with the state-based exchange. If you would prefer to cede that authority to the federal government for whatever reason, then that's a decision you've got to make. That to me is a pretty clear statement that the federal government intends to go in those states that don't have their own state exchange to make their own.

Jon Hager: Yes, sir.

Governor: And then, you know, the unknown there is, as you say, is what that amount would be. I would imagine that it would be similar if not more than what we're approving today, 71 million plus?

Jon Hager: So I can't say what they're going to spend. I would imagine that their development costs are going to be extremely high because it's going to be for the whole nation, not just for Nevada, and they have to be able to potentially, or they maybe won't, focus their exchange in various states. Obviously our concern is they create a federal exchange that's generic for the whole county and it doesn't specifically serve the needs of Nevadans. So, yes, it could potentially be a lot more expensive. We don't know what the maintenance and operating costs will be. It could be less. But we could set up the exchange as we see fit in Nevada, and if we determine later that it is more cost effective to go with that federally facilitated exchange once we have that information, then we could do that as well. Right now, like I said, 99 percent of our funding is coming from the Affordable Care Act. There's a small general fund match, but most of it is coming from the Affordable Care Act. I've got a bullet list of the things that we give up if we go with the federally facilitated exchange if you'd like to hear those as well.

Governor: No. I would like to hear those, but just to seize on one comment you made is that we don't know what it's going to look like because right now there's some building somewhere in Washington where they're trying to develop the policy for this and they're not letting anybody know what it's going to look like, any of the states?

Jon Hager: Yes, sir. In fact, when we were in Washington D.C. about a month ago for one of our required gate review processes for our grants, we were in there providing information on what the Nevada exchange is going to look like, at least the direction that it appears we're going, and there were individuals from the federal government in there taking notes furiously about, you know, well, that's a good idea for our exchange. So we don't know. It could be modeled

after the Nevada exchange, but, yes, you're correct. We have no idea what it's going to look like.

Governor: And just a side comment, how could they have any hope of having an exchange in place by October 1, 2013, if sitting here today, at least from your observations, they don't know what they're going to do?

Jon Hager: It will certainly be a challenge for them. The one thing that they have going for them is that they're not doing it in public and so they are not going through all of the steps that we are doing to vet each of our decisions. That's probably not a good thing, because they don't get the input that they need, and maybe they are getting input and we just don't know about it, and maybe they're getting off channel, but when you don't have that public process, that transparency is a lot easier to push things through. So they certainly have the ability to get it done. It will be a challenge for them. I understand that they're basically the same process that we're at. They've named some vendors that they've chosen to implement this, and I don't remember who they are but -- CGI was one of them. So they're basically at about the same point we are. They've got a much bigger project to take care of, but I think because they're not doing it in the public it makes it a lot easier for them. That said, I appreciate that we've got the public process here so that we can make sure that each of our decisions are vetted in public and are the right decisions for all of our stakeholders.

Governor: Why don't you go through you list if you would, please.

Jon Hager: Okay. So some of the reasons to do a Nevada state-based exchange rather than a federally-funded exchange, include that -- so we determine the rules around participation in the Navigator program. We determine whether or not to allow brokers to sell products in the exchange. We can set up our own web portal with potential links to businesses in Nevada, rather than some product that the feds provide. Our shop exchange for small employers will be designed to allow the greatest flexibility possible to allow Nevada insurers to meet the demand of the Nevada employers, including participation and contribution requirements. We can determine whether we want all insurers to participate in the exchange, or if we just want a few to be basically a free market facilitator or a selective purchaser. We determine accreditation standards for our insurance plans, network adequacy, service areas, transition of care standards. We determine how we're going to fund the exchange. We control the message. We tailor the message for Nevadans for our marketing outreach campaign. This process allows the Division of Insurance and the Department of Health and Human Services to collaborate in the exchange process. One important part of our statute NRS 695(i).520 says that the exchange shall not supersede the authority of the Commissioner of Insurance. We have no ability to control what the federal exchange does with the ability of the Commissioner to regulate insurance. And our Nevada exchange will create jobs in Nevada. We have -- the Xerox Solution has a call center in Las Vegas that we expect to be utilizing for that, and they are bringing some of their -- and I believe some of the programming for the design phase will be done in Nevada as well.

Governor: And with regard to funding, there's a comment in your memo of July 9, 2012 that federal funding for the implementation and first year of operations through December 14 has

been requested but not yet awarded, and you had expected an answer on or about August 15, 2012.

Jon Hager: Yes, sir.

Governor: Have you received an answer?

Jon Hager: We have not. We expect to receive that answer, again, in the next probably two or three days. We're right at the 45 Notice of Award period and so we should get that very soon. That grant award will go before the Interim Finance Committee as a request to be an authority -- to allow the Authority to spend that grant money.

Governor: Okay. What if we don't get it?

Jon Hager: If we don't get it, Section 10 of our contract, Section 10B indicates that there is a termination clause that's a one-day defunding or deauthorization clause. So if we don't get the funds from the feds, if they pull the funds from us, or if the legislature does not authorize the expenditure of those funds, we notify Xerox, all work stops immediately and we're done at that point.

Governor: Well, let's get to the specific numbers on this. So you essentially until -- the exchange is required to be self-sustaining after 2014?

Jon Hager: Yes, sir.

Governor: And right now as it stands, federal funds -- actually, I'll do it the other way. The state's responsibility is .84 percent, correct, up until 2014?

Jon Hager: Correct.

Governor: And that amount is what? 200-and-something thousand, I can't remember the exact number.

Jon Hager: It's -- yeah. I believe it's about 250. Let me get that. It's \$279,000, just over 279,000.

Governor: Okay. And then what is the math for the federal responsibility, or the federal share?

Jon Hager: Oh, for the federal share? The federal share is 90 -- excuse me, 95 percent through Affordable Care Act funds of about \$31.5 million, 1.3 million from Title 19 Medicaid funds, and 69,000 from Title 21 (inaudible) funds, and all of those are federally funded.

Governor: And that assumes that grant coming in in the next three days?

Jon Hager: Absolutely.

Governor: Okay. Now, after -- starting January of 2014, all the costs are on the State of Nevada, correct?

Jon Hager: For the calendar year 2014, we are still funded as part of ACA funds. So starting January 1 of 2015, yes. All of that is required to be paid in some manner, not from federal funds.

Governor: All right. And what would that amount be in 2015?

Jon Hager: So currently we show \$36.8 million between 2015 and 2016. So it's 20.16 million for 2015 and 18.6 million for 2016.

Governor: So we have to find those dollars?

Jon Hager: Yes, sir.

Governor: I guess there's two questions. We either have to find these dollars, or we say never mind after that.

Jon Hager: Yes, sir.

Governor: And I guess I'd want to hear what the consequence would be if we said we're not going to be doing it after -- with that, but I think the proposals that you presented in terms of how we're going to pay for this in '15 and '16 is (a) a user fee, so those that are participating in the exchange would pay a sum to cover the costs of running the exchange.

Jon Hager: Yes, sir.

Governor: Second would essentially be an obligation from the general fund and just pay for it out of that.

Jon Hager: That's an option.

Governor: Well, and I'm not -- believe me, that's not on -- when you're saying it's an option, it's not my option...

Jon Hager: Yes.

Governor: ...but it is an option. And then the third would be essentially increasing the insurance premium tax, or assessing some type of an assessment through the insurance premium tax?

Jon Hager: There could be multiple ways to do that. So we have five committees that help make the policies or recommend policies to the Board, and depending on the policy, the Board either has the authority to make that or recommend it during the budgetary process. So the Finance and Sustainability Advisory Committee has recommended that starting in January of 2014, we start charging a user fee to carriers. It's a smaller fee. It's meant to build up a small

operational reserve so we can pay our bills. Basically a 30-day reserve in the long term. And then it gradually goes up to a long-term rate. And the long-term rate, I can't remember -- yeah. I think the long-term rate is currently about \$7 per member per month. So the proposal is that we charge those fees to the carriers based on the enrollment within the exchange. Obviously that would go into the premium that the participant would pay.

Now, the funny thing about the way that the advance premium tax credit is provided to people between 100 percent and 400 percent of the federal poverty level is that if you are subsidized in those ranges, basically 100 percent of the cost of that user fee would be paid for the advanced premium tax credit. Any amount -- anybody that has greater than 400 percent of the federal poverty level, who happens to be on the exchange, would be charged that in their premium because they don't get a tax credit, they don't get that paid for by the advanced premium tax credit. So we're really looking at a majority of the people. And I think Nevada's population is about 50 percent are between 100 percent and 400 percent of the federal poverty level. About 50 percent -- and then another 25 percent above that. So basically you're looking at about two-thirds if we actually get a good population on that upper level, about two-thirds of that would be paid for by the advanced premium tax credit.

Governor: You'll have a good idea though, I mean, if all this is approved in 2014 how it's going. I mean, you'll know how many people have enrolled, and what amount of money is coming in.

Jon Hager: Yes.

Governor: And then as I say, after that, what if -- if the user fees are not sufficient, where do you go from there to cover the cost of the exchange?

Jon Hager: That's a good question. We have to make sure that we estimate our enrollment properly. And if we estimate our enrollment too high, then we could end up with a situation in which we have a deficit because we have certain fixed costs. As far as the contract goes, the contract is based on a per member per month basis. So if the contract amount is say \$6 per member per month and we have fixed costs that require 50 cents per month, then the total amount that we would charge is \$6.50 per month.

One of the ways that we have mitigated the requirement to -- or the concern about becoming insolvent is that we have created in our rating structure that we're recommending to the Board on Thursday, a reserve that's slightly higher than 30 days. So we can get some demographic data behind us, some historical data to figure out where our enrollment is in later years. So during -- so while we are targeting a 30-day operational reserve in the outer years, it's going to be more like 60 or 80 days in that first year to make sure that we can absorb those fluctuations, and I'm pretty confident that that operational reserve will give us what we need to be able to get through those first couple of years where things are shaky.

I will say that one of the committee recommendations is also to request a portion -- a general fund appropriation in the amount of 25 percent of the increase in premium taxes due to those that are currently uninsured becoming insured. So if you're currently uninsured right now and you're

not paying your premium tax, you become insured and suddenly you're paying a premium tax. We've estimated that that will create about \$10 million in extra general fund revenue. The committee has recommended that we request 25 percent of that for the first year and a half of our operations which takes us through to the first biennium from a state budgetary perspective. Whether that gets approved by the Board, I don't know. We'll have to see on Thursday, and we'll be sure to let your office know what has happened at that point. So that is the -- the other option is a portion of the state general fund. Again, I don't know if that's going to make it through the Board or not.

Governor: Now, that other question that I asked, and we got to think this way, but if it is insolvent, and you get to January 1 of 2015 and you know it's insolvent and it's not looking good and we choose not to go forward with it, what are the consequences of that?

Jon Hager: So there's a couple pieces to it. First of all, the Affordable Care Act pays for, like, 99 percent of the funding. So the -- we shouldn't be insolvent that first year. We've got all the funding we need for that, assuming we get this grant in the next couple of days. But we should have all the funding we need for 2014. By that point we'll have some idea of the enrollment levels and we'll be able to adjust our rate going forward for 2015 so that we can make sure we have the proper operational reserve, adjust the rate so we're not insolvent and can go forward. Again, the majority of our fees are the (inaudible) contract. We are outsourcing a large portion of our operations in this contract, again, on a per month basis, so it puts the risk on Xerox rather than us for a majority of the contract. So we're really only at risk for those fixed costs. Because we have the ability to create some operational reserves, get funded -- be funded by the Affordable Care Act for that first year for 2014, we should be able to adjust in plenty of time to get to 2015 and not be insolvent.

Governor: But even then, at some point, and I don't like to play in the land of hypotheticals, but we need to have this conversation which is, at some point if it's determined that it's not working, and it's still the law of the land, what would the consequence be if we were to determine that we didn't as a state want to go forward?

Jon Hager: So again, we still have the same three options that every other state has. We can be a state-based exchange, a partnership exchange or a federally facilitated exchange, and the partnership exchange is somewhere in the middle. So you've got those three options. So if we decide we don't want to be in this business, we can step back and say, you know what, the feds should take this over. I will say, however, that the feds have indicated that they, regardless of which of the three options you choose, we will be put at some point on a glide path to becoming a state-based exchange. That's what we were told at one of the conferences we've been to. Whether that's true or not, it remains to be seen. But at this point, we have the same three options that any other state has, so we can go forward with the state-based exchange. If at some point, at any point during the process, we determine that we don't like this direction, we want to, you know, take our hands off this and let the feds run it, we can do that.

There are a couple of ways, again, that we do that. Number one, if we don't get the funding or if we're not authorized to spend the funding, again, work stops at that point, the termination clause hits, and we notice Xerox, and everything stops. If we simply -- if we have the authorization to

go forward and we simply decide that we don't want to do this, there is a 365-day termination without cause, and basically we say we don't want to do this. We could do that all the way up until December 31 of 2013, and that would be effective as late as December 1 of 2014. That's the 365 days. And so we would be able to utilize that 99 percent of funding from the Affordable Care Act all the way through this contract, and then at that point we say, no, we don't want to do that. We would have to make that decision by the end of 2013 to make sure that there is no additional obligation by the state or an entity in the state, whether it's carriers or however we end up doing this.

Governor: I want to back you up a little bit. When you said that you were told by HHS that there may be a requirement to go to a state-based exchange. In other words, if there was a federally-run exchange, at some point they would say we're done, it's on you State of Nevada?

Jon Hager: That's what it sounded like, yes.

Governor: Okay. Whatever that means. I mean...

Jon Hager: Yes.

Governor: All right. Now, there are many other states out there that are saying we're not building an exchange, and you go to all these conferences and you talk with your peers from the other states. What is actually happening in these other states that are saying we're not going to do it?

Jon Hager: So it depends on the states. Some of the states are saying we're not doing it and behind the scenes they are doing it, and they're getting ready for it. There are other states that are not doing it. One of the concerns that we had if we were to say, nope, we're done, we're not doing any of this, because we are at the point that we're at where we are in the trenches implementing and understanding all the nuances of the regulations, we have the ability to provide HHS with very constructive criticism on various items. We use our position as a lead implementer to be able to push back against HHS and say, you know what, you know, I think you like where we're at, but if you do this, this is going to substantially harm the Nevada market, and we can't, you know, we can't move forward this way. So we use our position to push back a little bit with them and try to influence the regulation process to make sure that regulations are implemented that don't substantially harm the Nevada market. And so the Commissioner of Insurance has been in several of these meetings with us with CCIIO, the Center for Consumer Information and Insurance Oversight, part of CMS. And so by being in the position that we're at by actually implementing the exchange, we are in a position to be able to influence that process and help us form what's to come. There's other states that are saying these are too complicated, we can't do it, and we're not going to have any part of the conversation. There are other states that have said, we're going to wait until after the elections to see what happens.

Governor: And I'm going to get to that, so...

Jon Hager: Sure. Sure. And so -- and then there's states that are implementing, and there are states that want to piggyback on what we're doing or get information from us.

Governor: But under the current -- the law of the land right now, if we're a state that says we're not going to do this, and the state is not building its own exchange, the federal government will come in and build its own exchange and give the state the bill?

Jon Hager: Yes.

Governor: All right. The election, here's another thing you hear about.

Jon Hager: Yes, sir.

Governor: If there's a -- if Mr. Romney is elected President, they're going to repeal the Affordable Care Act, and let's say, again, hypothetically, that were to happen, that it were repealed. What would Nevada's options be if we were far down this road in terms of compliance with the Affordable Care Act and the requirements we've been talking about.

Jon Hager: Sure. So if the Affordable Care Act is repealed, and funding goes away, we have the option to say we've lost all funding, work ceases and we're done. The other option that we have is to try and renegotiate the contract with Xerox, to reduce the scope of the contract, and to create an exchange that is right for Nevada without the Affordable Care Act. And there is a clause, a termination clause that says that we have I think it's ten days to negotiate. If we can't negotiate a substantial change to the contract, then there's a 60-day -- basically a 60-day out at that point. So we call it frustration of purpose, and that's either for a substantial reduction to the scope, or if the (inaudible) come out and they're so complicated that we can't agree on what to do, it goes both ways.

So we have a couple of options. Number one, we've started down the process of implementing an exchange, we can renegotiate with Xerox and try to create an exchange pursuant to NRS 695(i) without the Affordable Care Act, and we do the things that are required in the Nevada statute, or we completely shut our doors and say we're done. Either way, the state does not have a liability to move forward. We can say, you know what, we're done, we don't want to be part of this business, or you know what, we'd like to create a slightly smaller scope exchange for our citizens.

Governor: So is it fair to say, as we've had the bill has passed, it's been signed into law, the Supreme Court has reviewed the constitutionality of it, as I said, there's still a lot of unanswered questions. I guess another one was penalties. Now, the Supreme Court case was unclear, I mean, perhaps that's the opt-in, opt-out, but I'll stay away from that. But as we sit here today, there really -- the options are two. You don't build an exchange and the federal government does it for you and gives you the bill.

Jon Hager: Yes.

Governor: You do as Nevada has done, which I believe is the prudent path, which is to control our own destiny, and we have constructed -- or are in the process of constructing a Nevada

exchange with Nevadans that complies with the law and essentially avoids federal intervention in coming in and doing it for us. Is that fair to say?

Jon Hager: Yes. Obviously the Affordable Care Act is a whole bunch of federal intervention, but it certainly minimizes -- it mitigates some of that federal intervention, so yes. Doing a state-based exchange limits the federal intervention on those bullet points that I listed and probably several others that I missed.

Governor: And then between now and the end of 2014, the state is essentially responsible for \$250,000 of the cost of the expense of the exchange.

Jon Hager: Yes, sir.

Governor: And after that is an unanswered question as to how it's going to be paid for.

Jon Hager: Yes, sir.

Governor: And making decisions today does not affect those decisions that are going to have to be made later on because, again, speaking only for myself, I'm not going to be supportive of taking general fund dollars to get this done, because that's dollars away from education. I'm very concerned about increasing a premium tax to subsidize it. I do believe if the exchange is going to be ongoing it has to be user fees that are going to pay for it, and I guess that's a question nobody can answer today is that it has to stand on its own two feet assuming that it's still the law of the land.

Jon Hager: Yes, sir.

Governor: Okay. And then, as I said, those amounts after that are in the 36 million -- or 38 million approximately between 2015 and 2016.

Jon Hager: Yes, sir.

Governor: Okay. And I'm not trying to grill you, I just -- these are just questions that I think need to be...

Jon Hager: I think it was in my description when I signed up.

Governor: But -- all right. I may have some more questions, but I wanted to leave an opportunity for the other members of the Board to ask questions. Mr. Secretary, Madam Attorney General?

Secretary of State: Governor, I think you covered about everything I had.

Attorney General: I think I have a quick question, but I'll defer to the Secretary to go first.

Secretary of State: I don't have any questions.

Attorney General: Thank you. Mr. Hager, the one question I really have is the distinction between the amount of the contract before and after 2014. Why is there a \$5 million difference on the back end instead of the front end? It seems to me that the front end is the most costly and all to set it up, but towards the back end it should be efficiently running and we've worked through all of the kinks. And can you just give me an idea why there's a \$5 million difference?

Jon Hager: Yes. So first of all, the enrollment figures we used for 2014, we estimated in the contract at 150,000 people, and then in the second two years of the contract for the contract purposes we estimated 250,000 people. So it's a -- what is it, a 66 percent increase something like that. So that's the major reason for that difference. When you look at the per member per month rates, they actually go down fairly substantially from the first year to the second to the third year. So on a per member per month basis, they do go down, but when you look at the aggregate based on enrollment, they're up a lot higher that second year -- or the second and third year.

Attorney General: Okay. And I'm not -- I'm sorry. It's not coming across clear. So that increase is based on the aggregate number of participants that are anticipated in participating after 2014; is that right?

Jon Hager: Yes, that's correct.

Attorney General: Okay. And so -- but by let's see, 2013, I'm hearing you say that we'll have a sense of really the needs and how many people will actually be participating after 2014, so that we know what our costs will be associated with that and what we'll have to self-sustain, or self-fund; is that correct?

Jon Hager: Yes, that's correct, Madam Attorney General.

Attorney General: So it's possible that the number that you have calculated for this 38 million after 2014 may decrease if we don't have the number of aggregate participants that you had calculated, correct?

Jon Hager: That's correct. There's actually two ways it can decrease. Number one is if the estimated enrollment goes down. And currently based upon our budget that's going forward to the Board on Thursday, we are estimating a slightly smaller amount -- a slightly smaller enrollment. The other way that it could go down is based on a decision from the Board on whether or not to conduct -- whether or not the exchange conducts individual billing, so basically whether the exchange bills individuals or whether the carriers bill individuals. And so that's a policy decision that is built into the contract. It's an option in the contract. The contract was based on a higher amount so that we don't have to come back and request additional funds, but the contract is very specific on what we're paying for. So we're not going to -- just because we have the extra authority in the contract, we're not going to pay any additional -- anything extra other than what's in the contract. But, yeah, so those are the two ways. Either enrollment goes down or the Board chooses to let carriers do individual billing as opposed to the exchange.

Attorney General: So is it also fair to say then in the specific terms of the contract the total amount that we have in this contract which is what, 71 million, that is not necessarily in the contract as obligated that the state has to pay, correct?

Jon Hager: That's correct. That's a contract maximum only.

Attorney General: Okay. And so they will be, according to what I'm hearing from you, invoicing there'll be adequate kind of measurement of need and services provided that will be paid according -- over the course of the next two years, so that we will have the opportunity at some point in time to see after working with the Governor's office and the legislature, when and how you would fund the cost of this contract after 2014, and even see if it's a viable funding source, correct?

Jon Hager: Absolutely.

Attorney General: And so based on that, if it's not a viable funding source, we would look to terminate this contract.

Jon Hager: Correct. If we don't have the funding to continue with the exchange operations, we would terminate this contract, yes.

Attorney General: Yeah. And then based on what I'm seeing in the memo, if there is no adequate funding, there is a defunding clause with no penalty to the state; is that correct?

Jon Hager: That's correct, in Section 10B.

Attorney General: Okay. Thank you. That answers my questions. I appreciate it.

Governor: Thank you, Madam Attorney General. I did think of a couple more questions, Mr. Hager. What if we wait? And I know we've had this conversation before, but what if we were to wait pending the outcome of the election like some other states are doing?

Jon Hager: Sure. We could certainly wait. The problem is every month that goes by is a month that the programmers aren't implementing this project. The original contract and RFP was scheduled to go forward with the July BOE, and due to some of our errors, we didn't have a chance to keep that on the Agenda, and so we've already lost out on a month of the implementation plan, which has essentially taken a lot of the slot time -- the slot that they've built into the implementation plan for contingencies. They still have more left. They can still meet the requirements of the deadlines. Xerox has a subcontractor that is just there to do risk management. In addition to that, we have the PCG, assuming this contract is approved, the PCG contract is approved for IV&V, which will be monitoring both this project and the eligibility engine. It's a -- they're going to work together, so they'll be able to make sure that the project stays on task and they'll let us know if it's starting to slip, and then we have our own staff that will be monitoring this as well.

If we wait two or three more months, it's going to be very difficult to implement this. Number one, if we wait another month, Xerox has indicated that they'll have to increase costs because they have to add more programmers, they'll have to take additional risk. There are service level agreements that if they don't meet the deadline by October 1 of 2013, they have to pay five or \$10,000 a day. I can't remember what it is exactly. 10,000 a day? For every day that they miss that implementation deadline. So they're taking a risk by pushing it back. They're going to want to increase the design, development and implementation cost to be able to meet that, so we'll have to renegotiate what we've already got here before us.

There are other states that are a month or two behind us, and I would expect that as we get closer to the elections, those states that are moving forward with their procurements will likely see perhaps more expensive contracts because of the increase in risk. And then in November, the other thing that you've got going on is suddenly there's a bunch of states that want to do this, and the supply of programmers and computer techs is, you know, there's not enough to meet the demand, and so costs will go up at that point too. So I see -- I would expect that costs will go up over the next six months, they'll level off for about a year or so, and then they'll start going down after that. Delaying this a month to two months to three -- I guess at this point it'd be three months to the election, it would be very difficult to implement this. On the other hand, if we implement it now, we can always shut it off later.

Governor: And just to be clear, on this grant that we're going to hear about in the next few days, what's the amount associated with that?

Jon Hager: That grant is \$50,016,012.

Governor: Say that again.

Jon Hager: \$50,016,012.

Governor: You have that memorized I see.

Jon Hager: We've discussed it a few times.

Governor: So we -- and again, if it doesn't happen, what's your recommendation if the federal government doesn't give us that grant?

Jon Hager: If the federal government doesn't give us that grant, then we need to reevaluate and determine whether it is still right for Nevada to have a state-based exchange. My gut feeling is it is a valuable thing to have for Nevada, but we'd have to vet that through the Board. We'd have to vet that through your office and the legislature because we'd have to come to the legislature for funds at that point because there wouldn't be any...

Governor: The state would have to make that up in other words?

Jon Hager: Yes. Yes.

Governor: Then last, do you anticipate any amendments to this contract, any changes to this contract in the near future?

Jon Hager: I don't. We tried to make sure the contract is as solid as possible. We have included \$257,000 in change orders just in case. And there is also a -- we call our 2,000 hour deductible at 1500 -- 2,000 hours. So basically if we -- for each year of the contract, if there's a changeover that's less than 2,000 hours, that's built into our costs as well. So we have some buffers in there to make sure that if we need to we can do the changes within the current contract.

Governor: Okay.

Jon Hager: Although I have to say, if the regulations become more stringent than they already are, there's always a possibility that we'll have to reevaluate at that point. Based on the initial guidance and the initial regulations that we've seen, this contract will suffice, but again, who knows what the feds could do.

Governor: That begs a lot of answers -- or questions, Mr. Hager. But, you know, again, I'm sorry to keep going on, but so the feds come in and they add all these things we didn't expect, Xerox says, oh, my gosh, we have so much more work to do than we thought. Do they come back and seek an amendment, seek more money, which would be state money?

Jon Hager: Yeah. Not necessarily. So we still have the authority to receive federal money through December, 2014. So we would still have to have a state match which would be about that half percent. But we can do two things. Number one, we can request an administrative increase in our grant that we've requested from the feds of 25 percent, so we've got to have the margin there that we can request additional funds for from that grant. And then the other option is that we can go back to the feds for a fourth level one grant after the level two grant. So we can go back for another grant request if we need it.

Governor: And again, just so I'm clear, if we weren't to do this and the feds came in and built their own exchange and billed us for it, would they bill us for that cost?

Jon Hager: I honestly can't answer how that would happen. They could bill the State of Nevada. They could tack onto the premiums that the carrier is charged in a manner that's similar to what we anticipate we might be doing. I don't know. That's the problem with what's going on right now with the federal exchange is we don't know anything about it.

Governor: Yeah. And that's another reason why, you know, again, I feel like I would prefer to have this state have the control over this. We don't know if we were to not have our own exchange what the federal government would do and what it would look like and what they would charge the state, which we wouldn't have any say obviously as to what that amount would be. So that completes all my questions. I guess to summarize because we've been going for quite some time, you know, I'm going to support the approval of this contract. As I said before, I think this is a prudent move for our state that if we don't do this the federal government will. It is the law of the land that the state must have an exchange, and that we either build it ourselves, and get this money that the federal government has provided in these grants to pay for it, but we

choose not and they come in and build it for us and then perhaps, which is unknown today, bill us for it. And I just think that it is a lot wiser for us to be able to control that. Now, that takes us through 2014. In 2015 I've got a lot more questions. We've got to see what's happening between now and then, but as I said before, I won't be supportive of taking general fund money...

Jon Hager: Yes, sir.

Governor: ...to pay for this, because it's taking money from education and a lot of other needs that the state has. I also won't be supportive of increasing a premium tax to subsidize the exchange. If this exchange is going to exist, it should stand on its own merits through user fees. And those who participate, we will have to -- we do have options in the event there is a change in the law. If the Affordable Care Act were to be eliminated or amended or what have you, there are enough provisions that give the state flexibility and discretion to choose what is the best method to move at that time depending on what happens. So as we sit here today, and again, we're here because the law of the land is the Affordable Care Act which requires us to do this, and, you know, the other -- I guess the other comment that I'd make is that if we do wait, it will cost us more money. It may -- there are only a finite amount of resources and expertise out there to complete these types of projects, and if we are to wait longer, it will cost us more money in the long run, and we may not get the services that we need to get this done right. So I have no further questions. Board members, do you have any questions with regard to this contract?

Attorney General: No, Governor.

Governor: Okay. Thank you very much.

Jon Hager: Thank you.

Governor: All right. I believe that completes Agenda Item No. 12, Contracts. I believe the contracts that are going to be held out are Contracts 10, 66, and 67; is that correct, Ms. Day?

Clerk: Yes, that is correct.

Governor: The Chair will accept a motion for approval for Contracts 1 through 73; is that -- do I have that right? 77. Oh, yeah, 1 through 77, and holding out Contracts 10, 66 and 67.

Secretary of State: So moved.

Attorney General: Second.

Governor: The Secretary of State has made a motion to approve Contracts 1 through 77 with the exception of 10, 66 and 67. The Attorney General has seconded the motion. Any comments or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***13. FOR POSSIBLE ACTION – MASTER SERVICE AGREEMENTS**

Five master service agreements 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: Agenda Item 13, master service agreements.

Clerk: There are five master service agreements that we were submitted to the Board for review and approval.

Governor: I have no questions regarding any of these items. Board members? Chair will accept a motion for approval.

Secretary of State: I move for approval of the five master service agreements.

Attorney General: I’ll second the motion.

Governor: There’s a motion by the Secretary of State to approve the five master service agreements contained within Agenda Item No. 13. The Attorney General has seconded the motion. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

***14. INFORMATION ITEM**

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

Pursuant to NRS Chapters 111, Statutes of the Nevada, 1989 at page 263, the Division of State Lands is required to provide the Board of Examiners quarterly reports regarding lands or interests in lands transferred, sold, exchanged, or leased under the Tahoe Basin Act program. Also, pursuant to Chapter 355, Statutes of Nevada, 1993, at page 1153, the agency is to report quarterly on the status of real property or interests in real property transferred under the Lake Tahoe Mitigation Program. This submittal reports on program activities for the fiscal quarter ending March 31, 2012 (reference NRS 321.5954).

Brief description

- **1989 Tahoe Basin Act**

The agency reports there were no transfers of lands or interests in lands and there were no acquisitions of lands or interests in lands for the fourth quarter of FY12.

- **Lake Tahoe Mitigation Program**

The agency reports there were no transfers of lands or interests in lands under this program for the fourth quarter of FY12.

Governor: Agenda Item No. 14, Department of Conservation and Natural Resources, Division of State Lands. Ms. Day.

Clerk: Thank you. Item No. 14 is pursuant to NRS Chapters 111 and 355. The Division of State Lands is required to provide the Board of Examiners quarterly reports regarding lands or interests in lands transferred, sold, exchanged or leased under the Tahoe Basin Act, and then also under the Lake Tahoe Mitigation Program. The reports are for the fiscal year quarter ending March 31, 2012, and there are no items.

Governor: Yeah. No land transfers, correct?

Clerk: No.

Governor: All right.

15. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS

Governor: Agenda Item 15, Board members comments, public comments. Madam Attorney General, is there anyone left in Las Vegas that would like to provide public comment?

Attorney General: No, Governor.

Governor: Is there anyone present here in Carson City that would like to provide public comment? Any Board member comments?

***16. FOR POSSIBLE ACTION – ADJOURNMENT**

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: We'll move on to Agenda Item 16. Is there a motion to adjourn?

Secretary of State: So moved. With a smile.

Attorney General: Second.

Governor: There's a motion by the Secretary of State for adjournment, second by the Attorney General. All in favor, please say aye. Motion passes unanimously. Thank you, ladies and gentlemen. This meeting is adjourned.

Respectfully submitted,

JEFF MOHLENKAMP, CLERK

APPROVED:

GOVERNOR BRIAN SANDOVAL, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER