

MINUTES

MEETING OF THE BOARD OF EXAMINERS

July 9, 2013

The Board of Examiners met on Tuesday, July 9, 2013, 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
Clerk Jeff Mohlenkamp

Others Present:

Tonya Brown, Advocate for the Innocent
Michael Weston
Ty Robbin
Bryan Stockton, Attorney General's Office
Nancy Bowman, Tort Manager
Mandi Davis, Division of Public Health and Behavioral Health
Barbara Weisenthal, Ryan White Program
Steve Fisher, Division of Welfare and Supportive Services
Steve McBride, Juvenile Services
Deanette Kluever, Division of Child and Family Services
Todd Rich, Division of Insurance
Dennis Perea, Department of Employment, Training and Rehabilitation
Carol Turner, Workforce Connections
Kimberly Elliott, Grants Team
Kimberlee Tarter, Purchasing Division
Sumiko Maser, Department of Taxation
Kurt Green, Northern Nevada Adult Mental Health Services
Clayton Bussiere, Northern Nevada Adult Mental Health Services
Marilynn Hesterlee, Health Division
Siri McMillin, Rural Clinics
Janet Murphy, Aging and Disability Services
Michael McMahon, Division of Welfare and Supportive Services
Tamara Nash, Department of Employment, Training and Rehabilitation
Teri Preston, State Public Works Division
Julie Kidd, State Public Works Division
Chris Nielsen, Department of Taxation
Brian Flanner, State Public Charter School Authority
Scott Sisco, Department of Corrections
Deb Cook, Controller's Office
Carla Spencer, Controller's Office
Dan Olsen, Health Division
Ellen Crecelius, Department of Health and Human Services
Bonnie Long, Department of Health and Human Services

Katie Armstrong, Attorney General's Office
David Gustafson, Enterprise IT Services
Sandra Cherub, Associated Press
James Kirkpatrick, Health Division

1. PUBLIC COMMENTS

Comments:

Governor: Good morning ladies and gentlemen. I'd like to call the Board of Examiners Meeting to order. Can you hear us loud and clear in Southern Nevada? Give me just a thumbs up.

Governor: All right. All right. We'll begin with Agenda Item No. 1, public comment. Is there any public comment from Southern Nevada?

Governor: I'll take that as a no. Any public comment from here in Carson City?

Tonya Brown: Good morning.

Governor: Good morning.

Tonya Brown: Tonya Brown, Advocate for the Innocent, Advocate for the Inmates. I have come here today as I have in the past. Basically, I'm here to let you know I agreed -- I went into -- on good faith, signed a settlement agreement with you and others and over the course of the last 18 months -- 19 months, you have continually breached the settlement agreement, and so far that -- to violate my constitutional rights that I have now served -- Wayne Howe has now accepted service in the suit, and I'm letting you know. I would have personally served you, but we served outside. So you as a Board of Examiners, you make deals with individuals, plaintiffs in cases, and this is not the only case in the wrongful death of Nolan Cline, which I was the administrator and the heir to, that you breached that settlement agreement that now you are being sued over. But you have, not personally, Brian Sandoval, but others with regard to other settlement agreements; it seems to be a practice and a policy of this Board and other boards in which you breach these contracts you make with plaintiffs and plaintiffs such as inmates. And that is something that I brought to you as the Board of Prison Commissioners. I asked at that time to fix it and you sealed up the records claiming confidentiality, which was never a part of any settlement agreement. In fact, it was public document in which I was able to use to exonerate certain names, which was a part of the settlement agreement again. And when I brought to you that the members -- certain members within the Attorney General's office had been withholding evidence in cases including the Nolan Cline case and Michael Spencer's case, you shut me up. That's what this suit is about. You breached the settlement agreement and doing so, you violated my constitutional rights. Thank you. Have a good day.

Governor: Thank you, Ms. Brown. Is there anyone else who would like to provide public comment to the Board? Yes, sir.

Michael Weston: Yes, I would.

Governor: Please come forward, sir.

Michael Weston: Governor, I was here last summer and...

Governor: And if you would please state your name.

Michael Weston: Yeah, I'm sorry. Michael Weston, long time Nevada resident. Last summer when I was here, at that time it was my case with the D.A.'s office and all the corruption that I've been facing on a rig citation from the NHP that the D.A., six months ago, after the meeting I saw you last summer here, since they have no objections to vacating this citation, returning my \$300 fine and my court costs. Now, I'm facing a judge, Scott Pearson in Reno, which I went to yesterday for a hearing, and he says he's powerless to throw out what the D.A. brought against me in the first place for conviction and job security, you might say. And now under pressure of protesting in front of their courthouse for a year, which I didn't like and it's gotten a lot of publicity -- the world's largest crime scene banner which I produced, and it's been here in Carson -- a lot of people have seen it -- and it's on YouTube, it's on Info Wars, Alex Jones. It's getting numerous hits. It's being seen all over. It's on a number of websites now.

My point is when I went to the court a couple weeks ago to get a form, it's called a Hearing Set Date form to see the judge, I was immediately surrounded by five Washoe County sheriff deputies while I was up at the counter at the clerk getting my paperwork, where forms are requested, and she wouldn't give me the forms. I had to go online with the help of Ty Robbins and get the form and get it filled out and take it down to the court. And each time I go there I'm -- they come up -- they come up to you, they fool around, they intimidate you, they like -- you feel like you're going to get arrested for something. Dale Evans with the Attorney General's office, the letter I got from your office stated that they saw no improprieties, no breaks in the dash cam video which now the D.A.'s office admits that the video was tampered and they're saying it's even legal. They finally admitted it on here that it's okay to do that, you know, take two minutes out of here, one minute out of here and then every remaining 16 minutes has missing seconds. And that's the pattern of what happens when they play around with the two timestamps. One, they cleaned up to show no break, the other one shows breaks. And for 4 years and 10 months after I got the citation in '05, I was stopped 31 times.

And I told the FBI, I went to the FBI, they looked at the tape. I told them give me a polygraph if you want. They said, "No, we don't give polygraphs" -- to the fact that I've been stopped by the NHP and harassed 31 times, and on stop 29 and stop 31, I had guns pulled on me, pointed at my head by two different officers both times at night, usually on the same area from downtown Reno quarter -- or casino district area to Exit 7 where we live. Most of -- 90 percent of the stops were in that area during the nightshift, or the swing shift or whatever. And, you know, I felt threatened. A gun could have gone off. I could've had my head blown off. They illegally searched my car. The trooper, Ed Bowers, who's still on the force should be in prison, ordered me in front of the dash cam video the second time to restage the verbal exchange. I mean this crap should not be going on, Governor. If I was the governor, I would get on the phone to the judge and I would say hey, let this guy have his day in court.

To this day, I've never been able to appeal this case. I've timely submitted my appeal papers or file stamp dated and signed, and the court clerk, Robin, there at the Washoe County Clerk Courthouse would not forward my papers to the district court for appeal. And I went back to -- numerous times over a week and a half to see the court administrator and say, "Hey, what's

going on?” And they said, “Oh, we don’t know where he is. We don’t -- we can’t get a hold of him,” nothing. And the last two times I went there, I sat in the lobby for a couple hours and I was going to sit there all day until he showed up, and they threatened to arrest me; you can’t loiter here, you can’t stay in here. If he’s not here, you can’t hang around. This is gestapo tactics, and Governor, this should not be happening. If I was the governor, I’d be on the phone right now and say, “Hey, let this guy have his day in court.”

You know, I had an impeccable record. I’ve been driving for -- ever since I was 16. No tickets, no accidents in 45 years. I’m a retired pilot. No accidents, no violations. I’ve raised two kids, both come back from the service from Afghanistan and one in the Marines in training had an accident there. Been married 32 years. I’ve never committed any crimes. I’ve been in business 35 years, not a single complaint with the Better Business Bureau. I do everything right and all this happened because I brought a complaint one night to the NHP saying hey -- or not a complaint, I just called and said you guys need to get the NDOT sand trucks out here because there’s -- on I-80, there was a blizzard and black ice and there’s people injured. One lady was rolled over. We couldn’t help her. She was trapped in a pickup upside down in the mud and the snow on the side of the road.

I go home, I pick up the phone. I call the Reno NHP and I said “Hey, you guys need to get some sand trucks out here. You’ve got -- you’ve got rollover -- you’ve got a rollover, you’ve got spinouts and SUVs all over the place upside -- you know, on the side of the road.” And I was told, “Mr. Weston, we’re not the babysitters for NDOT. You can go ahead and call them yourself.” And I said, “Well, there’s no after-hours phone number to call.” And they said, “Well, that’s your problem,” and slams the phone down. I pick up the phone again and I says, “If somebody there doesn’t call NDOT, I’m going to call Governor Guinn’s mansion that night,” which I did. The next morning, I get an apology from Captain White, who said “They were out of line and we’re sorry for this. They shouldn’t have done this. They should have handled it better.”

Four months later I’m driving home from work and I get run off the road or forced to get off the road because two guys are speeding in a construction zone near Keystone Avenue. It’s about 45 miles an hour there. So I get back on the road and I’m heading up -- about a mile up ahead is Trooper Ed Bowers, at the time I didn’t know who he was. And I pulled up behind him and he stopped what looked like one of the vehicles. And after a few -- after he said, you know, “Would this be one of the vehicles that were racing and run you -- forced you to get off the road?” And I said “I can’t be sure. I couldn’t get the license number. They were doing about 80 miles an hour.” And he did cite that vehicle for, I think, it was 72 miles an hour. And then he says -- after a few moments he says, “Would you be Mr. Weston by any chance,” and I says, “Yes.” And he says, “Do you remember me? I’m Trooper Ed Bowers. You called and complained about our department and calling everybody, and Senator Wracho, I called him about what happened.”

And so, anyway, he orders me in front of the dash cam video on his car...

Governor: Okay, Mr. Weston. I’m going to have to limit you a little bit because I have to be respectful of everybody else’s time.

Michael Weston: All right. Okay, I'll make it short.

Governor: Yeah.

Michael Weston: My point is now the corruption in the judicial system is so unbelievably corrupt, it's like I'm dealing with a licensed -- I mean a criminal enterprise run by licensed criminals in dirty diapers. I mean, that's the way I feel about this whole system. There's no due process. There's no justice, nothing. You get -- you're threatened. You're stopped by NHP. The D.A. who brought the original charge against me says right here "We have no objections, Mr. Weston, to vacating your -- but we're going to --" and all this, "We're going to leave it up to the judge." The judge is sitting there worried about me suing the state. And I've already told them I won't sue the state if they'd just let me have my day in court and get this damn thing vacated, because the D.A. who brought the charge is now saying, "Hey, we're willing to drop it." Now, I've got to face a judge, who now I may be protesting him with the world's largest signs and going after him. And this publicity is getting on YouTube, it makes Nevada look bad.

I just ordered -- I just got this morning a 300-foot -- mailed to me UPS -- banner that I plan on stretching it clear -- if I have to -- clear across the front of the Capitol all the way down to the State Legislature and send that to Time Magazine and Newsweek and say, "Hey, this is what a guy has to do to get justice in this state." That's all I have to say and I appreciate the letters last summer, said you're confident that I will prevail through the legal system, and I'm going -- but it's -- I'm still not there, and this should not be happening. I should not have to spend this much time and effort to deal with a \$300 nonarrest, rigged citation by NHP. And that trooper, Ed Bowers, should be fired. Chris Perry, I believe, is a colonel for the NHP or -- oh, no, I'm sorry, he was promoted to...

Governor: Director Perry has -- is retired.

Michael Weston ...Public Safety or whatever. They need to get rid of that trooper, because he'll go out and do that to somebody else, if he's not done it already. And you've got to deal with these people, Governor. This makes the state look bad and innocent people like myself get screwed and, you know, I've been fighting this for eight years. Just six months ago, they said they have no objections to vacating this.

Governor: All right. Thank you very much, Mr. Weston.

Michael Weston: Thank you.

Governor: Is there anyone else who would like to provide public comment to the Board of Examiners?

Ty Robbin: I've got something real quick. Hi there, people in Vegas. Oh, nobody's there. I was going to ask if anyone saw the recent video coming out of Las Vegas...

Governor: Sir, if you would identify yourself for the record.

Ty Robbin: Sure. My name is Ty Robbin. And I did serve Mr. Howell, who is your Attorney General, correct, for Mrs. Tonya over here. Is that correct? I just wanted to make sure that he's your Attorney General.

Governor: I don't know -- I don't know, Mr. Robbin.

Ty Robbin: You don't know Mr. Howell? He's your -- I just want to make sure nobody's running out the back door and I don't have to chase them over into the -- to the Save Mart, you know. So anyhow, he accepted the papers on your behalf and your behalf, Mrs. Masto, on behalf of Mrs. Brown. So I wanted to make sure that's on the record so nobody can say they weren't personally served, because I can't personally serve you without going through the security. So anyhow, that's on the record.

And I would just say that the Carson City -- my experience with their -- serving the subpoena to Ms. Martinovich last year has really wound up to be quite a problem for me, and there will be a complaint coming, and it'll be naming Carson City Department of Alternative Sentencing. And what I find interesting is that you just signed a bill, SB 101, right? Do you recall that bill, Senate Bill 101? What it does is it allows alternative sentencing which is their jailhouse court police to have jurisdiction over pretrial defendants. But prior to that law, which went into effect July 1st of this year, they didn't have jurisdiction. And I had these people coming over to my house, kicking in my doors, hiring bounty hunters to kick in my doors, shoot me with Taser guns, trying to kidnap me across the state line. So that whole thing's resulted in a big lawsuit in Sacramento Federal Court.

And like I said, you know, I'm filing a complaint under Section 1983 for my violation of civil rights right here in Carson City related to serving a subpoena to your former director of NDOT, Susan Martinovich. So I also find it ironic that this fellow over here, Gerald Gardener, correct? Is that right?

Gerald Gardener: That's my name.

Ty Robbin: Was the Deputy Attorney -- or District Attorney to Neil Rombardo when all this went down. So I think you guys overplayed your hand and that complaint will be coming soon, too. So thank you for the time.

Governor: Thank you, Mr. Robbin.

Ty Robbin: All right.

Governor: Any further public comment?

***2. FOR POSSIBLE ACTION – APPROVAL OF THE JUNE 11, 2013 BOARD OF EXAMINERS’ MEETING MINUTES**

Clerk’s Recommendation: I recommend approval.

Motion By: Attorney General Seconded By: Governor Vote: 2-0

Comments:

Governor: All right. We will move on to Agenda Item No. 2, which is approval of the June 11, 2013 Board of Examiners Meeting minutes. Madam Attorney General, have you had an opportunity to review the minutes and do you have any changes?

Attorney General: Yes, I’ve reviewed them. No, I have no changes and I would move for approval.

Governor: Okay. I will second the motion. All those in favor, please say aye.

Attorney General: Aye.

Governor: Aye. Motion passes two, zero.

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

A. Department of Taxation – \$78,390

Pursuant to Senate Bill 493, Section 16.7 of the 2011 Legislature, the Department of Taxation must submit mining claim refund requests to the Board of Examiners for approval. The Department of Taxation is requesting authority to pay four refund requests totaling \$78,390. This results in a remaining balance of \$567,978 in mining claim funds eligible for reimbursement.

Clerk’s Recommendation: I recommend approval.

Motion By: Attorney General Seconded By: Governor Vote: 2-0

Comments:

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

Clerk: Thank you, Governor. Before the Board, for the second to last time, is an action item to authorize the payment of mining claims, in this case, for \$78,390. As you recall, initially there was authority out there for \$18,158,531.00. This will bring the total amount of claims that have been submitted, including payments and credits to \$17,590,553. So the remainder that’s out there that can come forth next month is \$567,978.00. And we have sent notices to all those

parties who have the opportunity to let them know that the clock is ticking. They had to file by June 30th. So next month will be the last time we'll see this on the Agenda. Anybody that doesn't meet that time window will not be authorized to make a claim before the Board.

Governor: So time is up. So they needed to submit their request for refund by June 30. Do you know, as we sit here, whether there were any additional...

Clerk: I don't.

Governor: ...requests?

Clerk: I don't. I expect there probably were a few. Like I said, next month we'll bring the final amount and then this -- you won't see this on the Agenda after that.

Governor: I'm not complaining. All right. I have no questions regarding this matter. The Chair will accept a motion for approval to pay mining claim refunds in the amount of \$78,390.

Attorney General: So moved.

Governor: I'll second the motion. All in favor please say aye.

Attorney General: Aye.

Governor: Aye. The motion passes two, zero.

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

The 2011 Legislative Session made appropriations from the General Fund and the Highway Fund to the Board of Examiners to meet certain salary deficiencies for fiscal year 2013 that might be created between the appropriated money of the respective departments, commissions, and agencies and the actual cost of the personnel of those departments, commissions, and agencies that are necessary to pay for salaries. Under this legislation, the following amounts from the General Fund and/or Highway Fund are recommended:

BA#	BUDGET ACCOUNT NAME	GENERAL FUND ADJUSTMENT	HWY FUND ADJUSTMENT
1130	Controller's Office	\$10,129	
	Total	\$10,129	

Clerk's Recommendation: I recommend approval.

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

Comments: Pulled From Agenda per Controller's Office

Governor: Mr. Mohlenkamp, I understand that Agenda Item No. 4 has been pulled from the -- or withdrawn from the Agenda.

Clerk: That's correct, Governor. We received contact from the Controller's office they had filed this request in the abundance of caution looking at their personnel thinking that they might need the funds. Analysis has concluded that they will not need these additional funds, so they've requested to withdraw that.

Governor: All right. Thank you.

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

**A. Gypsum Resources, LLC – TC 16567
Amount of Claim - \$920,000**

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: We will move on to Agenda Item No. 5, tort claim. Is there somebody here on this Agenda item?

Bryan Stockton: Good morning. I'm Bryan Stockton, Senior Deputy Attorney General. I was representing the Attorney General's office in this case.

Nancy Bowman: Nancy Bowman, Tort Manager.

Governor: Thank you. So if you would take us through briefly the nature of the lawsuit, please.

Bryan Stockton: The nature of the lawsuit; in 2003, the legislature at the behest of Senator Dina Titus passed SB 358, which created an area adjacent to the Red Rock Canyon National Conservation Area where Clark County was no longer allowed to change the zoning in there. It would have rural zoning, two homes per acre. The major landowner in there was Gypsum Resources. They own the development rights for what's basically been the Blue Diamond Gypsum Mines since the '40s. And so based on the zoning, they could put 1,200 homes in there. They were proposing to put 8,000 homes.

And so the legislature passed this law to free zoning. Clark County also passed an ordinance and they were sued as well. The federal district court and, ultimately, the Nevada Supreme Court held that it was unconstitutional under Sections 20 and 21 of the Nevada Constitution local and special laws, and also under Section 25 of the Nevada Constitution in that it -- they held that it destroyed the uniformity of state laws in the area of zoning. And they also -- we also argued that there was a natural resources exception because this was adjacent to the National Conservation

Area, and the Supreme Court rejected that as well. And the claim here is for attorney fees. The case is done and...

Governor: Procedurally, it went to and then it was appealed to the Ninth Circuit. The Ninth Circuit sought clarification of state law from the Nevada Supreme Court. The Nevada Supreme Court is the one that essentially found the law to be unconstitutional.

Bryan Stockton: Correct.

Governor: All right. Now -- and you're saying that this settlement in the amount of -- or the district court granted attorney's fees in the sum of \$1.1 million?

Bryan Stockton: No, no. It's -- the plaintiffs who filed their motion for attorney fees for \$1,100,000.00. Now, that included everything against Clark County and the state but, of course, there's really no discretion for the district court. They have to award attorney fees and not based on what's billed, but based on the lodestar factor. So the actual figure we'd be looking at is \$1.6 million.

Governor: Yeah, I'm just reading straight out of the memo from here.

Bryan Stockton: I apologize. That's incorrect, I clarified that.

Governor: All right. And you were able to negotiate this down to \$920,000?

Bryan Stockton: Correct.

Governor: And then it -- there's also a sentence here that says Clark County settled with Gypsum, which removed them from the case. Do you know what the nature of that settlement was?

Bryan Stockton: Yes. They agreed to -- they agreed to rescind their ordinance which prevented them from even looking at zoning in the area, and they only agreed that they would look at it and consider any development proposal that Gypsum might make in the future.

Governor: Now, did their settlement include a monetary piece?

Bryan Stockton: It did not.

Governor: And so why are -- why is the state on the hook for all the attorney's fees?

Bryan Stockton: We're not on the hook for all of the attorney fees. So if you want to go through the numbers, I can.

Governor: Okay.

Bryan Stockton: The \$1.6 million would be the lodestar figure, and of the -- if you look at the underlying -- the district court case, that amount would come to -- and let me preface this with when I did the numbers, we had the figures -- lodestar figure and, I don't know, do you want me to explain the lodestar?

Governor: You might for everybody else's benefit.

Bryan Stockton: Okay. All right. In federal court, it doesn't matter what the plaintiff's attorney bills. What the court awards based on Supreme Court precedent is what's called the lodestar. And that's the average hour -- or not average, but the prevailing hourly rate for attorneys in that field in that area. And they produce case law that they -- Gypsum actually paid \$400 an hour, but they produced case law that showed that it was about \$700 an hour, actually, and for partners. And so all I recalculated was the partners and added that and that's where I got the \$1.6 million. And of that, about a third would be attributed -- when I ran the numbers, and I didn't bring the specifics, about a third of that would be attributed to Clark County for their half of the district court case, and then all of the appellate costs would be on the State. So ours would be about two-thirds, so it'd be...

Governor: So two-thirds of the fees were generated...

Bryan Stockton: Those are rough figures. I...

Governor: ...by the state? But let me finish my sentence, please.

Bryan Stockton: Sure.

Governor: The two-thirds of the fees were generated before the Ninth Circuit?

Bryan Stockton: No. One-third against us and the district court, and one-third in the appeal. We briefed it and argued both in the Ninth Circuit and briefed and argued in the Nevada Supreme Court.

Governor: I guess, like I said, I'm not certain where you're getting this \$1.6 million figure because it says the district court granted attorney's fees and costs to Gypsum Resources in the amount of \$1,103,363.00.

Bryan Stockton: Okay, I apologize. That's -- the amount they billed to Gypsum was the \$1.1 million, approximately.

Governor: Amount they billed, is that the law firm?

Bryan Stockton: Correct. That's the amount the law firm billed Gypsum...

Governor: Okay.

Bryan Stockton: ...because they had an agreement to represent them for \$400 an hour. Now, the federal courts, they don't -- they ignore that \$400 an hour and they calculate it based on the lodestar, which is the \$700 an hour. And so if you look at the fees based on the \$700 an hour, it would be the \$1.6 million.

Governor: But that -- again, I guess I'm just confused because it -- this says the district court granted attorney fees and costs. So why is the \$1.6 million?

Bryan Stockton: Again, that memo, it says the district court -- the district court has not awarded anything.

Attorney General: So that was a mistake? That should not be?

Governor: That's a mistake? It should...

Bryan Stockton: Yes, that's a mistake.

Governor: Okay. All right. I was just trying to get this clear.

Bryan Stockton: I thought I had said that was in there. I apologize.

Governor: Okay. But I guess that's not even relevant as much, because it says you've negotiated this down to \$920,000.

Bryan Stockton: Correct. And that includes an additional of about \$75,000 in costs that are wrapped up in that -- that are not attorney fees, but they're wrapped up in that \$920,000, that would be in addition to the \$1.1 million.

Governor: And so is Clark County paying the balance between the \$920,000 and the \$1.6 million?

Bryan Stockton: No. Gypsum is just going to have to -- they're just eating that.

Governor: So Clark County isn't participating in the \$920,000 at all?

Bryan Stockton: Correct. That's just our share.

Governor: Okay. When you say "our share," does that allow Gypsum to still go after Clark County? But they've already settled.

Bryan Stockton: They agreed not to go after Clark County, so this is all they get.

Governor: Okay. And are you going to seek any kind of compensation or share from Clark County for the \$920,000?

Bryan Stockton: No. Because this only represents our share of the -- like I said, the \$1.6 million or higher. It would likely be higher than the \$1.6 million. That's all I was able to calculate. So the rest of it represents what would either be Clark County's share or that Gypsum is just going to absorb.

Governor: So there was a time when the district court decided against Clark County and the State. Clark County chose to settle...

Bryan Stockton: Correct.

Governor: ...and we decided to appeal to the Ninth Circuit?

Bryan Stockton: Correct.

Governor: And that's what ran our attorney's fee bill up to \$920,000?

Bryan Stockton: Well, it's more than that, but \$920,000 is what they were willing to settle for.

Governor: Was there ever an effort to try and resolve the case prior to the decision by the Nevada Supreme Court?

Bryan Stockton: We made -- we made several -- they didn't get very far, though. There were the -- what I tried to do is I tried -- what -- well, it's kind of a long answer, but when they -- when Senator Titus was testifying on SB 358, she testified that the 1,200 homes which is the current zoning would allow on the property would not, quote, "pencil out." And so I tried to get Gypsum to kind of at least give us a figure of how many homes would pencil out, because I don't know if you're familiar with the Blue Diamond Hill. The closest place to get access to water for the subdivision is about a quarter mile away and it's up a 400-foot cliff. And so it's going to take, you know -- and so I just tried to find out how many homes.

And then when we were in the Ninth Circuit, Gypsum did offer to settle and if we would withdraw our appeal, they would waive the attorney fees at that point, but we decided to go forward.

Governor: And as part of the settlement, Gypsum's agreed to waive any right to post-judgment interest?

Bryan Stockton: Yes.

Governor: Okay.

Bryan Stockton: Well, the terms are actually that, as long as we pay it within 10 days, they will waive any interest. If it's not paid within 10 days, it begins to accrue interest at that point.

Governor: Okay. Ten days from when?

Bryan Stockton: When this Board approves it.

Governor: And how much is that?

Bryan Stockton: I didn't calculate that amount.

Governor: Okay. Well, and we -- this is the end of the hunt basically, isn't it?

Bryan Stockton: Yes.

Governor: I mean, we've lost at every level.

Bryan Stockton: And the settlement is, it's contingent on your approval. If you don't approve it today, then we go to district court and fight it out.

Governor: What's left to fight about?

Bryan Stockton: Attorney fees.

Governor: Oh, okay. So they -- it says here as part of the order that their right to recover attorney's fees shall be determined on motion to be filed March 16th. So have they already filed their motion?

Bryan Stockton: They had filed their motion. We were getting close to an agreement at the time my response was due, so I went ahead and filed a response. And at that point, we finally came to the agreement and we filed a motion for stay -- for the district court to stay the proceeding pending this meeting today.

Governor: And in their motion, is that where they ask for the \$1.6 million, or do you recall?

Bryan Stockton: Well, they didn't provide a number there. What they did is they provided the number of hours they spent and the \$700 per hour, and then you had to figure out the \$1.6 million.

Governor: The going rate now is \$700 an hour?

Bryan Stockton: It is for big city firms and they're out of Los Angeles, Wilshire Boulevard.

Attorney General: So they picked a going rate out of the district of -- not from Nevada, but out of California?

Bryan Stockton: That's what they provided evidence of.

Attorney General: So can I follow up...

Governor: Yeah.

Attorney General: ...because I -- because this is part of my concern as well. So right now, what's pending before the district court is the amount of attorney's fees and costs? They're entitled to it but the issue is, can we fight to get it lower than that?

Bryan Stockton: Correct.

Attorney General: Okay. And so the -- pending before them, all they have to show is a prevailing wage somewhere, apparently in California...

Bryan Stockton: Well, it's supposed to be...

Attorney General: ...and the hours?

Bryan Stockton: ...the jurisdiction that's relevant and...

Attorney General: So would that be our counter in the motion, is that jurisdiction wouldn't be relevant and what we should be looking at is \$400 or whatever the prevailing rate is here in Nevada?

Bryan Stockton: We could but, I'm guessing, for this kind of firm, it's higher than \$400 per hour.

Attorney General: But we haven't checked to see?

Bryan Stockton: No, I don't -- I don't know.

Attorney General: Okay.

Bryan Stockton: But they did provide case law where federal courts had accepted \$700 per hour as reasonable in this type of case.

Attorney General: And so have we filed a response yet to...

Bryan Stockton: Yes.

Attorney General: And what was our -- I guess, give me your recommendation on why it's better to settle and not fight in district court to try to lower this rate. I mean, what would be our arguments to try to lower this rate?

Bryan Stockton: Well, the arguments to lower the rate are, one, that the \$700 an hour is unreasonable. Two, that a larger portion should be a portion to Clark County. Given the history of litigation before Judge Jones in this case, my -- I'm not confident that he's going to bring it down very much. And in looking at the -- in filing the response and I didn't bring the exact arguments we made, but those are the arguments that he asked for, a portion between us and Clark County and that he should -- you know, he should get the prevailing rate in the -- in this

jurisdiction, you know. And the best estimate I have is we're going to be on the hook for about \$1.2 million.

Attorney General: And that's not including post-judgment interest?

Bryan Stockton: That's including post-judgment. Well, and then, interest will be on top of that.

Governor: What's the best case scenario for state?

Bryan Stockton: The best case scenario is if Judge Jones just cut it in half, it'd be about \$800,000 is my best -- I mean, I've had some accountants look at it -- not accountants, but some of our financial people look at it and the \$1.6 million is about the minimum the total award's going to be. If you cut it in half without, you know, apportioning as closely as you should, then it would be \$800,000.

Attorney General: And what's your argument that Clark County should be on the hook for some of this?

Bryan Stockton: It's not -- it's kind of a funny -- the way the case law works is they have to apportion it between defendants whether that other defendant has to pay or not. And so the Clark -- even though Clark County -- they waive their attorney fees against Clark County, the court must apportion it against Clark County. And so if he decided not to look closely at it and just cut it in half, the best case scenario would be the \$800,000, but I think that's very unlikely.

Attorney General: And, Nancy, as you're manager of the contingency fund, this money would be coming out of the Contingency Fund, correct, or where would this money be coming from if we were to pay it -- or the tort fund? I mean, the tort fund.

Nancy Bowman: Yeah, it would come from the tort fund. That is correct. And...

Attorney General: How much money do we have in the tort fund now?

Nancy Bowman: Because we just started the new biennium, I've got \$3.6 million.

Attorney General: Okay.

Nancy Bowman: It's new funding for this fiscal year, and I've got \$3.8 million in my reserve account.

Attorney General: And do we have any other cases that we're aware of that are going to be a dollar amount that might have to be paid out of that contingency fund over the next biennium or the next year...

Nancy Bowman: We do...

Attorney General: ...or, excuse me, the tort fund?

Nancy Bowman: The tort fund. We do have that Contreras case that's out there, that we think we're going to try and settle that in the next three to four months. Other than that, I am not aware right now of any large tort claims.

Attorney General: And have you had a chance to look at this issue, and what's your recommendation on settlement in this particular case? Have you had a chance to be involved in it at all?

Nancy Bowman: I was not very involved with the negotiation piece. I was on annual leave when this all came about, so Bryan and Keith Monroe, the Assistant Attorney General, both looked at it.

Attorney General: Okay. So the best case scenario, going back to the Governor's question, would -- that the judge would rule in our favor that we just owe attorney's fees in the amount of \$800,000 or splits?

Bryan Stockton: Well, that's if he splits it in half, and the case law is that if he just split it in half, it probably wouldn't stand up on appeal, frankly. But I think that is the best case scenario.

Governor: And remind me again why the 1.6 number is the number that we're working from.

Bryan Stockton: So the way I did that is they had billing -- they provided us billing statements, where they showed how many hours each person had spent on the case, and there were a certain number of hours by partners and then a certain number of hours by associates. And I didn't recalculate the associates' wages. I only recalculated the partners' wages, added that to the total amount; that's where the \$1.6 million comes up. If you calculate just the partners' time at the \$700 an hour, that's where the \$1.6 million comes up.

Governor: So that's your calculation. That may not be...

Bryan Stockton: Correct.

Governor: ...the courts calculation.

Bryan Stockton: Correct.

Attorney General: The courts calculation could be higher or lower?

Bryan Stockton: It could be much higher. They got an excellent result in the courts under -- there's a case called Hensley versus Eckhart, 461 US 424. They can even enhance it because what they got was an excellent result. We lost. They declared the constitutional was -- or the statute was unconstitutional on all grounds, so the court can even enhance it beyond that.

Governor: I just -- it sounds like we're in a box here and I -- it's just a tough one to swallow because there goes a third of our tort...

Nancy Bowman: Mm-hmm.

Governor: ...fund.

Nancy Bowman: Mm-hmm.

Governor: What are we, nine days...

Nancy Bowman: Yeah.

Governor: ...into the new biennium? All right. I -- like I said, I -- it's a tough one to swallow, but it is what it is. And so I have no further questions. Madam Attorney General...

Attorney General: I don't either. Thanks. Just a comment, I guess -- and I feel the same way you do. The risk we would be taking moving forward going before the judge is that we might be -- owe more money than what we have now. I guess the only good thing about this settlement now is that there would be no post-judgment interest if we pay it within 10 days. And how much did you -- did you calculate the post-judgment interest?

Bryan Stockton: I did.

Attorney General: Okay.

Governor: But it sounds like Clark County walks away from this without paying a dollar.

Bryan Stockton: They did. And that was the settlement, and they settled at the district court, so...

Governor: So they're looking pretty good right now.

Bryan Stockton: We thought we had a good case. We thought the law would support us and the natural resources exception seemed to apply, and so we...

Attorney General: Is this the...

Bryan Stockton: ...we gave it our best shot.

Attorney General: ...is this the case where LCB also filed?

Bryan Stockton: Correct. LCB filed an brief in the Ninth Circuit and at the Nevada Supreme Court.

Attorney General: Okay.

Governor: I have nothing further.

Attorney General: No.

Governor: If there are no further questions, the Chair will accept a motion to approve payment of the settlement amount of \$920,000 as provided in Agenda Item No. 5.

Attorney General: So moved.

Governor: Second the motion. Any questions? All in favor, please say aye.

Attorney General: Aye.

Governor: Aye. The motion passes two, zero. Thank you.

Bryan Stockton: Thank you.

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

The State Administrative Manual (SAM) is being submitted to the Board of Examiners' for approval of additions and revisions in the following Chapters:

- A. 0330 – Department of Administration – State Public Works Division – Minor Remodeling, Repair, and Maintenance Contracts**
- B. 0326 – Department of Administration – Board of Examiners – Independent Contracts Not Requiring Board of Examiners' Review**
- C. 0328 – Department of Administration – Board of Examiners – Lease Contracts**
- D. 0338 – Department of Administration – Purchasing – Solicitation Requirements**
- E. 0504 – Department of Administration – State Public Works Division – Insurance and Self-Insurance**
- F. 1000 – Department of Administration – State Public Works Division – Name Change from Buildings and Grounds to State Public Works Division**
- G. 1002 – Department of Administration – State Public Works Division – Serving the Capitol**
- H. 1004 – Department of Administration – State Public Works Division – Scope of Services**

- I. 1006 – Department of Administration – State Public Works Division – Procedure for Service**
- J. 1012 – Department of Administration – State Public Works Division – Maintenance, General**
- K. 1016 – Department of Administration – State Public Works Division – Craft Services**
- L. 1018 – Department of Administration – Nevada State Library and Archives – Mail Services**
- M. 1020 - Department of Administration – State Public Works Division – Leases**
- N. 1022 - Department of Administration – State Public Works Division – Rent Charges for State Owned Buildings**
- O. 1024 - Department of Administration – State Public Works Division – Office Space**
- P. 1026 - Department of Administration – State Public Works Division – Protection of State Property**
- Q. 1028 - Department of Administration – State Public Works Division – Energy Conservation**
- R. 1030 - Department of Administration – State Public Works Division – Energy Information and Assistance**
- S. 1900 - Department of Administration – State Public Works Division – Name Change from Public Works Board to Public Works Division**
- T. 1902 - Department of Administration – State Public Works Division – General**
- U. 1904 - Department of Administration – State Public Works Division – Capital Improvement Program**
- V. 1906 - Department of Administration – State Public Works Division – New Construction**
- W. 1908 - Department of Administration – State Public Works Division – Remodeling, Repairs, and Maintenance**
- X. 1910 - Department of Administration – State Public Works Division – Acceptance of Grants and Contracts**

- Y. 1912 - Department of Administration – State Public Works Division – Inspection of State Buildings**
- Z. 1914 - Department of Administration – State Public Works Division – Building Official Role**
- AA. 1916 - Department of Administration – State Public Works Division – Emergency Contract Authority**
- BB. 2404 - Department of Administration – Division of Internal Audits – Implementation of Legislative Audit Recommendations**
- CC. 2508 - Department of Administration – Budget Division – Budget Preparation**
- DD. 2514 - Department of Administration – State Public Works Division – Operation and Maintenance for Capital Improvements**
- EE. 2542 - Department of Administration – Department of Human Resource Management – Position Control**
- FF. 3708 - Department of Administration – Department of Human Resource Management – Unemployment Compensation Assessment**

Clerk’s Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: We’ll move on to Agenda Item No. 6, State Administrative Manual. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board is a number of modifications to the state administrative manual. I have to say that all but one of these are really cleanups. They’re name changes to reflect -- and this is very belated and I apologize for that in advance. The merger that happened two years ago -- or it’s actually about a year and nine months ago, the Department of Administration, we had a number of name changes that had not been made within SAM. For example, State Public Works Board transferred over to the State Public Works Division, Human -- Department of Personnel, Human Resources Division -- things of that nature. So there’s a lot of cleanup going on here in names to make sure that we have the -- reflected the right groups.

There is a few statute references that are included. It didn’t change anything; it just included the reference to the statute instead of just saying Nevada revised statute. There’s some inclusion of websites links basically into the SAM manual so people can go directly to the various division

websites where they would find the information. And then there's some cleanup language. There's just some misspellings and things of that nature.

The only thing of substance in here is Item BB, which is submitted by the Division of Internal Audits. And what they're requesting, is currently if the Legislative Council Bureau does an audit, there's a requirement to follow up on a six-month basis to say how well we have done at implementing the recommendations. Currently, agencies have to submit to the Internal Audits Division 30 days before that's due to LCB. What we're finding is that too often there's not enough leg work that's been done and Internal Audits is right up against the time frame on trying to submit a good response to LCB. So they're requesting in here that agencies be required to submit their responses that would be reviewed by LCB -- reviewed by Internal Audits and also by myself 45 days instead of 30 days. So it gives them an extra 15 days to -- with which to work on their responses and make sure that we have a timely response and an adequate response. And so I would ask for your support of that additional 15 days. It does -- it does require agencies to move a little quicker on their responsiveness, but we think it's going to deliver a better product to LCB when we do this. So that's the only substantive change before the Board in all these various changes to the SAM manual.

Governor: Have you heard any opposition to this proposed change to 2404?

Clerk: I have not received anything from the agencies that would suggest that they have problems with it. I'm not sure how well agencies scoured the -- you know, our Agenda looking for these types of things, and so it may be that people are not really entirely aware of the change. I don't believe it's a real hardship. It does require a little bit more timely planning on their part, but our staff will be reaching out to them and trying to make sure that they are aware of the changes. So we'll be sending notification in the form of an agency policy directive so they'll be aware of that.

Governor: I have no further questions.

Attorney General: No.

Governor: If there are no questions, the Chair will accept a motion for approval of the proposed changes to the State Administrative Manual as described in Agenda Item No. 6.

Attorney General: So moved.

Governor: I second the motion. All those in favor of the motion, please say aye.

Attorney General: Aye.

Governor: Aye. Motion passes two, zero.

***7. FOR POSSIBLE ACTION – LEASES**

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

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: We'll move on to Agenda Item No. 7, leases. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are seven leases for consideration. And as you can see, we seem to have hit the end of the savings road which is bittersweet. It's...

Governor: Good news and bad news.

Clerk: As a budget director, it's sad. I think it does indicate that our real estate market is changing and moving to positive ground, though. One thing I want to comment on, No. 5...

Governor: Yes.

Clerk: ...is this is the training room -- the computer training room for the Controller. They were -- the legislature authorized funding to open up a training. This is over on Fairview here in Carson City, and so it indicates the State's Controller's office it's only an additional training room -- a computer training room that they will be using to provide training to state employees on the use of the state accounting system and things of that nature.

Governor: My only question is why are we signing a 10-year lease? Is that just better market...

Clerk: Yeah.

Governor: ...or better price?

Clerk: That's my understanding. I did reach out and talk to staff and we're -- you can see that we're doing a lot of these longer leases because we're getting better rates for that. I know that when the legislature approved this funding that they had some concerns over whether there was enough demand for the training and there -- they've asked the Controller's office to report back with regard to how much training they're doing. And so we've also double checked and the lease does have "opt out" if there's lack of funding. So if for some reason in the executive budget or, ultimately, the legislature the next time around deems that there's really not adequate need this could be defunded if necessary, and that would be our ability to get out of the lease.

Governor: All right. I have no further questions regarding the other leases. Madam Attorney General?

Attorney General: No questions.

Governor: If there are no further questions, the Chair will accept a motion for leases 1 through 7 in Agenda Item.

Attorney General: I'll move for approval.

Governor: ...number -- or -- oops.

Attorney General: Oops.

Governor: Yes, that's right. Yeah. I'll second the motion. Any questions? All in favor, say aye.

Attorney General: Aye.

Governor: Aye. The motion passes two to zero.

***8. FOR POSSIBLE ACTION – RENTAL AGREEMENTS**

Two rental agreements were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General Seconded By: Governor Vote: 2-0

Comments:

Governor: We will move on to Agenda Item No. 8, rental agreements. Mr. Mohlenkamp.

Clerk: Mr. Governor, before the Board are two separate agreements, both with the Department of Employment, Training and Rehabilitation. This is for storage of records primarily, but also for equipment. It looks to me that -- this is the first time I've seen these come on the Agenda, but I understand that this is not uncommon. We do have these come up periodically. And I may have spoken incorrectly on the records. I'm not certain if there are records. It might be just extra equipment. It looks like forms, whether that's actual records or just forms that they would use for future record keeping, I'm not sure. In any event, I understand this is fairly standard type process for us and I don't have any further comments.

Governor: I have no questions.

Attorney General: No questions. I'll move for approval.

Governor: Attorney General has moved for approval of Agenda Item No. 8, rental agreements one and two. I second the motion. All in favor, say aye.

Attorney General: Aye.

Governor: Aye. The motion passes two, zero.

***9. FOR POSSIBLE ACTION – CONTRACTS**

Eighty independent contracts were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: We'll move on to Agenda Item No. 9, contracts. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are 80 contracts for consideration. As you mentioned at the outset, Item No. 79 in this Agenda item were the Public Employees Benefits Program, a proposed contract with Liberty Dental Plan. The agency has requested that this be removed from the Agenda and not considered today. They have -- they need to have some further discussions with the vendor. Apparently, there's some lack of clarity with regard to exactly we're buying and what they're selling. And so this may be several months before this comes back on the Agenda. They'll be circling back and seeing -- making sure they can get on the same page.

Governor: All right. I had asked -- or I have questions regarding 27, 31, 64, 70 through 75 and that is all. And I will say I had had some questions regarding some of these Department of Wildlife and Forestry and having to do with firefighting, and they weren't really substantive questions, and I saw them out at the Bison fire yesterday and told them -- no circumstances did they need to be here. And I ask everybody if you would keep them in your thoughts and prayers. It's a horrible fire out there and they're out there on the front lines doing everything they can to put it out. They're working really hard. So with that, why don't we go ahead and commence with Contract No. 27, please. Good morning. If you'd just state your names for the record, please.

Mr. Daniels: Good morning, Governor. Mandi Davis, Section Manager for the State Health Division -- or actually it's the Division of Public and Behavioral Health.

Barbara Weisenthal: Barbara Weisenthal, Program Specialist for the Ryan White Program.

Siri McMillin: Program Specialist for the Ryan White Program.

Governor: Thank you. And my questions are not anything to do with the substance of the contract. It's a big number and I thought it would be a good opportunity to talk about what you do. Sir, please proceed.

Mrs. Davis: Okay. The Catamaran is also known as Catalyst are, they merged, I believe, this last year or so. They are our largest pharmacy benefits manager. They do help us with providing the medications for our Aide Up or AIDS drug assistance activities for our Ryan White clients. They are statewide and as it relates to providing the support for our Aide Up pharmacies. The University Medical Center is one of our Aide Up pharmacies, as well as Northern Nevada

Hopes. And under UMC, they also have satellite pharmacies, which is Walgreens, and the reason for that, it just allows our clientele to be able to reach the various pharmacies where they live. And so they've been beneficial and being at the site of client's residence area.

The contract is for a -- it's a four-year contract. I believe it terminates March 31st of 2017, and it has been in existence for...

Barbara Weisenthal: Well, it was a sub-grant at one time, and so now, we need to get into a contract and that's where we're at today, because we used to sub-grant out to Catalyst RX.

Mrs. Davis: The funds that -- the funds that fund this activity is from federal funds, from HRSA, as well as state funds and as well as pharmaceutical rebates. So the -- so we do get that benefit of receiving rebates based on the medication cost to the State. And those funds get reinvested back into the program. Most of it goes back into the -- our Aide Up program because that's where the cost is at for the program. Within Aide Up, there is three different programs; our medications, our state pharmacy assistance program that normally covers our Medicare Part D clients. They transition in and out into our program on a yearly basis. They pretty much get on our program for like -- at the end of our -- each calendar year, and they kind of roll off at the beginning of the quarter of the new year when the Medicare Part D drug plans kick in for them. And so it's a -- it's an evolving enrollment. And the third program is our continuation of benefits. And the continuation of benefits is basically our health insurance, and it's our deductibles and copays that we help our clients out.

Barbara Weisenthal: And if I could just add the Medicare Part D is the state portion, and that's our maintenance of effort, the mandate from the government to receive the funds. So that's what we do with those funds.

Governor: So it sounds like it's working well, and everybody needs to be served is being served?

Mrs. Davis: Yes.

Governor: Are there any waiting lists?

Mrs. Davis: We have no waiting lists...

Governor: Okay. Congratulations.

Mrs. Davis: ...for several years, I believe, we have not had a waiting list.

Barbara Weisenthal: We have not had a waiting list.

Clerk: Governor, if I might add, this is one of those programs that as we were looking at federal sequestration and that we were concerned about, obviously, these drugs are very important to the people who receive them. But they've done a really good job at recovering the benefits back from the -- back from the State -- or back from the federal government, you know, these

reimbursements that we receive. And so we've done a really good job of leveraging the funds. Currently, we don't see a problem with this funding going forward, so...

Mrs. Davis: We also have protocols in place that -- to avoid the waiting list. We would curtail other services that we provide. We also provide medical and support services. And, of course, with the change in the environment with ACA, we're going to monitor that closely. A majority of our clients will transition over to Medicaid.

Governor: Yeah, that's a great question -- or comment that prompts a question, is what the ACA -- how that'll affect your program.

Barbara Weisenthal: And it's about 50 percent of our clients.

Mrs. Davis: Yeah, about 50 percent of our clients. We have about -- a little over 1,400 clients enrolled in our program, so about 50 percent of them will transition over to Medicaid. Roughly about 15-16 percent of our remaining clients will transition over into the Marketplace. And so with that, there's -- based on HRSA's guidelines and direction, there could be a shift from medications into health insurance monitoring. So in order for us to ensure that our clients are transitioning over to the two main insurance entities, that there's a smooth transition so they don't fall through the gaps. And I believe our program will be more or less the very -- the exhilarating supportive services that maybe the Marketplace won't cover.

Governor: And that was going to be my next question, is if your client list is dropping down to 600, 700...

Mrs. Davis: Mm-hmm.

Governor: ...what do you do, you know, what are your next responsibilities?

Barbara Weisenthal: We anticipate, excuse me, we -- Barbara Weisenthal. We anticipate that we're not sure what exactly the Health Insurance Exchange is going to cover. Whatever it doesn't cover, we're going to pick up. And the feds have told us -- the federal government has told us that that's going to be part of our role.

Governor: I think there are some exchange representatives here today, so perhaps I'll ask that question then.

Barbara Weisenthal: And it's all -- we're still learning. We're still learning the process and what's going to be happening, so -- but we -- and then there will be the ancillary services that, you know, are still the wraparound services that we're still going to be needing to provide for the clients.

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

Attorney General: No.

Governor: Thank you very much.

Mrs. Davis: Thank you.

Governor: Speaking of the Exchange, we'll move on to Contract 31.

Clerk: Yeah, and that's actually going to be the Welfare Division.

Governor: The Welfare Division?

Clerk: Yeah.

Governor: Okay. Good morning.

Steve Fisher: Good morning, Governor, Board members. For the record, Steve Fisher, Deputy Administrator for the Division of Welfare and Supportive Services. And Contract 31 is a contract with Deloitte Consulting. Deloitte Consulting is the IT consulting company that we hired to implement the eligibility engine for the Division of Welfare and Supportive Services, one piece of the Affordable Care Act Project. There's three major stakeholders; the Exchange, Silver State Exchange, Division of Welfare and Supportive Services, and the Division of Healthcare Finance and Policy, which is Medicaid. So those are really the three major stakeholders.

This particular contract is a contract with the Division of Welfare and Supportive Services for the eligibility section. The reason for the contract amendment is -- let's see, the Affordable Care Act was signed into law in April of 2010, a year ago. The Supreme Court weighed in on it. It's constitutional. Really from that point forward, CMS, the Center for Medicaid and Medicare, have been, for lack of a better term, scrambling to really put out the final federal regulations so that we know what they are.

Governor: What to do.

Steve Fisher: Yeah, what to do. And so based on those federal regulations coming out over the last four or five months as a matter of fact, I just received a final federal regulation on Friday, this last Friday. And you can imagine once those final federal regulations come down, we have to read them and then determine whether there is an impact to the project or not. And so what you have before you are three change orders to the project based on those federal regulations coming down and making an impact to the project at cost.

Governor: Feds pay for that?

Steve Fisher: Well, there's a four percent -- I believe four percent of that is general fund, six percent would be federal.

Governor: Now, we're getting up against a wall because we're supposed to be up and running.

Steve Fisher: 2000 -- yes. And so the -- yes.

Governor: Do we anticipate more new regulations prior to that date?

Steve Fisher: Well, we are at a -- what I would call a point of no return, meaning we have to implement what we have today. And then if there are significant changes, those changes will have to take place after we implement.

Governor: Well, haven't we told CMS that...

Steve Fisher: Yes, we have.

Governor: ...very fact that...

Steve Fisher: Yeah.

Governor: ...it's too late, and you've had enough time to give us the regulations that you expect us to abide by and we're at that point of no return.

Steve Fisher: That is correct.

Governor: And -- but we still anticipate even more regulations that'll be coming through?

Steve Fisher: We do, yes.

Governor: Okay. You know, I feel bad for you guys because...

Steve Fisher: It's tough, that it is.

Governor: Yeah. No, but if...

Steve Fisher: We are -- we are going to make the timeline. We're on schedule as far as, you know, what we know today. We are going to make the October 1st deadline.

Governor: No, my understanding is we are out in front of a lot of the states.

Steve Fisher: We are. We're -- and that's good and bad. Being out in front, right, if these changes are coming, and it's hard for us to react to them now because we're obviously trying to meet the deadline. But we are out in front of a lot of states, yes.

Governor: But we've been constructing this based upon the previous information that we had received in the regulations as they were...

Steve Fisher: There's draft regulations that come out and the public can weigh in on those draft regulations; based on those draft regulations, we make assumptions and we move forward. And we let CMS know, here's our assumptions and we have to move forward.

Attorney General: And based on the timelines the feds set for us.

Steve Fisher: Based on the timelines, yes.

Governor: All right. Well, that was the main purpose of my asking you to come up here...

Steve Fisher: Sure.

Governor: ...is to kind of give us an update of where we are, and please tell everybody who's responsible for interpreting and implementing those regulations that we appreciate their hard work.

Steve Fisher: I will. Thank you.

Governor: Thank you. 45, please, Contract 45. Good morning.

Steve McBride: Good morning. Steve McBride, Deputy Administrator for Juvenile Services for the Division of Child and Family Services.

Jeanette Clover: And I'm Deanette Kluever. I'm the Deputy over fiscal services for Child and Family Services.

Governor: And thank you. Essentially, I mean, we were reopening some of you and I'm curious to see how that's going and how many beds we're going to have and when they expect to be up and running.

Steve McBride: Well, we're anticipating getting started right after this with the repaired roof conditioning of the facility. We're hoping to have kids start entering the facility in a seating program that would start as early as October 15th of this year, and anywhere between that date and January 15th of 2014, keeping in mind that we sort of don't know what we don't know at this point with -- once we power everything up and see what needs to be attended to. The state will have the 96 beds, we'll have up to 50 beds for state correctional placements and the vendor will have the ability to use the other, up to 46 beds, for alternative placements for other placing agencies out of the state.

Governor: Out of state?

Steve McBride: Correct.

Governor: Okay. And part of the policy of this, at least from my perspective, was that a lot of the clients there are from Southern Nevada were having to go all the way to Elko. And won't the proximity to Las Vegas be very helpful in terms of family visitation?

Steve McBride: It will be and that was part of one of the charges of the Supreme Court Commission on Juvenile Justice Reform was to look at a regionalized approach to how we reform our system.

Governor: And you only anticipate that half the beds, approximately, will be necessary for state placements?

Steve McBride: We believe so and we gave ourselves some flexibility with being able to adapt to the commitment practices of the judicial districts. We're going to continue to operate beds at the Nevada Youth Training Center in Elko with Caliente Center in Caliente, of course, and then with this additional more secure care facility to complete our continuum of the need.

Governor: All right. Thank you. Madam Attorney General, do you have any questions or comments?

Attorney General: No, I guess, maybe a comment because this is a -- this is something that you're going to continue to monitor as part of a bigger picture of this juvenile justice for reform, correct?

Steve McBride: Correct. And we'll be continuing to participate on the Supreme Court of Commission of Juvenile Justice Reform among other commissions in the Nevada Association of Juvenile Justice Administrators and continue to be flexible and adaptive as we try to grow and improve and meet the needs of the State.

Attorney General: Yeah, and I will say I am a member of the Supreme Court Committee, and I think, Governor, this is a long time coming. I think justice reform. The plan that has been put forth that everybody, every key stakeholder has been working on is tremendous. So I'm looking forward to see how this really works to the benefit of our children that are going through the juvenile justice system. So thank you for all your hard work.

Steve McBride: Thank you.

Governor: Thank you very much. Contract 64, please, B&I.

Todd Rich: Good morning. Governor.

Governor: Good morning.

Todd Rich: For the record, Todd Rich. I serve as the Deputy Commissioner for the Nevada Division of Insurance. Do you want me to go through the contract; do you have specific questions?

Governor: Well, and I did read the memo that you provided and thank you very much. But the purpose for my asking you to be here today was just simply, this is funding through the Nevada Division of Insurance with regard to educating Nevadans about their rights as purchasers of insurance via the Affordable Care Act. And I just wanted to make sure -- because we've got

Health and Human Services, we've got Silver State Exchange, and we have Business and Industry all involved in this making sure that they're all coordinated and we're doing the -- they're all on, essentially, the same song sheet. So I don't know if you have any comment there.

Todd Rich: Sure. It's a good question and maybe -- let me start by saying that our role at the division is to -- is to review the qualified health plans that come in from carriers. We make sure that they are certified for a number of different issues. We look at the rate and form filings, making sure that the rates are adequate, that they're not excessive, that they're not discriminatory. Once they go through our certification process, we basically push them to the Exchange. And so we are on track, at this point, to get all the plans certified by the end of this month, and then we'll push it out to the Exchange so they can start building their website, which they're doing currently. So we anticipate that there'll be adequate plans out there.

Our division has worked very hard to make sure that there's coverage in the rural areas. We had some concerns with some of the carriers that we were in discussions with that, maybe, Filch, and Elko or Ely might not have access to plans through the Exchange, so we've made sure that there are coverage for those folks out there. We meet with the Exchange every week to ensure that we're on the same page and that things are moving quickly and effectively. It's like drinking from a fire hose right now. It's incredible. But I think the leadership at the Exchange along with our leadership has done a good job of aligning our objectives and making sure that we're moving forward.

So this contract will help us educate Nevadans on -- on once they purchase insurance, and I think what the Exchange is doing, and they've got much more money than we do as far as outreach and education, but they're trying to get the population that doesn't have insurance. We want to make sure that once you purchase an insurance product, and in this case health care, that you know that you have rights, that you can make complaints that we will follow up. We've put a new piece on our website that allows consumers to look up their provider or their broker to make sure they have an active license. Part of this funds, and we're using 400,000 from our grant, will be to supplement our website to make sure that it's very sophisticated, that folks can look up their health insurance rates and determine if those rates are adequate and how we came to that decision. And this will be inside and outside the Exchange.

And the Exchange is anticipating that about 120,000 Nevadans will sign up year one. We're in charge of regulating the entire marketplace, and a full-insured marketplace is a little over 600,000. So we've got most of our work outside the Exchange, but that's really the basis for this contract, along with educating folks on title insurance and our general insurance products that we do every year.

Governor: And I know you can't speak for the Exchange, but from your perspective, it looks like everything's on track.

Todd Rich: I think they've done a tremendous job and we have a really good partnership. They've -- from what we've seen, and we attend a lot of conferences, insurance related, and Nevada is top two or three states as far as state-based exchanges and the work they put in. So I think we're in a good position and we want to thank you for signing Assembly Bill 425, which

codified a lot of the federal requirements and put it into state law, and so we're able to regulate from a state perspective rather than looking at the federal requirements.

Governor: And I wish Mr. Hagar was here, and if you could pass it along to that group, that similar to the individuals that we were just speaking with, but the Silver State Exchange, as you say, is the national leader and is almost a model for what other states are doing. Is that accurate?

Todd Rich: Absolutely.

Governor: Yeah.

Todd Rich: Yes. They've -- and for the amount of staff they have, which is minimal, they push really hard and they're doing a lot of great things. They push us pretty hard, but we've created a really good partnership so we're excited. And I really anticipate October 1st that everything will go off without a hitch, unless the feds make more changes.

Clerk: Governor, I had the pleasure of serving on the Board as a nonvoting member for the Silver State Health Exchange, and I have to tell you that is a very active board. They meet -- they meet monthly. They had side groups that -- basically, sub-meetings and they are very, very active. So I think the selection of the board was also a really tremendous job.

Governor: Thank you, Mr. Mohlenkamp. Madam Attorney General, do you have any questions?

Attorney General: No.

Governor: Okay. Thank you, Mr. Rich.

Todd Rich: Thank you.

Governor: And I believe, finally, 70 through 75.

Dennis Perea: Good morning, Governor, Madam Attorney General. For the record, Dennis Perea. I serve as Deputy Director for the Department of Employment Training and Rehabilitation. I could give you a synopsis on what these contracts represent or I could try to answer any specific questions you might have.

Governor: You've probably anticipated my questions because...

Dennis Perea: I do.

Governor: There's a history here and I think there's been incredible improvement and an evolution here, so I am more interested -- I know what these contracts are about and why they're necessary and they're extremely important. But I'm kind of interested in -- or I am interested in, you know, where we've -- how far we've come.

Dennis Perea: Yes, Governor. I could start off by saying one of the -- being an ex-auditor, that one of the great things that has taken place this year is that they had unqualified audits on both program and their financials. That hasn't happened in the six years I've been with DETR, and I don't think it happened for a long time before I actually got to DETR. So they've cleaned up their audits; they've reduced their expenses dramatically. They went from 80 staff down to 33.18, I believe, and cut their cost way down. For whatever reason, they're still budgeted at about 20 percent; 10 percent admin and 10 percent program, but they're actually spending far less than that at this point. I believe their program year '12, they were at 14 percent. So they've cut their costs way down.

And they've actually, from a programmatic standpoint, they have started to serve a much tougher to serve population so they're starting to turn the tide even on their program side, in my opinion. Some of the recommendations that came out of the audit in 2011, most of which we couldn't implement because of the Department of Labor wouldn't grant us the waivers, we have implemented -- the Governor's Workforce Investment Board has passed down the mandate that 30 percent of the \$4 million goes into certificate job training. That is starting to take place now and we've also instituted more rigorous reporting on a quarterly basis, that the boards report back to DETR.

Governor: And can you quantify how much more money is actually going to the people served versus administrative costs?

Dennis Perea: I passed Carol Turner, but I -- before we started this process, they budgeted around 6.5. They -- for the last year, they budgeted 5.3 and spent 3.5. So in essence, it's come down between \$2.5 million and \$3 million.

Governor: And that's \$3 million that is going, again to the client -- will be getting served.

Carol Turner: That's correct. Carol Turner, from Workforce Connections. There's an additional \$1.5 million plus the unspent operations that we're continuing to roll out into contracts for next year, which adds to approximately the \$2.5 million that Mr. Perea mentions. We put -- in the new one stop, we've put 65 percent into client services which includes the training for certificates at 50 percent, as well as 15 percent into supportive services such as bus passes, rent subsidy, those types of things.

In the home office location contracts, we're putting 40 percent into training and supportive services. So of that \$2.5 million, a majority will be going to -- directly into the clients, you know, into the training as well as the supportive services.

Governor: And you're finding that your staff is able to meet all the requirements with -- even with the reductions in force?

Carol Turner: They are. We've seen about a 43 percent decrease in our FTE, 25 percent in the salary dollars. But we're actually gearing up programs; we're focusing on those that are most in need. We've put out additional contracts, specifically for adults and youth with disabilities. We focus on re-entry for youth as well as adults. We have former foster care contracts now. So in

essence, we're still increasing our efforts into the programmatic services. We're focusing -- we have four sector employees that focus on determining the demand jobs in the sectors that have been established, as well as rolling out some special curriculum for youth and new curriculum for adults in the stem focus for the science technology, engineering, and math which will, in essence, be where we believe the most demand is in the future for jobs, 80 percent plus.

Governor: And when you say the sectors, that means you're aligning with the economic development sector.

Carol Turner: We are. We actually have a staff member on each of the nine -- they're nonvoting members on each of the nine sectors. You'll find that Mr. Perea can confirm that like on the healthcare sectors and the clean energy sectors, we played a major role in the original two sectors. And we do have a staff representative on each of the sectors to, in essence, gather the information specifically regarding, you know, workforce demands and where the jobs are going to be.

Governor: Excellent. Thank you. Do you have any questions, Madam Attorney General? And just, again, compliment to what you've done, because I know that wasn't easy through the past 18 months, but I think the end result that we're hearing today is a great one. And again, it sounds like we're more organized, we're more focused, we're more targeted, and we're more efficient and more people are being served. So I don't know how we could ask for anything more.

Carol Turner: Absolutely.

Governor: Thank you.

Dennis Perea: If I may, I also want to talk about Nevada Works. They've reduced their expenses down to around eight percent for the current year. So they continue to become more efficient as well.

Governor: Thank you very much.

Carol Turner: All right. Thank you.

Governor: The last one I had marked has been withdrawn. Madam Attorney General, do you have any questions...

Attorney General: No.

Governor: ...regarding any of the contracts?

Attorney General: No, I don't.

Governor: I have none, so the Chair will accept a motion for approval of Contracts 1 through 80, with the exception of 79, which has been withdrawn.

Attorney General: So moved.

Governor: I second the motion. Any questions? All in favor, say aye.

Attorney General: Aye.

Governor: Aye. The motion passes two to zero.

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

Three master service agreements were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Mr. Mohlenkamp, Agenda Item No. 10, master service agreements.

Clerk: Thank you, Governor. Before the Board are three master service agreements. This is new, something that we're doing with our grant's team. We're trying to provide a conduit for agencies to seek grant opportunities to be able to acquire the expertise necessary to, you know, get the application out, to make sure that we are on top of it. So what we have here, and this is -- this is new, is three different groups that can be used by state agencies when they see grant opportunities of if they know grant opportunities might be coming up; to be able to get this support from these people that have specific expertise.

You know, in some cases it doesn't make sense to hire full-time staff to be able to go after periodic grants. And in this case, it gives us an option to go after that expertise on a contractual basis. And so we're -- it's through the grants team that's part of my department that we're doing this as well as a variety of different training things, trying to basically increase our bandwidth of expertise so that we can be more successful in going after the grants. And so I'm pleased that this has taken a little bit of work, but that we've got these three before the Board, and I'll be interested in seeing how well they're used and reporting back to you in six or eight months as to whether this has really proven to not only be a good idea, but maybe something that's fruitful.

Governor: Will these entities bring to the state's attention, grant opportunities?

Clerk: This is more reactive on our part, where instead of them scouring and bringing to our attention grant opportunities, it's once we become aware of it, whether it's through a periodical, or word or mouth or direct information from the federal government. When we become aware of -- this is basically expertise to help facilitate us in securing the grant, more going after that leg work to help us to craft a proper grant application to make sure that we have got all the elements included that we need. And sometimes there's expertise needed, whether it's public safety or environmental or things of that nature. So these groups are supposed to have people with expertise in certain fields to kind of augment what we've got internally.

Governor: So where I'm going is, perhaps the state sometimes misses out on grant opportunities because we simply weren't aware of them. And I just want to make sure that we have all the boots on the ground out there searching to see if there are any grant opportunities.

Clerk: Yeah, and we do. One of the things that we've done internally and our grants team has made a real concerted effort on is making sure there's a central repository of grant opportunities. And so we have that on our website and we link out to many other websites that are out there whether they're nonprofits or largely a federal government. Kimberly Elliott is here. She runs the grants team and she can provide a little bit more guidance or help me out here a little bit.

Kimberly Elliott: Kimberly Elliott for the record. To answer your last question, once these contracts are approved by this entity, we will be scheduling meeting with the vendors. And we have some very proactive vendors that we have selected, and they will be looking for opportunities for the state and they will bring them to us. But we need to meet with them and meet with the different agencies to outline those needs, but they will be watching for the state.

Governor: No. And I know we may not get them all but I want to be in the game, not in the stand. Simple as that.

Clerk: Yeah, and they're really -- we really have taken an aggressive approach at making sure that we're aware of it. I think the main reason, I'll be honest with you, that we don't probably get some of the grants that we would want to, is the lack of resources to apply sometimes, whether it's -- whether it's the lack of sufficient number of grant writers, or those resources or lack of the state to basically to secure the grants. And those are -- those are two of the obstacles that we also have and that we know we need to address going forward.

Governor: All right. It sounds like a great opportunity. Thank you very much. Madam Attorney General, do you have any questions?

Attorney General: No, I'm good.

Governor: The Chair will accept a motion for approval of the master service agreements described in Agenda Item No. 10.

Attorney General: So moved.

Governor: Second the motion. All in favor, say aye.

Attorney General: Aye.

Governor: Aye. The motion passes two to zero.

Respectfully submitted,

JEFF MOHLENKAMP, CLERK

APPROVED:

GOVERNOR BRIAN SANDOVAL, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER