

MINUTES
MEETING OF THE BOARD OF EXAMINERS
October 13, 2015

The Board of Examiners met on October 13, 2015, in the 2nd floor Chambers of the Laxalt Building, 401 N. Carson St., Carson City, Nevada, at 10:00 a.m. Present were:

MEMBERS:

Governor Brian Sandoval
Attorney General Adam Paul Laxalt
Secretary of State Barbara Cegavske, telephonically
James R. Wells, Clerk

OTHERS PRESENT:

Fred Voltz
Charles Donohue
Grant Hewitt
Tara Hagan
Dennis Gallagher
Rudy Malfabon
Steve Canavero
Kimberly Arguello
Ann McDermott
Wayne Howle
Nick Trutanich, telephonically
Linda Anderson
Richard Whitley
Tracy Green
Lawrence Van Dyke
Bonnie Long
Steve Fisher
Bruce Gilbert

1. PUBLIC COMMENTS

Comments:

Governor: Good morning ladies and gentlemen. I will call the Board of Examiners Meeting to order. Madam Secretary, can you hear us loud and clear?

Secretary: Yes, I can Governor, good morning.

Governor: What time is it where you are?

Secretary: It is 2:00 AM and it is Wednesday.

Governor: Is that a violation of the Open Meeting Law? [laughter]

Secretary: I hope not.

Governor: No, Madam Secretary, she's voting in the future. I bet you've never had that interpretation of the law, right? Madam Secretary, I personally want to thank you for your participation. This is true public service, ladies and gentlemen, the Secretary of State is out of the country and participating in this meeting telephonically. Where she is, it is a 2:00 AM, in the morning. So, Madam Secretary, I truly appreciate your participation. Given all the different technology issues after I take public comment, I'm going to jump to the IFC items that need approval so that they'll be eligible for IFC consideration so that we can make a record and get a vote on those. Then I'll proceed with the normal order of the meeting.

So, let's commence with Agenda item number 1, Public Comment. Is there any member of the public here in Carson City that would like to provide comment to the Board? Good morning sir.

Fred Voltz: Good morning. For the record, I'm Fred Voltz and I'm interested in talking to you about something that's not on the Agenda this morning. I'm a person who has been involved in monitoring the actions of the Wildlife Commission and the Public Utilities Commission. There is an issue that came up at the Public Utilities Commission (PUC) that's very concerning, I think for this Board and for the State at large.

This Board, of course you know, has responsibility for writing off allegedly uncollectible debt owed the General Fund and assessed by State Agencies, Boards, Commissions and Departments. What was distributed to you, I believe by your Secretary this morning, was a list of the administrative fines assessed by the PUC as of September 30th. What it shows is there's a 21.5% delinquency rate in the collections in dollars and 139 individual fines that have not been collected stretching back over seven and a half years.

As we can probably acknowledge, most private businesses would be out of business with this level of accounts receivable delinquency. Unfortunately, none of the PUC's delinquent fines have reached the BOE for action. The magnitude of the problem is likely significant when all

the State Agencies and their uncollected debt are summed. It would seem to be an issue that needs to be researched and chronicled and totaled up to see how much money the State General Fund is losing by not doing these collections in a timely way.

The current process goes along this flow, as I understand it. The PUC is to forward the fine to the State Controller after 60 days per statute, if it can't be collected by the PUC. In some cases though, it's taken two years to forward this item to the State Controller. At that point, the State Controller is then supposed to try and collect the debt. They make an internal effort to collect, and potentially in conjunction with the Attorney General if there's any legal action filed against the entity. Finally, if none of those entities can collect, the BOE is to receive the request to write it off.

So, what are some of the solutions to this issue? It would seem as though, and this would apply to the Madam Secretary of State, any of the named individuals associated with a Nevada licensed company, including Registered Agents should be prohibited from renewing or securing new business licenses from the Secretary of State if they have outstanding fines due. Secondly, requiring that the entities assessing the fines need to file small claims actions against the non-payers and the PUC with 17 attorneys should be able to handle this function through its staff with guidance from counsel.

Another solution would be, why aren't we hiring private debt collection agencies? They would have the ability to stimulate the economy with more employment and business tax revenues if they were engaged to do this collection. In the case of the PUC, many of the non-payers are now defunct mom and pop telecommunications companies. It has already been suggested to the PUC that they require a post-bond to cover any future fines or obligations, unless the licensee has more than \$10 million in annual revenue. But, unfortunately the PUC has taken no action on that. Having much tighter timeframes for action will increase the probability of successful collection, that indeed may require legislation and the creation of a BDR this year.

Finally, it seems as though there needs to be retention of accountability for collection with the assessing state entity. Because the entity, in this case the PUC, does not receive any of the money that they might collect. They really have no financial incentive to engage in a very robust collection effort. Not that I'm suggesting they should receive a part of it, it should go to the State Fund, but they are state employees. They're responsible for doing the best they can for the State. It seems as though they need to have additional incentives, non-financial, to do this collection process in a timely way.

If you have any questions, I've left my information with your Secretary, I'd be happy to answer them, thank you.

Governor: Thank you, it's Mr. Voles?

Fred Voltz: Voltz, like electricity.

Governor: Okay. And so I appreciate this. This is coming to my attention for the first time. We have a new Chairman at the Public Utilities Commission. I will bring that to his attention. You are correct in your assessment of the process, although the State Controller does have the

ability to retain outside debt collectors in order to collect old debt like you've just described. I appreciate your appearing today and bringing this to our attention.

Fred Voltz: Thank you for listening. Have a good day.

Governor: Is there anyone else present who would like to provide public comment to the Board? Is there any present in Las Vegas that would like to provide public comment? Hearing none. Say again?

Las Vegas: No comment here.

Governor: Thank you.

***6. FOR POSSIBLE ACTION – APPROVAL OF LAND EXCHANGE**

Pursuant to NRS 323.100, the State Land Registrar may, with the approval of the State Board of Examiners and the Interim Finance Committee, exchange state lands or interests in land for any other lands or interests in land.

A. Department of Wildlife and the Scott Family

The Division of State Lands, acting as the State Land Registrar, requests approval of a land exchange agreement between the Nevada Department of Wildlife (NDOW) and Nevada citizens the Scott Family. The two parcels of land have been appraised and a net change in value has been determined for each parcel. The state and the Scott Family are sharing equally in the costs associated with the proposed exchange, including survey, appraisal, title, and lot line adjustment processing with Washoe County. NDOW had concurred with the exchange and has no objections to the terms of the agreement. **This item is contingent upon IFC approval.**

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: Mr. Wells, I want to make sure that I have these right. We need to look at the State Treasurer and some of his issues with regard to the ESAs.

Clerk: Thank you Governor.

Governor: Yeah, so why don't move, I think it's number 8, isn't it?

Clerk: Numbers 6, 7 and 8 all have to be approved for Interim Finance Committee to take action.

Governor: So, why don't we proceed with Agenda item number 6, that we're going to take out of order, which is an Approval of Land Exchange, Department of Wildlife and the Scott Family.

Clerk: Thank you Governor, this item is a request from the Division of State Lands for the Board to approve the exchange of two parcels of lands to resolve an encroachment on State Land by a private land owner. The land which is situated along the Truckee River is currently assigned to the Department of Wildlife and all parties have concurred with the exchange, which also must be approved by the Interim Finance Committee before it can be finalized. There is one correction to the report that is included in your packet. It states that the parcels have been appraised. The Division of State Lands does not conduct outside appraisals but the State Land Registrar completes a market analysis to determine the value of the properties. There were no additional costs incurred for the outside appraisals. There are representatives from State Lands available to answer any questions.

Governor: Good morning gentlemen.

Charles Donohue: Good morning Governor.

Governor: If you would just give us a brief description of what's happening here please?

Charles Donohue: Sure. I'd be happy to. For the record, Charles Donohue, I'm the Administrator for the Division of State Lands. The exchange is warranted because there's an encroachment from the private party. The State took title to the property from the Federal Government back in the late 70s. At that time, the State was unaware that we had this encroachment. Since the early 2000s, we've been working with the Scott Family to actually reach an agreement on how we would address this issue. We finally have reached agreement, and it effectively is a lot line adjustment. Working with Washoe County and recording the appropriate maps with the County. As Budget Director Wells indicated, we have gone through a market analysis. My Deputy Director, excuse me, Administrator, Dave Marlow, looked at assessed values in the area for the Scott property, for the State property, as well as adjacent properties to come up with an equal value for the exchange. If you have any other questions, I'd be happy to answer them.

Governor: I do not. Mr. Attorney General, any questions?

Attorney General: I do not, thank you.

Governor: Madam Secretary, do you have any questions?

Secretary: I do not, thank you.

Governor: Chair will accept a motion for the Approval of the Land Exchange described in Agenda Item 6A.

Attorney General: I move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: Second Governor.

Governor: Secretary of State has seconded the motion. Any questions or discussion? All in favor say aye. [ayes around] Motion passes, 3-0. Thank you gentlemen.

Charles Donohue: Thank you very much.

***7. FOR POSSIBLE ACTION – APPROVAL OF LAND LEASE**

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

Pursuant to NRS 322.007, the Nevada Division of State Lands (NDSL) is requesting approval to enter into a lease with the Board of Regents – College of Southern Nevada for occupancy and use of state owned property for childcare facility purposes. **This item is contingent upon IFC approval.**

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: We'll move to agenda item number 7, which is the approval of a land lease by the Department of Conversation and Natural Resources, Division of State Lands. Mr. Wells.

Clerk: Thank you Governor. Item number 7 is a request from the Division of State Lands for the Board to approve a five year lease of property on College Drive in Las Vegas, to the College of Southern Nevada for a childcare facility. This item also must be approved by IFC before it can be finalized. Representatives from State Lands are available for any questions.

Governor: Good morning, Mr. Donohue, again, if you could just give a brief overview for the record, please.

Charles Donohue: Sure. For the record, Charlie Donohue, Administrator for the Division of State Lands. The College of Southern Nevada approached the Division of State Lands in early 2000 requesting to use State Lands for a childcare facility. At that time, they indicated that it would be a temporary use, that they were going to try and build a permanent facility at their college campus across the street. The State entered into a two-year license and we have been moving in two-year cycles renewing that license. It's clear to me now that the College of Southern Nevada is not going to move that facility any time soon, so I really feel the more appropriate mechanism to provide that authorization is through a lease and that's what our request is today.

Governor: Thank you very much. I have no questions. Mr. Attorney General?

Attorney General: I have no questions.

Governor: Madam Secretary, any questions?

Secretary: No Governor, thank you.

Governor: Hearing no further questions or any questions, the Chair will accept a motion to approve the land lease described in Agenda Item 7A.

Attorney General: Move to approve.

Governor: Attorney General has moved for approval, is there a second?

Secretary: Second.

Governor: Secretary of State has seconded the motion. Any questions or discussion? All in favor say aye. [ayes around] That motion passes 3-0, thank you gentlemen.

Charles Donohue: Thank you very much.

***8. FOR POSSIBLE ACTION – REQUEST FOR ALLOCATION FROM THE INTERIM FINANCE COMMITTEE CONTINGENCY ACCOUNT**

A. Treasurer’s Office - \$128,555

Pursuant to NRS 353.268, the Treasurer’s Office requests an allocation of \$128,555 from the Interim Finance Committee Contingency Account to fund three temporary contracted employees and the Education Savings Account (ESA) enrollment program contact with BenefitWallet for the ESA Program created by SB302 during the 2015 Legislative Session. **This item is contingent upon IFC approval.**

Clerk’s Recommendation: I recommend approval.

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

Comments:

Governor: Next is agenda item number 8, Request for Allocation from the Interim Finance Committee Contingency Account by the Treasurer’s Office.

Clerk: Thank you Governor. Item number 8 is a request from the Treasurer’s Office for an allocation of \$128,555 from the Interim Finance Committee Contingency Account to fund Phase 2 of the start-up costs for the Education Savings Account Program created during the 2015 Legislative Session. Phase 2 includes funding for temporary contract employees through March of 2016, as well as the FY ’16 portion of the contract to process payments to qualified participating entities. It is intended that this allocation is a loan which will be repaid from the Administrative Set Aside Provisions that are included in the legislation. This request also must be approved by the Interim Finance Committee next week before it can be finalized. Representatives from the Treasurer’s Office are available for questions.

Governor: Good morning.

Grant Hewitt: Good morning Governor.

Governor: If you'd please identify yourselves for the record and give a brief description of what's happening here please.

Grant Hewitt: Grant Hewitt, Chief of Staff in the State Treasurer's Office. With me is Tara Hagan, Deputy Treasurer. Also, for the ESA Program today, we have Contract 31. I'm not sure if you want to consider that now or later, but I also wanted to make that aware.

Today we're asking for the \$128,555 to help us enter into a contract that you will see in the November BOE with Benefit Wallet. Benefit Wallet is a payment processor who will be able to process the payments between the parents ESA and the participating entity, the school. So, it's the separation between the State and the school, and paying that school directly. It's the processing part.

Second, we're asking for temporary employees, for three temporary employees. As we work through the lawsuits that are pending, we feel that it's the best case to have temporary staff as we work everything out. We do have two pending lawsuits that we're not able to comment on today, but we do have full faith in the Attorney General's Office as we move down that process.

The other contract that's on today's Agenda is for Neil Weisman if you're looking at this as a three-legged stool, it's the third leg in the stool. It is the building of our database and enrollment process and user interface for parents to be able to utilize.

So, you have the Benefit Wallet that is the payment. You have the Neil Weisman contract which is the database and user interface and then you have the State Treasurer's Office which will do the enrollment process and verify. So, those are kind of the three legs and how they all work together. I'm happy to answer questions.

Governor: I'll take them separately, but you're looking at a little over a half million dollars.

Grant Hewitt: That's correct Governor.

Governor: Well, I'm curious because the last time you were here, you were very encouraged about the enrollment statistics and how robust they are, is it consistent with what you said last time?

Grant Hewitt: Grant Hewitt for the record. We are sitting today, this morning at about 3,500 applications. There has been a slowdown, that's to be expected as people are back in school. Last year we were approaching the start of school or had just started school and people were rushing to get their applications in so that they could utilize the school dates from the 2014-15 school year. I believe we'll see the next rush on applications, probably around January, mid-January. That's when if you were just starting school this year you would reach the 100 days. My guess is somewhere mid-January we'll see another bump, heavy bump. We are still seeing people apply every day.

Governor: What is the number for those that took advantage of that window, as you describe it, that are already enrolled in private schools?

Grant Hewitt: I'll have to do some research on that. I don't actually have an exact number as to who has applied and is currently not attending a public school but I will find out for you.

Governor: Do you have an estimate though?

Grant Hewitt: I don't because when they apply they're utilizing the schools that they were at, they don't tell us that they've started private school. It's not in the application process, but I will see if there's a way with Department of Education we could run a report to bounce numbers.

Governor: Okay. I'm just curious because again, these are folks that are paying out the tuition, correct, at the private school with the hopes that this is all going to get done.

Grant Hewitt: Right. They are bridging that gap until the ESA starts.

Governor: And then, some of those schools are requiring the payment of a full years' tuition, is that accurate, have you heard that?

Grant Hewitt: I've heard that, but I haven't been able to confirm that as the law doesn't allow us to regulate private schools.

Governor: Now you describe this as a loan, so will you talk a little bit about that, the fact that we're a little bit over a half million dollars.

Grant Hewitt: Grant Hewitt for the record. SB 302 provides that the State Treasurer's Office can take up to 3% as an administrative fee. We intend to take that administrative fee on the accounts that we're servicing and use those resources to repay the debt as it moves on. We believe that we will be able to start making payments on that in Fiscal Year '17, because we will have accounts funded and we will start taking that 3% out. As we continue to move down, this is a constant discussion in my office, to verify that we aren't asking for more than we can afford to pay. Obviously with pending litigation, if there's an injunction that could change the entire ballgame.

Governor: Well, and that's where I was going is, I know you're not a lawyer, but is there some risk there by putting this money out and, if there's injunctive relief, to the ability to recoup that money.

Grant Hewitt: Grant Hewitt for the record. I would have to say and assume that there is the risk there that if the courts, at some point, offer permanent injunction or say the law violates the constitution and we're no longer allowed to implement the program, the State Treasurer's Office does not have the revenue sources on its own to repay this. We are dependent upon the 3%, is that accurate Tara?

Tara Hagan: Tara Hagan for the record, Chief Deputy Treasurer. Yes, that's definitely accurate.

Governor: The State's not charging you interest on that, is it?

Grant Hewitt: I don't believe so.

Governor: Okay. All right, otherwise everything is moving as expected?

Grant Hewitt: Yeah. Grant Hewitt for the record. We're very excited about the movement. We will be putting out the participating entity enrollment flow so that schools can sign up to accept the monies in November. We anticipate, assuming we have Contract 31, with Neil Weisman approved today, we intend to be with a full user interface by January. We're excited.

Governor: So, while you're here, why don't we go ahead and open that agenda item on Contract 31, which is agenda item number 13.

Grant Hewitt: Grant Hewitt again for the record. This is a contract with Neil Weisman, dba Interactive Ideas. They are a database software development company who we have identified through an RFP process to meet the requirements and timelines that we need to ensure a user interface that integrates both with Treasurer's Office ability to manage each account individually, but also with Benefit Wallet, which is a contract that will come up in November's BOE. This contract, this vendor is—one of the reasons we selected this vendor is that he is going to house the software system in a Nevada data center with dedicated servers so we don't run into a problem where there's too many users accessing the software at one time. Every other RFP respondent was going to house it in a combined environment with others and would only guarantee us that 500 people could be on at one time. That just wasn't acceptable. We did not want to incur another Nevada Health Link situation where it crashed due to an overuse.

Governor: Careful, those guys are here you know. [laughter]

Grant Hewitt: I'm sorry. But, that's where we turned to somebody that was going to house it in Nevada, on dedicated equipment and have the ability to spin up additional servers in real time if we needed it. We're excited to hopefully start this relationship with this company and as it relates to the specific contract, I'll let Tara speak to that.

Tara Hagan: Tara Hagan for the record. A few things that we did want to bring up is the contractor will deliver the source code to us and grant that for use for the State of Nevada for a universal license for the lifetime of the software project. In addition, we do have several liquidated damages should timelines not be met with certain milestones and therefore, we feel that there's ample protections within this. In addition to the implementation, there's also the uptime for the data and the power, in terms it's a 98.9%, so we also have those kinds of protections long-term with the contract as well.

Governor: Anything further? So, this is an out-of-state entity. Do they have a track record of performance or does it have a track record of performance?

Grant Hewitt: Grant Hewitt for the record. It does. They have done projects for the State of Hawaii, the Department of Agriculture out there. They've done major projects for various casinos on the Las Vegas Strip. Managing their entire tracking of uniform systems, a database that tracks real time through RFID components. They also do work with the Greater Las Vegas Association of Realtors. Which both of those projects alone would have many more users on at one time than our project probably ever will, but we wanted to make sure that we had the protections just in case.

Governor: I think I heard you but I want to emphasize this. They're going to use a Nevada based cloud service company.

Grant Hewitt: That is correct. A data center based in Nevada.

Governor: We probably know who that is, right?

Grant Hewitt: I believe that is one of the ones that is on the list to review, Switch is absolutely one of the ones.

Governor: I have no further questions, Mr. Attorney General?

Attorney General: No questions.

Governor: Madam Secretary, any questions?

Secretary: I do not, Governor, thank you.

Governor: So, I'll take these individually. The first item is agenda item number 8, the Chair will accept a motion to approve the request for an allocation from Interim Finance Contingency Account by the Treasurer's Office in the sum of \$128,555.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I'll second it Governor.

Governor: Thank you Madam Secretary. Secretary of State has seconded the motion. Any questions or discussion? Hearing none, all in favor say aye. [ayes around] Motion passes, 3-0.

***13. FOR POSSIBLE ACTION – CONTRACTS**

Contract 31, taken out of order.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Let's move to agenda item number 13, contract 31 which is a contract between the Treasurer's Office and Neil Weisman, dba Interactive Ideas. Is there a motion for approval?

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I'll second it Governor.

Governor: Any questions or discussion on the motion? All in favor say aye. [ayes around]
Motion passes, 3-0. Mr. Hewitt, I know you have another contract but I'm going to save it for later.

Grant Hewitt: Thank you Governor

***2. FOR POSSIBLE ACTION – APPROVAL OF THE SEPTEMBER 8, 2015 BOARD OF EXAMINERS' MEETING MINUTES**

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Going back to agenda item number 2 which is the approval of the September 8, 2015 Board of Examiners Meeting Minutes. Have the Members had an opportunity to review the minutes and are there any changes?

Secretary: I have none Governor.

Governor: The Chair will accept a motion for approval.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval.

Secretary: I'll second it Governor.

Governor: Madam Secretary, I'm going to second the motion because you weren't in attendance. So, I will second the motion. I would assume that you would abstain.

Secretary: Yes, I will. I apologize.

Governor: That's all right, it's 2:30 now, tomorrow. [laughter] So, the Attorney General has moved for approval. I will second the motion. All in favor say aye. [ayes] That motion passes 2-0, and would you please mark the Secretary of State as having abstained from the vote.

***3. FOR POSSIBLE ACTION – AUTHORIZATION TO CONTRACT WITH A CURRENT AND/OR FORMER EMPLOYEE**

A. Department of Health and Human Services – Aging and Disability Services

Pursuant to NRS 333.705, subsection 1, the Department of Health and Human Services, Aging and Disability Services Division requests authority to contract with a former University of Nevada School of Medicine Associate Professor of Family Medicine to provide Medical Director Services. **This item relates to Contract #10 under agenda item 13.**

Clerk's Recommendation: I recommend approval.

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

B. Department of Health and Human Services – Aging and Disability Services

Pursuant to NRS 333.705, subsection 1, the Department of Health and Human Services, Aging and Disability Services Division requests authority to contract with a former employee to provide Board Certified Behavior Analysis services to families and children in Elko, Nevada.

Clerk's Recommendation: I recommend approval.

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

C. Department of Health and Human Services – Division of Public and Behavioral Health

Pursuant to NRS 333.705, subsection 1, the Department of Health and Human Services, Division of Public and Behavioral Health requests retroactive authority for contracts with seven individuals from May 2015 through September 2016 who are current or former graduate assistants or student workers of the Nevada System of Higher Education.

Clerk's Recommendation: I recommend approval.

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

D. Department of Transportation

Pursuant to NRS 333.705, subsection 1, the Department of Transportation (NDOT) requests authority to contract with a former Assistant Resident Engineer from NDOT. NDOT has an existing contract with Diversified Consulting Services who is proposing to use the employee on the NDOT project.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Next agenda item are 3 authorizations to contract with a current or former employee. A, B and C involve HHS. Will they please come forward, Mr. Wells?

Clerk: Thank you Governor. There are four items that are requesting the approval to contract with former or current employees. The first item is the Division of Aging and Disability Services within the Department of Health and Human Services. They are requesting authority to contract with a former Associate Professor of the University of Nevada School of Medicine to provide Medical Director services to the Desert Regional Center's Intermediate Care Facility for

Individuals with Intellectual Disabilities. The Professor who has been performing these duties under an interlocal agreement between the School of Medicine and the Department for the last 10 plus years recently left the School of Medicine and the Agency wishes to maintain both the relationship with the physician and the continuity of care for the residents.

The second item is also for the Division of Aging and Disability Services. They are requesting authority to contract with a former employee to provide consultative services to families and children with behavior concerns in Elko. This individual is one of only two Board Certified Behavioral Analysts in Elko at this time. The Division would be out of federal compliance if such an individual is not available to provide the services when needed.

The third item is a request from the Division of Public and Behavioral Health. This is pursuant to Subsection 4 of NRS 333.705. That states that an agency can contract with a former employee without obtaining the Board of Examiner's approval first if it is for short-term, less than four months and the Director has determined an emergency exists. If an agency does contract with an individual pursuant to the emergency provisions, they must come back to the Board of Examiners and the Board of Examiners must review and determine whether they would have approved of a contract had it not been entered into under the emergency provisions. So, under this item, the Division of Public and Behavioral Health is requesting review and determination of whether or not the Board would have approved the Agency to contract with seven former graduate assistant and student workers to provide various services throughout the Division as paid interns, from May until September 2015. The Division is also requesting to continue employment with several of these interns beyond the four month period.

The last item is a request from the Department of Transportation to allow an existing contracted vendor to use a former Assistant Resident Engineer as a Senior Inspector on the Boulder City Bypass Project. The Department has contracted with the vendor to provide construction crew augmentation services for the project and the vendor is proposing to use the retired employee as a senior inspector based on his specific knowledge and expertise. The former employee retired in July and did not have any influence or authority over the contract with this particular vendor.

There are representatives from each of the Divisions and Departments to answer any questions.

Governor: Thank you Mr. Wells. You've actually made a very thorough record. That was the one thing I wanted to point out, particularly with NDOT is that the individual who is the subject of this matter did not have anything to do with the contract with his current employer. So, I have no questions on this Agenda Item. Mr. Attorney General?

Attorney General: No questions.

Governor: Madam Secretary, any questions with regard to Agenda item number 3?

Secretary: Not at this time, no, thank you Governor.

Governor: So then hearing no questions, the Chair will accept a motion for approval of the authorization to contract with a current and/or former employee as described in Agenda Item 3A, B and C, for Department of Health and Human Services and D for the Department of Transportation.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I'll second it Governor.

Governor: The Secretary of State has seconded the motion. All in favor, please say aye. [ayes around] Opposed, no. That motion passes, 3-0.

***4. FOR POSSIBLE ACTION – AUTHORIZATION TO APPROVE A PROVIDER AGREEMENT**

Pursuant to NRS 433.354, the Department of Health and Human Services is requesting Board of Examiners' approval of the following provider agreement forms to enable them to enter into an agreement with providers of:

A. Aging and Disability Services

- Autism Treatment Assistance Program – (revised)
- Nevada Early Intervention Services – (revised)

B. Child and Family Services

- Psychiatric Services to include psychiatric assessments, medication evaluations and follow-up appointments for youth and adolescents in Southern Nevada
- Dental Services for the Summit View Correctional Center

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: Let's move to agenda item number 4, authorization to approve a provider agreement. Mr. Wells.

Clerk: Thank you Governor. Item 4 contains two requests for the Board to approve provider agreements for the Department of Health and Human Services. The first is a request from the Aging and Disability Services Division to revise two provider agreements in order for the Division to use the agreements to contract with governmental organizations, specifically the System of Higher Education.

The second request is from the Division of Child and Family Services to approve two new provider agreements. The first for psychiatric assessments, medical evaluations and follow-up appointments for youths and adolescents in Las Vegas. The second is for dental services at the Summit View Correctional Center.

There are representatives from the Departments to answer any questions.

Governor: I have no questions. Again, this is a routine matter to help the efficiency of the Department as well as expedite services to the client. Mr. Attorney General has no questions. Madam Secretary, any questions?

Secretary: None, thank you Governor.

Governor: The Chair will accept a motion to authorize and approve the provider agreements described in Agenda Item 4A and B.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I'll second it Governor.

Governor: The Secretary of State has seconded the motion. All in favor, say aye. [ayes around] That motion passes, 3-0.

***5. FOR POSSIBLE ACTION – VICTIMS OF CRIME FISCAL YEAR 2015
3RD QUARTER REPORT AND FISCAL YEAR 2015 4TH QUARTER
RECOMMENDATION**

Pursuant to NRS 217.260 the Board of Examiners shall estimate available revenue and anticipated claim costs each quarter. If revenues are insufficient to pay anticipated claims, the statute directs a proportional decrease in claim payments.

The 3rd quarter fiscal year 2015 Victims of Crime Program report states all approved claims were resolved totaling \$9,266,310.19 with \$3,380,254.82 paid out of the Victims of Crime Program account and \$5,886,055.37 resolved through vendor fee adjustments and cost containment policies. The program anticipates future reserves at \$8.3 million to help defray crime victims' medical costs. Based on the projections, the Victims of Crime Program recommends paying Priority One, Two and Three claims at 100% of the approved amount for the 4th quarter of FY 2015.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: Let's move to agenda item number 5, Victims of Crime. Mr. Wells.

Clerk: Thank you Governor. This item is being brought to the Board of Examiners pursuant to NRS 217.260 which requires the Board to estimate the available revenue and the anticipated claims for the State Victims of Crime Program. The Board approved the recommendation to pay Priority 1, 2 and 3 claims at 100% for the first quarter of Fiscal Year 2016 at the September

Board Meeting. After that meeting, we identified that the fourth quarter requests had not been submitted to the Board of Examiners for approval. This item includes a report on the claims paid in the third quarter of FY '15, and a recommendation to approve the payment of Priority 1, 2 and 3 claims at 100% for the fourth quarter of FY 2015. There is a representative from the Victims of Crime Program available for questions.

Governor: Thank you Mr. Wells, I have no questions. Mr. Attorney General?

Attorney General: No questions.

Governor: Madam Secretary, any questions?

Secretary: No questions.

Governor: Hearing no questions the Chair will accept a motion to adopt and approve the Victims of Crime Fiscal Year 2015 Third Quarter Report and Fiscal Year 2015 Fourth Quarter Recommendation.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I'll second it Governor.

Governor: The Secretary of State has seconded the motion. All in favor, say aye. [ayes around] That motion passes, 3-0.

***9. FOR POSSIBLE ACTION – APPROVAL OF A CASH SETTLEMENT**

A. Department of Transportation (NDOT) – Administration – \$13,500

The Department requests settlement approval in the total amount of \$13,500 to fully resolve an appeal from an Award of Attorney Fees in an Inverse Condemnation Action, claiming that the planning of the I-15 South Design-Build Project (“Project NEON”) has caused various injuries. The proposed settlement provides for \$13,500 to be paid to NDOT by Ad America for partial payment of NDOT’s attorney fees and costs awarded.

Clerk’s Recommendation: I recommend approval.

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

B. Department of Transportation (NDOT) – Administration – \$800.00

Pursuant to Article 5, Section 21 of the Nevada Constitution, the State Board of Examiners shall examine all claims against the State.

The Department requests settlement approval in the total amount of \$800 to resolve an eminent domain action due to acquiring commercial real property, 315 square feet of land lying in the

City of Reno, owned and occupied by Mr. Bruce B. Miller. Mr. Miller indicated that some landscaping improvements in his backyard would be removed due to the project.

Pursuant to Article 5, Section 21 of the Nevada Constitution, 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.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We have already completed agenda items 6, 7 and 8. We will move to agenda item number 9 which is approval of a cash settlement for, first is the Department of Transportation, A and B.

Clerk: Thank you Governor. Agenda item number 9, there are two requests for approval of cash settlements for the Department of Transportation. The first is a revenue settlement for the State in the amount of \$13,500 from Ad America, which resolves an appeal of an Award of Attorney Fees in an action relating to Project NEON. The second request is a payment for \$800 to resolve an eminent domain action for the South McCarran Boulevard Widening Project, which would combine with the previous deposited amount of \$500, bring to a total of \$1,300 to resolve the eminent domain action. Director Malfabon and Mr. Gallagher are here to answer any questions.

Governor: Good morning gentlemen. I know these aren't a lot of money and we don't get these too often where we receive money. Let's talk a little bit about the item number A and the Ad America case. Mr. Gallagher or Mr. Malfabon.

Dennis Gallagher: For the record, Dennis Gallagher from the Attorney General's Office. Yes, Governor, this is somewhat unusual in that we're getting money back. This is a property owner that has multiple properties in the Las Vegas areas and had filed a number of inverse condemnation lawsuits against the Department. In this particular case, we had filed motions to dismiss, motions for more definitive statements and ultimately discovered that the entity did not even own the property at the time they claim there was a taking. We filed a motion for cost and fees, District Court granted it. There were some procedural issues on the other side with their counsel. They filed a notice of appeal. We participated in the settlement program before the State Supreme Court. We couldn't reach a settlement, a formal settlement, but reached a side agreement with the property owner to take a fraction of the award in lieu of dismissing the appeal. If by any chance they do not pay the agreed upon amount, we intend to go back and pursue the full amount of the award that the District Court granted the State.

Governor: Thank you Mr. Gallagher, what was that full amount?

Dennis Gallagher: A little over \$53,000.

Governor: Any questions Board Members, on agenda item 9A?

Attorney General: No questions.

Governor: Let's move to 9B.

Rudy Malfabon: For the record, Rudy Malfabon, Director of Nevada Department of Transportation. Governor, this is just a settlement for acquisition of property. We're doing a project collaboratively with the RTC of Washoe County on McCarran Boulevard. We dealt with several property owners and in these negotiations the property owners indicated there were some landscaping improvements that were affected, that they had to repair. We agreed to the settlement of \$800 in addition to what we were compensating him for his easement.

Governor: Thank you Director Malfabon. I wish they could all be like this. It's pretty straightforward and we've already covered it through the NDOT Board. Board Members, any questions with regard to agenda item number 9B?

Attorney General: No questions, thank you.

Governor: Madam Secretary, any questions?

Secretary: No questions, but thank you.

Governor: Hearing no questions, the Chair will accept a motion to approve the cash settlements described in agenda item number 9A in the sum of \$13,500 and in 9B for \$800.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I'll second it Governor.

Governor: The Secretary of State has seconded the motion. All in favor, say aye. [ayes around] That motion passes, 3-0. Thank you gentlemen.

***10. FOR POSSIBLE ACTION – APPROVAL OF A SETTLEMENT OF BREACH OF CONTRACT**

A. Department of Education – \$1,299,021

The Department requests settlement approval to accept goods and services from Measured Progress, Inc. in the total amount of \$1,299,021 to fully resolve a contract breach regarding the delivery of Nevada's 2014-15 Criterion Referenced Test of which the majority of Nevada's students were unable to successfully complete.

The settlement agreement requires Measured Progress, Inc. to reduce its fees by \$789,021 to \$1,867,328 and provide to Nevada a Science, Technology, Engineering, and Math Gauge tool to

help teachers integrate assessment items into instruction in middle school valued at approximately \$510,000.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We'll move to agenda item number 10, which is the approval of a settlement of a breached contract for the Department of Education.

Clerk: Thank you Governor. Agenda item number 10 is a request from the Department of Education to approve a settlement with Measured Progress to fully resolve a contract breach regarding the administration of the 2014-2015 Criterion Referenced Test. Under the settlement the proposed value is \$1,299,021. There is no cash coming to the State. The settlement includes a reduction in the final fees owed to Measured Progress and also provides that Measured Progress provide a Science, Technology, Engineering and Math Gauge Tool to the State at no cost. Superintendent Canavero is available to answer any questions.

Governor: Good morning Dr. Canavero. How are you today?

Steve Canavero: Good.

Governor: Good. Will you take us through, I mean, this has been a subject of a lot of attention. Take us through how we got to this point.

Steve Canavero: Certainly. Thank you Governor. Interim State Superintendent Steve Canavero. In April it became apparent that Smarter Balanced and Measured Progress were not able to deliver the assessment to our pupils in the capacity contemplated in their contracts. Under the supervision and direction of then Superintendent Erquiaga and consultation with General Laxalt's Office, the State put both vendors in breach of contract. From April until August, August is when we settled the breach with Measured Progress, the terms of which are laid out here; we negotiated—as we continued to resolve differences, we negotiated with Measured Progress. Measured Progress continued to try to fix the system through April and May but they were at the end, unable to do so. So, approximately 30% of our students across the State were able to participate in the Smarter Balanced assessment last year. The reduction in fees that you're seeing here is approximately 30% of the total contract value for the Smarter Balanced services. Measured Progress does provide a number of other services to the State for assessments. So, we have been paying and will continue to pay for those services which have gone and that are consistent with the contract.

Governor: We will maintain a relationship with them? So, this is a narrow—it's really not narrow, but this was a piece of our relationship with them. The other portions they're performing to our expectations?

Steve Canavero: Steve Canavero. Governor, that's a good question. The contract is up with Measured Progress. We came before you a few months ago for approval of a new vendor to then take on, sort of these services if you will, to help facilitate the State Assessment System. Up

until the end of the contract, Measured Progress did deliver the science assessments in grades 5, 8 and 10. They developed and administered new end of course exams. They did the HSPE retest and the Nevada Alternate Assessment. So, for the 1% of our students with extreme disabilities that can't access the assessment, we have an alternative assessment. So, they performed those functions. It was the one line item and one aspect in the scope of work related to the Smarter Balanced Assessment and delivery upon their platform was the issue of the breach.

Governor: Do you think the settlement is fair?

Steve Canavero: Steve Canavero. I do believe the settlement is fair. We went through on an item by item, sort of on the scope of work and budget and we reduced those fees, if you will, consistent with the service that was provided. So, if it was around scoring and reporting, we reduced it by 30% because we know that 30%--or, we only paid for 30% because that's what we were getting, so we reduced it by 70%. We went through each of those items. We recognized that there was work put in and work to be paid for in advance and a set-up, but at the end of the day, I feel like it's a fair reduction in the rate. I think as a measure of good faith, this is a vendor who the State has had a relationship with over 10 years. As a measure of good faith as well, they offered and we agreed to accept the STEM gauge tool that's also referenced here, of approximate value \$500,000 that will help us in our middle schools transition to the new science standards that are in place now, the next generation science standards and providing teachers with curriculum supports and tools and formative assessments as well.

Governor: And, that's the technical pieces of it all, what about the jeopardy to the kids, the 70% that were unable to take the test?

Steve Canavero: Steve Canavero. We've issued a number of points on this and the Department is deeply apologetic to staff and schools as well as families and students who had to live through this. The back and forth, the entry into a computer lab only to have the assessment crash in the midst of it. Or, even the entry into the computer lab and then not being able to do this. As a measure, the State took an unprecedented step to issue a statewide testing irregularity to try to relieve some of the pressure that really surrounds this assessment. Our Districts take this very seriously. This is built into our accountability system. So, there are waves and ripple effects that we'll feel for some time, quite frankly, related to this. You know, as a parent myself and going through it with my own daughter and having her talk about this at the dinner table with me and how going into this computer lab unable to take the test. Coming back, taking it, not having the audio work. It was real on many fronts for me.

Governor: Thank you for that. So, going forward, we're feeling pretty good that we'll be okay next time?

Steve Canavero: Steve Canavero. So, we have worked and the State Board has taken a deep interest in this as well under President Wynn, we have a monthly update that we provide to the State Board in our readiness and I've represented to you and I will again today that we have a December 31st, sort of proof of concept or a proof point built into our contract, so we've learned from this experience. We've built into our contract with the new vendor, so on December 31, they have to be able to demonstrate that they can at scale and that scale is 50,000 concurrent users, deliver the computer adaptive test. This way we have an advance planning in place and contingencies in the off chance that they're able to demonstrate that. I was just on a phone call

yesterday, as sort of a monthly update with our vendor, staff is engaged with our vendor now on a weekly, if not day by day basis to check on the transition as well as standing up. They represented to me that they're in good shape. They've received the interim which is a small package of questions that they can then stand up on their system. They received those. They look like they're in good shape. There's two vendors here that make this whole thing work, so they're playing well together and they appear to be receiving the quality of material that will enable them to deliver, but we'll see.

Governor: Finally, we have the infrastructure and the bandwidth throughout the respective Districts to handle all of this?

Steve Canavero: Steve Canavero. I'm glad you asked that question Governor. That's been something that we have really tried to impress upon the State, our parents and the public that this is not—this was not an issue with our bandwidth. This was not an issue with our readiness. We had said that it was—Nevada was ready but our vendor was not. So, we have the data to suggest and to support that we have adequate bandwidth and where we don't have bandwidth our District Superintendents and our teachers and our principals made appropriate accommodations for those students to access; whether it's at a library or another school, the type of bandwidth that's necessary to carry about this assessment.

Governor: I appreciate your saying that. It was a bad situation and yes, the buck stops with the Department of Education, but clearly this was a vendor issue, that it wasn't able to provide the service that it represented that it could. I also appreciate you're doing all the due diligence now so that we will know months in advance that everything is going to work. Board Members, any further questions for Dr. Canavero with regard to agenda item number 10?

Attorney General: No questions, thanks.

Governor: Madam Secretary?

Secretary: No questions.

Governor: Thank you gentlemen. Hearing no further questions, the Chair will accept a motion to approve the settlement of a breach of contract in the sum of \$1,299,021 for the Department of Education.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I'll second it Governor.

Governor: The Secretary of State has seconded the motion. All in favor, say aye. [ayes around] That motion passes, 3-0.

***11. FOR POSSIBLE ACTION – TORT CLAIMS**

A. Estate of R. Robinson, B. Robinson, and G. Gillock and Associates –

TC 17303
Amount of Claim - \$400,000

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We'll move to agenda item number 11, which are Tort Claims. Mr. Wells.

Clerk: Thank you Governor. Item number 11 includes four claims for which the Office of the Attorney General recommends payment from the Tort Claims Fund. The first is the Estate of R. Robinson, B. Robinson and G. Gillock and Associates in the amount of \$400,000. The second to Dan Winder in the amount of \$195,000. The third to the Lambda Legal Defense and Education Fund in the amount of \$615,037. The fourth to the City and County of San Francisco in the amount of \$400,000. The Office of the Attorney General has provided representatives to answer questions the Board may have including Mr. Trutanich who is participating via telephone.

Governor: Thank you. So, I think we ought to, with this first one, just lay a brief record. This was a horrific case. I apologize to the family for what has happened here. I'm not sure who is going to do the presenting on this case.

Kimberly Arguello: That would be me, Senior Deputy Attorney General, Kimberly Arguello.

Governor: All right.

Kimberly Arguello: Thank you. This case involves the death of Dr. Robert Robinson. He was an 89 year old resident of the Nevada Veterans Home. Dr. Robinson was a doctor of optometry, a veteran and a former member of the Nevada State Assembly. A lawsuit was filed by his estate and by his wife, Betty Robinson, in Federal Court on July 14, 2014 against the Nevada State Veterans Home and its Administrator.

The plaintiffs asserted the following causes of action: deliberate indifference to serious medical condition pursuant to 42 USC Section 1983; violation of the 14th Amendment. Also pursuant to Section 1983, violation of the ADA and the Rehabilitation Act; medical malpractice; vicarious liability; gross negligence; wrongful death; negligent infliction of emotional distress; negligent hiring and training and supervision; loss of consortium; breach of contract and various declaratory judgement actions.

This case and these claims would normally fall under the State Tort Cap, however, with the Constitutional allegations, even if one is proven, it would subject the State to a judgement over the cap and to attorney fees and costs, including expert fees and also the Medicare lien.

The settlement that is proposed is for \$400,000. My office did extensive research regarding jury verdicts with similar facts, which revealed a range of between \$400,000-\$750,000. That amount may be subject to doubling pursuant to our NRS Section 41.1395, because Dr. Robinson is an older and vulnerable person. The possible jury verdict would then be increased by attorney's fees and costs of the plaintiffs, which we estimated to be about \$150,000. That coupled with our

own costs, hard costs regarding experts of approximately \$50,000 and our hundreds of hours of attorney time in taking this matter to trial makes this settlement of \$400,000, which is in the best interest of the State of Nevada. That settlement of \$400,000 includes all attorney's fees and costs and has plaintiffs responsible for their own Medicare lien. I can answer any other questions you might have.

Governor: Thank you. What I get from the memo that I have in front of me and from your presentation is, clearly this is not—this is simply a damages case. It's not a case, I don't believe that we should take to trial under any circumstances, not because of the exposure but because it's the right thing to do.

Kimberly Arguello: Absolutely. The other thing is this is an early settlement that can be accomplished during the lifetime of his wife.

Governor: That's another very important component. So, I appreciate the professional way that you've handled this case and bringing it to a reasonable and expeditious conclusion. Again, I don't know if any of the family members are present but I personally want to apologize on behalf of the State for this happening. Any other questions or comments from Board Members?

Attorney General: No questions.

Governor: Madam Secretary, any questions?

Secretary: No Governor, thank you.

Governor: The Chair will accept a motion to approve the Tort Claim in the sum of \$400,000 for the Estate of R. Robinson, B. Robinson, 17303.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I second it Governor.

Governor: The Secretary of State has seconded the motion. Any questions or discussion? All in favor, please say aye. [ayes around] That motion passes, 3-0. Thank you very much.

**B. Dan Winder – TC 17312
Amount of Claim - \$195,000**

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We'll move to agenda item number 11B, which is Dan Winder. If you would identify yourself and please proceed.

Ann McDermott: Yes, good morning Governor. My name is Ann McDermott, I'm Litigation Bureau Chief with the Office of the Attorney General. I believe that Nancy Katafias is, also she's our Tort Claims Manager, I believe she's also at the table up North.

Governor: May I interrupt you? Could you pull that microphone a little closer to you, I'm having a little trouble hearing you.

Ann McDermott: Certainly. Shall I start over?

Governor: Yes please.

Ann McDermott: Okay, very good. Thank you. Good morning, my name is Ann McDermott, I'm the Litigation Bureau Chief with the Office of the Attorney General. I'm here on the McCabe matter and I believe Nancy Katafias, our Tort Claims Manager is at the table up North, but I'm not able to see if she is.

Governor: She is.

Ann McDermott: Okay, thank you Governor.

Governor: I'm not sure who is going to make the presentation here. All right, if you would identify yourself for the record and please proceed.

Garrit Pruyt: My name is Garrit Pruyt. I'm a Deputy Attorney General.

Governor: All right, will you take us through this case please on the settlement?

Ann McDermott: I could go ahead and do that, Governor, from down here, as long as there's no delay or problem with the audio. So, this case is actually—it involves two lawsuits. One was filed in 2010, one was filed in 2014 and the cases were consolidated in Federal District Court. It involves claims of medical deliberate indifference and medical malpractice against the Nevada Department of Corrections.

It really involves the course of treatment. This particular plaintiff entered the Department of Corrections back in 1992. He makes claims of failure to treat, failure to provide surgery for spinal stenosis, beginning in 2002.

So, as I mentioned, the litigation then commenced in 2010, 2014. It is the medical indifference and so we've got a Civil Rights component to this. Then we also have medical malpractice claims. So, this is something that would ordinarily be subject to the cap, but given the Civil—excuse me, the Constitutional issues, it's been removed from cap limitations.

We think that it's—we certainly recommend that if you settled for \$195,000, excuse me—there's been extensive discovery in the 2010 case, the 2014 case hasn't gotten there, but extensive fees

and costs have already been expended by our side, by opposing counsel and it is cost effective for the State as a jury could award up to perhaps \$850,000 on this case.

Governor: You've anticipated my question because that's not in the memo that I have in front of me. So, that's what you estimated the exposure for the State to be is \$850,000?

Ann McDermott: Right. We looked at some other settlement valuations and jury verdicts and we found similar cases ranging from \$400,000 to \$850,000. Again, we've already got the hard costs of attorney fees, witness fees, expert witness fees of up to \$150,000 currently. That would probably be doubled if we go to trial. So, this is a significant lower percentage of exposure if we settle this today versus if we go to trial.

Governor: And you also, and you kind of said it but I just want to make sure we have it clear for the record. You do believe that this settlement is in the best interest of the State.

Ann McDermott: We do Your—excuse me Governor.

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

Attorney General: No questions.

Governor: Madam Secretary, any questions?

Secretary: No questions Governor.

Attorney General: Thank you Ann.

Ann McDermott: Thank you.

Governor: Hearing no questions the Chair will accept a motion to approve payment of the claim of \$195,000 as described in Agenda Item 11B.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I second it Governor.

Governor: The Secretary of State has seconded the motion. Any questions or discussion? All in favor, please say aye. [ayes around] That motion passes, 3-0.

**C. Lambda Legal Defense and Education Fund – TC 17304
Amount of Claim - \$615,037**

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We'll move to agenda item number 11C, which is Lambda Legal Defense and Education Fund. Good morning Mr. Howle.

Wayne Howle: Good morning Governor. Wayne Howle from the Attorney General's Office. I'm here this morning on an item that presents a claim for \$615,000--\$615,037 to be precise; payable to Lambda Legal. This payment is attorney's fees and costs that are necessary because of the litigation over same-sex marriage that began in 2012 and only concluded this year. The name of the case is Sevcik v. Sandoval.

Same-sex Marriage Proponents sued the State and three County Clerks in 2012. They claimed that Nevada's laws restricting marriages to same-sex couples violated the US Constitution.

Governor: Let me interrupt you real quick Mr. Howle, I apologize. I heard the click on the phone, Madam Secretary, are you still with us?

Secretary: Yes, I am still here.

Governor: All right. Excuse me Mr. Howle.

Wayne Howle: No problem. As I was saying, the plaintiffs in the litigation challenged both a Nevada State Statute and a Constitutional provision that required marriage be between persons of opposite sex. The plaintiffs argued that the laws violated the right to equal protection. The plaintiffs ultimately prevailed.

In 2012, the legal landscape looked vastly different than it does today. The State defended its laws in the Federal District Court and prevailed. During the appeal in the Ninth Circuit, legal developments really began to accelerate in the nation. By 2014, the handwriting was on the wall and the State's legal position was no longer supportable.

The amount that's presented for payment today is payment that reflects only the fees incurred in relation to the State's portion of this litigation. It's significantly discounted from the amount that plaintiff counsel had estimated the State was responsible for. And it's also significantly discounted even from a compromised figured that Lambda Legal offered to us initially.

So, on that basis, that it is a good compromise of attorney's fees that are necessarily paid, I recommend approval of this expense as required by federal law for a prevailing Civil Rights plaintiff.

Governor: Thank you Mr. Howle. I agree, I just want to explore what the coalition's contribution to all of this is. The way it appears, at least in the memo, is that the coalition isn't contributing anything. So, is there a separate agreement between the plaintiffs and the coalition for payment of attorney's fees?

Wayne Howle: I do not know if there is a separate agreement, but what I do know is that the coalition's contribution to the litigation is not accounted for in this compromise. This is only for the State's portion. Lambda Legal expressly removed any expenses incurred on account of the coalition in our final figure.

Governor: So, in other words, when we made the decision not to go further in the Ninth Circuit, all the money that was associated, legal fees that were associated with taking that case further are not part of this settlement?

Wayne Howle: That's correct. The coalition did continue on with the litigation. They even made appearances in the US Supreme Court. They petitioned for a rehearing in the Ninth Circuit. Those are not part of this figure that we're asked to pay today.

Governor: So, how did they apportion—what's the formula for apportioning the State's share and the coalition's share?

Wayne Howle: Well, I don't know any specific formula but we have had, from Lambda, the specific tabulation of their hours and there were over 2,000 hours attributable to the State's involvement in the case.

Governor: Mr. Howle, you can see where I'm going. I don't think we should be subsidizing the coalition in this case for any attorney's fees that they've caused. So you can represent today that you have full confidence that this is the State's share and that none of this includes what the coalition should be responsible for or for anything that happened after the State withdrew its brief in front of the Ninth Circuit.

Wayne Howle: Yes Governor. I can and do make that representation.

Governor: Okay, great. Any further questions from Board Members.

Jordan Humphries: Hi, it's Jordan here.

Governor: Who is that?

Jordan Humphries: It's Jordan Humphries.

Governor: I think you have the wrong number. [laughter] No, I'm sorry, who is this on the line?

Jordan Humphries: It's Jordan from [inaudible] Group. No, it sounds like I'm on the wrong call, apologies.

Governor: No problem sir. How in the heck did he get that number huh? [laughter]

Attorney General: I have no questions.

Governor: All right. Mr. Howle, anything else, do you think this is fair and in the best interest of the State to resolve this claim in this amount for \$615,000?

Wayne Howle: Yes, I do Governor and I recommend it.

Governor: Okay. And I guess the rudimentary math is about \$300 an hour, I don't know how much of this is cost and how much of it is attorney's fees.

Wayne Howle: It's approximately \$15,000 in costs and the balance is attorney's fees. It's actually an average billable hour of less than \$250. So, it's a fair fee.

Governor: And, do you think that the hours are fair? Did we put 2,000 hours into this case?

Wayne Howle: We did not. And, wouldn't have expected to. This was a very novel case, in 2012, when the plaintiffs developed the complaint, worked with 16 different plaintiffs to bring it forward. They put a lot of time into it and necessarily because it was brand new law. They were making law, as was happening all across the country. Our hours are not in the same amounts as theirs.

Governor: So, did—and perhaps I asked this already, but I just want to make sure that the coalition is also contributing in this case.

Wayne Howle: Well, Governor, I don't know if they're contributing, they're not part of this agreement.

Governor: No, I know that.

Wayne Howle: And, I don't know if they've had discussions with the plaintiffs. I can't make any representations about that. But those are not pertinent to our—our calculation of the State's responsibility.

Governor: I understand all of that. I just was asking to see if you had any other information.

Wayne Howle: I don't have any other information.

Governor: Okay. All right, Attorney General doesn't have any questions. Madam Secretary, do you have any questions?

Secretary: I do not Governor.

Governor: The Chair will accept a motion to pay the claim of \$615,037 to Lambda Legal Defense and Education Fund for attorney's fees.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I'll second it Governor.

Governor: Madam Secretary has seconded the motion. All in favor, please say aye. [ayes around] That motion passes, 3-0.

**D. City and County of San Francisco – TC 17311
Amount of Claim - \$400,000**

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We'll move to agenda item number 11D, which is the City and County of San Francisco, claim of \$400,000.

Nick Trutanich: Good morning Governor Sandoval, AG Laxalt, Secretary of State Cegavske, this is Nick Trutanich for the record, Chief of Staff of the Attorney General's Office. I believe Linda Anderson, Chief Deputy at the Attorney General's Office and Solicitor General Lawrence Van Dyke are present in Las Vegas and Carson City respectively to present some background on the case and the claims made in the San Francisco litigation. If there's questions related to the settlement or outside counsel, I'll address those.

Governor: All right, let's proceed please. Essentially in the same fashion as we have with the other three.

Lawrence Van Dyke: I'm going to go ahead and kick it off. Linda, do you want to give some of the background on the case?

Linda Anderson: Yes. Good morning Governor, Members of the Board. This is Linda Anderson from the Attorney General's Office down in Las Vegas. This is a lawsuit that was filed in the City of San Francisco in September of 2013. The causes of action stemmed from their allegations that Nevada bussed mental health patients to the City of San Francisco. They made quite novel and unusual claims for restitution that the individuals who Nevada believes were being sent home to their home state or to be with friends and relatives should have their costs covered by Nevada because they had received mental health services here.

Nevada has been very much contesting this litigation. We had to hire outside counsel, of course, we're not licensed in California to practice law and have defended this quite strenuously. As part of the settlement, we are still not making any admissions that we did anything wrong. I'm not sure that we even understand the claims that are being brought, but as will be explained by the other Deputies who are here today, we believe this is an appropriate settlement for the State because of the high costs involved in trying to defend this litigation in California.

Nick Trutanich: And, let me add to that, thank you Linda. Governor, this lawsuit was brought as you know—

Governor: Is this Mr. Trutanich?

Nick Trutanich: Yes.

Governor: Okay, just for clarity of the record, thank you.

Nick Trutanich: Yes. As you know, this lawsuit was brought in late 2013, thereabouts in September. The Attorney General, when he took office in January of this year, took a proactive management and litigation strategy on this case, to one, reduce outside counsel spending and two, increase litigation risk for the City of San Francisco by filing a cert petition in the United States Supreme Court. That is important because—and also, I'm sorry, a part of that also was to build a coalition of 40 states in support of our cert petition asking for review of the California Supreme Court's rejection of our outside counsel's appeal.

That petition by the California Supreme Court came down in December 2014. We filed our cert petition in March of 2015 and there was a decision by the United States Supreme Court on a, what I'll call, a sister case. The California Franchise Tax Board vs. Hyatt, in which the exact same sovereign immunity issue that our office was raising in the cert petition was granted for review at the United States Supreme Court. With that uncertainty, I believe that San Francisco came back to the negotiating table, significantly reduced its earlier offers for settlement. This settlement for \$400,000 not only gives the State certainty about what it might incur in outside counsel fees leading up and to an ultimate Supreme Court decision in that sister case. It also is much lower than initial settlement demands and much lower than demands—or, excuse me, prior offers made in this case.

I will also note Governor, that in this case, there were \$2,000,000 in outside counsel that were incurred in the 13 months prior to AG Laxalt taking office. Since we've been in office in January 2015 to today, approximately \$100,000 has been spent in outside counsel. So, that's about 5% of the cost in the 10 months that we've been in office. We've made extra effort to ensure that we were judicious in spending outside counsel and took a lot of the laboring work, thanks to the Solicitor General of the brief writing for the two briefs that we submitted to the Supreme Court of the United States. We were very mindful of taxpayer dollars in that instance.

Governor: All right. Thank you Mr. Trutanich. I just want to be clear. There were two cert petitions filed to the Supreme Court, one in the instant case that was denied, correct?

Nick Trutanich: That's correct, but an important key part of that is, both issues—an important part of that is, our office built a 40 state coalition along with the cert petition that was actually granted. Without both cases presenting the same exact issue to the United States Supreme Court at the same exact time and 40 states coming together and ask [inaudible]—the Attorney General asking the United States Attorney—or, excuse me, the United States Supreme Court to grant certs on one of the two cases. I don't believe that either of the cases would be granted. So, ours was ultimately unsuccessful at the Supreme Court, but our sister case, California Franchise Tax Board vs. Hyatt was granted.

Governor: So, it's your position that even though our petition for cert was dismissed that you could use the law of the case from a different matter?

Nick Trutanich: Exactly. We had not—our—the reason, and the Solicitor General can add light to this, but the reason our case had not been granted or at least held at the Supreme Court was because there was a vehicle problem. The issue about sovereignty—is what they call a vehicle problem at the Supreme Court. Essentially the issue of sovereign immunity was not properly keyed up in our case. If, for example, the Hyatt case ultimately were to be decided on the sovereign immunity issue in a way that was favorable to Nevada, we believe that precedent that the United States Supreme Court could have affected the case that we’re engaged in with San Francisco. The reason that this settlement is warranted however, despite the fact that the Supreme Court could ultimately decide in a way that favors Nevada is one, it shuts off the spending on outside counsel so that the State no longer has to pay outside costly counsel in this case. And two, it gives certainty to the amount of money that the State will ultimately be paying because of the lawsuit by San Francisco.

Governor: Thank you. I agree with you. I mean, I guess, shifting gears here a little bit here, I’m not real happy about the amount of fees that have been charged by this outside firm. This was a firm that was selected by the Attorney General’s Office prior to General Laxalt coming into office, correct?

Nick Trutanich: That’s correct.

Governor: Do you know how that selection was made?

Nick Trutanich: I believe that the need for outside counsel in that case is because it was a firm located in the City of San Francisco. There were many licensed attorneys that knew the Judges and knew the Courts in our office at the time. I believe the Attorney General then decided that this was the best course of action for the State. Obviously, if you’re going to make a decision like that, I believe that you also need to be mindful of the costs and reviewing outside counsel bills. I can tell you our Administration, AG Laxalt’s Administration has been very mindful of those monies spent. We personally go through the bills, cut where there’s excess, negotiate the bills down. We’ve been successful in spending 5% of what was spent in the first 13 months of this litigation during our 10 months in office.

Governor: I don’t know specifically, but I had hoped there would be some reduction in this case because \$2M to file a motion to have it denied at the Superior Court level and then have it denied at the Appellate Court level and then both the Supreme Court levels, that’s a lot of money. In any event, what’s done is done in terms of what we’ve paid on our side of the ledger. Let’s move over to the other parts of the settlement because I know we’re talking today about the payment of \$400,000 and Ms. Anderson, you know this, there’s another important component to this settlement and a recognition that this is a mutual settlement. That the City of San Francisco also had its own bussing program and in fact, it had a name for it called Homeward Bound. What I like about this settlement is that now as part of it, they will require that both entities, the State of California and the State of Nevada collaborate when patients or clients are coming back and forth. So, that’s something that there really wasn’t ever recognition of is the fact that there were patients moving both ways.

Again, I want to thank the City of San Francisco for its recognition for that piece of this. So now if there is somebody in Nevada who we have cared for and they want to go home or be with a loved one, we will ensure that there is a care plan for them and we will notify the City of San

Francisco when that person is going to arrive. On the other hand, when the City of San Francisco is sending somebody to Nevada, the City of San Francisco will notify our healthcare providers and let us know what their care plan is going to be as well.

I frankly think that this settlement should be a model for the country. [end of tape 2] So that we can resolve this once and for all and so that we don't have these naked allegations of Greyhound therapy and bussing and all those things because clearly, most sides were doing it with good motive and good intent in mind in terms of making sure that these folks that are in a strange place can get the care that they need, where they are once they've been brought to a condition that they're able to go home, that we can make sure they can get home and get the best care and attention that they can have. Ms. Anderson, I don't know if you were responsible or part of that, part of the negotiation on it.

Linda Anderson: Actually the Division of Public and Behavioral Health really should be the one that takes the credit in terms of the fact that they have really improved their process. While we don't believe anything was being done incorrectly before, we do recognize that better communication, better protocols are actually going to help all folks that come to Nevada to make sure the services are in place. I really give my hats off to Richard Whitley and his group for making those kind of agreements and arrangement with the City. And, we've extended this beyond because we do want to be, as the Governor has said, a model for others in the future.

Governor: Dr. Green and Mr. Whitley or Director Whitley are here. I don't know if you care to comment on anything that I've talked about, but I think that it's appropriate given what has happened before now and where we are now in terms of the progress that has been made and the relationships that we've developed with other jurisdictions. Director Whitley and Dr. Green.

Richard Whitley: For the record, Richard Whitley, Director of Health and Human Services. I think you said it very nicely in terms of where we've landed. I think beyond what Deputy Attorney General Anderson indicated with the City of San Francisco, we also have agreements with the State of Oregon and the City of Sacramento. So, out of this, we have, without lawsuit actually, developed these reciprocal relationships for transfer.

I would add that whenever an issue gets identified in an agency or in a process, you start looking and you do find opportunities for improvement. So, the level of review of that facility has only served to make it better. Better for the citizens of Nevada, particularly in Las Vegas. All of our facilities are licensed, certified by CMS, and joint commission accredited. They've gone through processes of review. Our policies are in place to ensure the safe and appropriate discharge of all patients. So, that really goes to the staff that we have and to the work of the Governor's Behavioral Health and Wellness Council. A big effort that was done with that Council was to review the detail of what goes into providing services for behavioral health clients. The goal is to prevent the crisis. The goal is to keep people who are mentally ill stable and out of the hospital. We continue to make strides in that way but we're here today, both Dr. Green and I to assure you that the processes are in place for safe and appropriate discharge from our hospitals.

Governor: And not only discharged, but again, the notification when a patient is coming our way. So, will we get a phone call or some type of electronic communication that there is an individual or a patient that's coming from another jurisdiction?

Richard Whitley: For the record, Richard Whitley. If it's planned, but as you know, people who are mentally ill are free to move about until they're at a point where they're a danger to self or others requiring an intervention. So, you know, I think putting all of this in place does serve when we're knowledgeable about people who are working to relocate or to move. As individuals maybe decide to travel on their own and not inform their care provider, they may end up in our State or likewise in another state. But, I think this assurance of having the communication that works two ways—and that works two ways with the City of Sacramento and the State of Oregon as well. It does, I think, serve us well to keep the lines of communication open.

The other thing that we've been doing is actually, in addition to our policies, we review for compliance of our policies. Then we review our data on a regular basis, just to see if there are any trends of people coming from any particular community or particular state and to more proactively engage in those discussions to see what we can do to maybe prevent any future crisis of discharge.

Governor: Thank you Director Whitley. I don't know Dr. Green, you've lived through all this. I truly want to thank you for your leadership in bringing us to where we are now. I don't know if you have any comments.

Tracy Green: Great, for the record, Dr. Tracy Green, Chief Medical Officer. Just want to say thank you Governor for that acknowledgement and Members of the Committee, I don't really have anything in addition to add, but thank you.

Governor: Thank you very much.

Nick Trutanich: Governor Sandoval?

Governor: Yes.

Nick Trutanich: This is Nick Trutanich again for the record. I did want to put one more thing on the record and that is that this is a tentative settlement subject to the approval of both this Board and the Board of Supervisors in San Francisco, with final approval resting at the Court. Also, in July, our Office asked for increased authority of the contract to pay back bills, dating back into 2014, and I believe that there's approximately \$20,000 left on that authority. We may ultimately have to see this case one last time to wrap up the final litigation costs, but we certainly hope not.

Governor: Thank you Mr. Trutanich. That's another point to why it's a good, I think, it's a good settlement now is that, I mean, procedurally, all we've done is lost on a motion to dismiss. So, there could be a lot of litigation to go. So, I think it's in the best interest of the State from a tort exposure standpoint, attorney's fees standpoint and also, doing a fair result as I just talked about in terms of what the agreements are with the other—with particularly here in the City of San Francisco. Again, I don't know if San Francisco is listening, but I want to thank them for their willingness to resolve this case at this time. That shows leadership on behalf of the City Attorney there who brought the case, as well as the entity that will ultimately approve this settlement. Thank you.

All right, Ms. Anderson or Mr. Trutanich or anyone else associated with the Attorney General's Office, is there any further presentation with regard to this Agenda Item?

Nick Trutanich: Nothing from Nick Trutanich Governor.

Linda Anderson: No thank you Governor.

Lawrence Van Dyke: Governor, Lawrence Van Dyke, Solicitor General from the Attorney General's Office. I just wanted to elaborate a little bit on what Nick Trutanich said earlier. Because there are two approvals that come after this and we want to make sure that our approval from the Board here is contingent upon getting final approval from both the Board of Supervisors in San Francisco and from the Court. So, my understanding is that, this Board can approve these things contingent upon other things happening. Maybe could speak to that, but my understanding is they can do so and I would urge the Board to do that, to ensure that San Francisco and the Court—that we get those other approvals, so our approval isn't hanging out there with those approvals. Thank you Governor.

Governor: Thank you. I agree. I think we've done this before from this Board is that we have approved settlements here subject to the approval of other entities and in this case, specifically the City of San Francisco, as well as the Court. I can be pretty confident that the Court is going to approve this if both the parties have approved it, but do you know when that meeting for the City of San Francisco is scheduled?

Lawrence Van Dyke: Governor, Lawrence Van Dyke. Nick, I think Nick knows more specifically what the date is.

Nick Trutanich: Governor Sandoval, Nick Trutanich for the record. There is a hearing tomorrow in the San Francisco Court related to this settlement. It's actually a case management conference. It's scheduled for tomorrow. I believe there's another hearing date tentatively scheduled in December. We, in collaboration or consultation with the City Attorney, I believe they anticipate approval some time by the end of the year, by their Board of Supervisors and then Court approval will follow shortly after that.

Governor: Is the Court going to stay all proceedings pending that settlement so that we're not running up the clock on attorney's fees?

Nick Trutanich: We have been aggressively pursuing stays through AG Laxalt's administration. Currently we're operating under a stay and we anticipate that that stay will stay in effect until the Board of Supervisors approves in San Francisco and then the subsequent hearing at the Court.

Governor: Okay. And I don't want to belabor this and I apologize Madam Secretary because I know you're hanging in there with the time. Last question, I promise is, do you have any indication from the representatives of the City of San Francisco that they're relatively optimistic that they're governing body is going to approve this settlement?

Nick Trutanich: Yes. They did not want to speak for the Board of Supervisors, obviously before that Board met and convened on this issue, but they will certainly be recommending to the Board that this settlement is appropriate.

Governor: All right. Thank you Mr. Trutanich. Mr. Attorney General, any questions?

Attorney General: No questions.

Governor: Madam Secretary, any questions?

Secretary: No questions Governor.

Governor: All right. Hang in there. All right. Hearing no questions the Chair will accept a motion for approval of the claim of \$400,000 for the City and County of San Francisco, subject to approval by the governing body of the City and County of San Francisco and the responsible Court.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I second it Governor.

Governor: The Secretary has seconded the motion. Any questions or discussion? All in favor, please say aye. [ayes around] That motion passes, 3-0.

***12. FOR POSSIBLE ACTION – LEASES**

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

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: We'll move to agenda item number 12 which are Leases, Mr. Wells?

Clerk: Thank you Governor. There are six leases in Exhibit Number 1 for approval by the Board this morning. No additional information has been requested from any of the members.

Governor: All right. I have no questions on this agenda item. Mr. Attorney General, any questions?

Attorney General: I have no questions.

Governor: Madam Secretary, any questions?

Secretary: No questions Governor.

Governor: The Chair will accept a motion for approval of the Leases described in agenda item number 12.

Attorney General: Move to approve.

Governor: The Attorney General has moved for approval, is there a second?

Secretary: I second it Governor.

Governor: The Secretary of State has seconded the motion. Any questions or discussion? All in favor, please say aye. [ayes around] That motion passes, 3-0.

***13. FOR POSSIBLE ACTION – CONTRACTS**

Thirty-one independent contracts were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: We'll move to agenda item number 13 which are Contracts, Mr. Wells?

Clerk: Thank you Governor. There are 31 contracts listed in exhibit 2 for approval by the Board this morning. Members have requested additional information on the following: Contract number 1 between the Office of the Attorney General and Bancroft PLLC. Contract number 2 between the Office of the State Treasurer and Mackay Shields. Contract number 3 between the Office of the State Treasurer and Hirschler Fleischer. Contract number 7 between the Department of Education and the American Institutes for Research in Behavioral Science. Contract number 12 between Department of Health and Human Services, Division of Healthcare, Financing & Policy and the Division of Welfare and Supportive Services. Contracts 16 and 17 between the Department of Health and Human Services, Division of Public and Behavioral Health and UNR and UNLV. Contract number 28 between the Silver State Health Insurance Exchange and KPS3, Inc. The Board has already approved contract number 31 between the State Treasurer and Neil Weisman.

Governor: Thank you Mr. Wells, let's proceed with contract number 1. That is the Attorney General's Office and Bancroft.

Nick Trutanich: Good morning again, Your Honor—or good morning again Governor and the rest of the Members of the Board. This is Nick Trutanich for the record, Chief of Staff at the Attorney General's Office. This is a \$10,000 contract which is limited in scope related to the lawsuits filed against the ESA law. That's Ruby Duncan et al vs. the State of Nevada et al and Lopez et al vs. Schwartz et al.

This contract provides for an initial evaluation by Bancroft to address how to proceed in the litigation. It's for \$10,000. It's a fixed and discounted fee. As you know, Governor, the ESA law is both creative, it's innovative and its ambitious and national groups are looking at this law to oppose parental choice and have focused significant resources on attempting to get our law struck down. After careful examination by the lawyers in our Office, the conclusion was made that the best way to defend this State in ESA's law was by partnering with a national renowned appellate constitutional counsel, Paul Clement. Paul Clement is a former United States Solicitor General. He's a member and partner of the Bancroft firm. He's argued over 75 cases before the United States Supreme Court; multiple arguments in various Supreme Courts and Appellate Courts throughout the United States and has argued more cases in the United States Supreme Court than any other lawyer since 2000. He's currently defending—Mr. Clement is also currently defending similar programs against similar challenges in both State and Federal Courts in this country right now. As part of the AG's effort to defend this program, we retained Mr. Clement and his law firm at a fixed and discounted fee of \$10,000 to provide that immediate evaluation.

I will note that there is a subsequent contract which would be the subject of a later Board. I'm sure there are some questions from you Governor, that's the gist of what this contract is about.

Governor: Thank you Mr. Trutanich. Obviously, under no circumstances would I question the experience and the success of Mr. Clement. He's certainly a historical figure and somebody that is worthy of the respect and description that you provided. I guess you're touching on some of my questions. I obviously—this is an important issue for the State, but I guess you will agree, there's no tort exposure for the State associated with this case, correct?

Nick Trutanich: That's correct.

Governor: And, it's venue—I guess there are two cases. There's one venue in Carson City and one venue in Clark County?

Nick Trutanich: That's right Governor, it's two different cases.

Governor: All right. And, right now, the issue is the interpretation of the Nevada Constitution and with regard to the Blaine Amendment?

Nick Trutanich: Well, there's the claims filed in each of the cases, I mean, they're largely similar, but yes there's an issue with respect to the Blaine Amendment. I don't want to get too far into the legal issues because I don't want to reveal in a public setting legal strategy about what we're going to do. Or attorney/client privileges. I want to be very mindful of that, but yes, there are issues raised in the claims, in both of those, that address the Nevada Constitution and the Blaine Amendment.

Governor: I understand perfectly and under no circumstances would I seek to have legal strategy or what have you or attorney/client privilege discussions exposed in a public meeting. I guess my point being is that, the complaints in this case are public record and the nut of the case is the interpretation of the Nevada Constitution, vis-à-vis, the law that was passed during the legislature for Education Savings Accounts.

Nick Trutanich: Yes Governor. Some of those similar laws passed in other states are currently—Mr. Clement and Bancroft are dealing with now, which are exclusive to their respective State Constitutions are up for review at the United States Supreme Court, including one in Colorado where a cert petition has been filed. Because of the landmark nature of Nevada’s ESA Program, the eyes of the nation are looking at the program and some of those eyes want this law struck down and others want to follow Nevada’s lead. So, the best opportunity for success, we believe was to retain Clement, who is experienced in this area, who is experienced in constitutional law to give us a recommendation as a path forward and then I assume at a subsequent BOE, we’ll be discussing what the cost of that path forward might be.

Governor: Does Mr. Clement have experience with the Nevada Constitution?

Nick Trutanich: I’m sure Mr. Clement has experience with the Nevada Constitution. I’m not aware whether or not he’s argued a case in Nevada or not, but the issues presented in this case are not novel and exclusive to the Nevada Constitution. They are being addressed in other jurisdictions, in other states throughout the country and those laws and Mr. Clement’s representation in those cases are currently being reviewed by the United States Supreme Court. So, there are national implications to what Nevada’s Constitution says, to what Colorado’s Constitution says, to potentially in the past, what Florida’s Constitution says.

Governor: All right. You can’t see this Mr. Trutanich but Mr. Van Dyke is indicating he wants to speak, so please proceed.

Lawrence Van Dyke: Governor, Lawrence Van Dyke, Solicitor General and Attorney General’s Office. To respond to a little more fulsome to a couple of your questions. As far as, and again, we don’t want to get too much into this to divulge litigation strategy and such, but as far as there being Federal Constitution issues. One of the questions—you know, Nevada has its own Constitutional Provisions including the Blaine Amendment that you mentioned earlier. A lot of those provisions are similar from state to state and the majority of states actually have similar provisions in their constitution. These have been litigated with mixed results in various states. One of the perennial questions that’s raised is, are there limits, federal constitutional limits on how those state constitutions provisions can be interpreted. So, there are sort of, in some ways, federal constitutional questions tied up in some of these state constitutional questions.

Also, to the extent, speaking of Bancroft and Clement’s experience as far as the Nevada Constitution, I think that, again, because a lot of times, what states will look to, because as is the case here in the Nevada, there’s just not a lot of Nevada Case Law on these type of provisions. They’ll actually look to how other states have interpreted those provisions, similar type provisions in their State Constitutions. So, we do think that Mr. Clement and Bancroft’s experience in litigating these types of issues from other State Constitutions is very relevant here.

Governor: I guess I’ll ask kind of a different question, don’t you want to do this? You’re the Solicitor General.

Lawrence Van Dyke: Absolutely. Absolutely Governor. And again, Lawrence Van Dyke, and I am doing it. We are working, as I think Nick said from the beginning, we are working hand in hand. In fact, one of the things I think that Nick didn’t mention, we have a very discounted rate.

I think part of the reason we have such a discounted rate from this national counsel is because of the fact that we're obviously doing a lot of the work. So, this is a collaborative effort. This is sort of a, doing everything possible to defend these laws, but obviously more minds is better and I think our goal is to do the very best job possible defending these laws and with that—so, this isn't an either or, this is us working along with them and taking advantage of their expertise but also our expertise.

Governor: So, Mr. Trutanich in his remarks said, this contract is for consultation, but you're basically saying and he has said, you're seeking to partner with Mr. Clement and his firm on an ongoing basis. I don't know what a discounted rate is, what is a discounted rate?

Nick Trutanich: So, Governor, to be more specific, this is Nick Trutanich again for the record. To be more specific, our office sent a subsequent contract to this \$10,000 contract yesterday, to the Budget Division, retroactive for the past week. Essentially what that contract is for is for a fixed fee, at the District Court of \$285,000 and it's essentially for all litigation from the moment that the complaint was filed until trial. \$285,000. And Governor, you made this point with respect to the City of San Francisco case, there was \$2 million incurred by prior outside counsel before we had even filed an answer in that matter. This is \$285,000 from inception to trial at the District Court. So, although it is a sizeable amount of money, to retain the constitutional expertise of Paul Clement, it certainly is well worth it because it gives us the best chance of success at this case. Not only do Nevada parents deserve clarity and expediency on this issue, but they also deserve the best possible defense that the State can reasonably afford. It's the opinion of the Attorney General that in this matter, the \$285,000 for that portion of the contract, which will be before the BOE at a different time, obtain that goal.

Governor: You're seeking to get this money from the Statutory Contingency Fund, correct?

Nick Trutanich: That's correct.

Governor: And, do you have money in your own budget to pay for this?

Nick Trutanich: No Governor, unfortunately we don't. We have often times, when we seek to retain outside counsel, we will whenever possible use our own budget. An example comes to mind from June where your Office had asked us to get an opinion on an issue. I won't go into that issue, but we paid for that out of our operating budget and did not ask the Statutory Contingency Fund to supplement it. So, whenever possible, we do, but in this case, it's just too much from our budget that we can't afford. So, since the Statutory Contingency Fund is there for this reason, pursuant to State Law, we have opted to ask the Board of Examiners to approve this contract for the \$10,000 amount and then subsequently for the \$285,000 amount.

Governor: Mr. Wells, how much do we have in the Statutory Contingency Fund?

Clerk: Governor, I believe there is a little over \$1.6 million in that account for this biennium.

Governor: \$1.6 million?

Clerk: I believe so.

Governor: And your budget can't handle any of this Mr. Trutanich?

Nick Trutanich: Unfortunately, it can't.

Governor: I mean, I know that we have used this fund previously and in fact, we used it for the San Francisco, correct? I just don't recall us ever using the Statutory Contingency Fund for a legal case that doesn't involve exposure to the State or toward exposure, I would say. Here's my concern and I'm not trying to make this difficult. We need the best representation that we can have. If you feel that you need that outside of the Office, so be it. I always worry because I've been here with regards to this Contingency Fund which is also the fund for Wildfires, Floods, Natural Disasters, when things of a huge nature come up. The San Francisco case, that's part of my frustration going back to that, is that drained a lot of our money and then we had to go to IFC, did we not, to have to supplement the Contingency Fund here. So, every time we draw for legal fees from this Contingency Fund, it means we have less money in the event, god forbid, in the event that we have a wildfire or some natural disaster. So, now we're in for \$10,000 and now we'll be in for another \$285,000. That's where we are.

Nick Trutanich: Governor, if I may?

Attorney General: Nick, actually, if I could jump in here. Governor. I would just say that being in this office now for almost 10 months or I guess over 10 months, it is surprising that the Attorney General's budget does not have any built in capacity to be able to hire outside litigation counsel for major cases that may affect the State. Obviously this ESA case is novel to our State as the Solicitor said, there isn't any law on the books in our State. The ACLU which has sued the State has national litigators. They got this giant team that they're going to implement. So, believe me, if we could pay for it ourselves, we would. Frankly, I'm surprised, given the nature of litigation in 2015 with complex matters and how these things, you know, we go to gay marriage for example. These issues come up and they're novel and for whatever reason, something I could surely look to for my next budget, there isn't any built in capacity for the Attorney General to determine that we absolutely need to hire outside counsel to supplement whatever effort we may be doing.

So, I just want you to know, we don't take this lightly and I understand it's a lot of money. I can say that there are a handful of attorneys in this State that charge \$1,000 an hour, which you probably know and it may surprise the public. A gentlemen with the resume of Paul Clement is a \$1,500 an hour plus type attorney. Their willingness to join our State at this massively cut rate is a great deal for our State. It's something that we just could not obtain with this level of counsel without their willingness to understand we're of limited resources and understand that we have small pots of money to be able to fight these types of cases.

So, again, we do not take this lightly. We heard loud and clear from the Treasurer, all parties involved, that we have to defend this fully. We have a team that we dedicated to this from day one. We think it's a great team, they can understand all the issues and having the expertise of Paul Clement at this very discounted rate gives us the absolute best shot to win this case and is something that again, I think we need, the State needs to be able to defend this case to its fullest.

Governor: Again, I get it. Here's a great lawyer. Wayne Howle, how many cases have you argued in front of the United States Supreme Court. Just one, but—[laughter] Just—yeah, he

won too. [laughter] I've made no secret of it. I want this case to get to the Nevada Supreme Court as soon as possible. I don't want to have to wait to go through a trial. I want to see, if we do retain Mr. Clement for him to explore, if there's a procedure for us to get some type of writ to get this to the Nevada Supreme Court so that it could hear it. If he could stand in the well and argue the case and do it as soon as possible. We just approved over a half a million dollars in cost for the Treasurer today, so we've got that money hanging out there. Mr. Hewitt didn't know but I've been told that there are over 2,000 parents that have their kids enrolled in private school that have, right now, that are counting on this going through. So, I really want to see a prompt resolution of this. As the Attorney General said, there are a lot of people out there that are counting on a decision here and this could have national implications. That would be my request. You might disagree or agree with me on that piece of it, but I would hope even if we do go to trial that we can get these two cases consolidated, that we can seek expedited review from the District Court Judges and have them get this briefed up and get it argued. I can't believe there'd be much discovery to be done here. This is an interpretation of our Nevada Constitution. Again, I guess that would be my request, if I'm going to approve this. That we move on this as quickly as possible.

Attorney General: Governor, I would just say, obviously we don't want to get too much into litigation strategy but since we're just a few days away, I'm happy to share, we are going to seek expedited review. This is now eminent and we are moving as absolutely fast as we possibly can. Given the complex nature of this matter, some of these litigations can take a very, very long time. Not months, years. We believe we have a good case. We believe we have the team, with the addition of the Clement folks, they can give us the best chance to expedite this through the system as quickly as possible. Again, we believe this is in the best interest of the State.

Governor: Madam Secretary, I don't know if you've been following all this, do you have any questions? I know this is an issue of interest to you as well.

Secretary: Yes Governor, thank you so much. It certainly is and I do appreciate all the comments of both you and the Attorney General. I've been watching this, listening to it asking questions along the way. So, thank you very much for all the additional information that was brought forward today and when you're ready for a motion, I'll be more than happy to make it.

Governor: All right. Anything else Mr. Van Dyke?

Lawrence Van Dyke: Nothing Governor, thank you.

Governor: Mr. Trutanich?

Nick Trutanich: Yeah, one last point, Governor. That is, on other matters, there was one question about whether we had the operating budget to sustain these contracts. I will say that in other matters of significant importance, like for example, Yucca Mountain, this office has historically retained outside legal representation and the legislature has, in advance of an upcoming biennium, set aside money, appropriated money, for outside counsel in that area because it's so important for the State. Obviously that wasn't possible in this case, or with the ESAs because the ESAs were signed into law near the end of the term, of the session, so there wasn't money set aside. So, for that reason, we believe that the Statutory Contingency Fund is the appropriate place for [tape cut] --to request funding for this.

Governor: I hear where you're coming from. I don't know if I actually agree with you, but I'm going to support this. Hearing nothing further, or I guess that's just this one. So, we'll continue to move on. Any other questions or comments on contract number 1. Thank you.

Nick Trutanich: Governor, I'm wondering if I can drop off because that's the extent of what I need to present on. This is Nick Trutanich for the record.

Governor: Oh, yes. Thank you. We have two international phone calls I guess calling in.

Nick Trutanich: Thank you.

Governor: Thank you Mr. Trutanich, if you're spending time with your family, thank you for your public service and willingness to participate today.

Nick Trutanich: Thank you Governor.

Governor: Thank you. Mr. Wells, next contract?

Clerk: The next contract Governor is contract number 2 between the State Treasurer and Mackay Shields.

Governor: More attorney's fees. I guess that's a different one isn't it. Yeah, next one. Why don't we take both of those, 2 and 3, Mr. Hewitt.

Grant Hewitt: Grant Hewitt for the record, Chief of State at the State Treasurer's Office. On agenda item number 2, I'll have Chief Deputy Hagan speak to this.

Tara Hagan: Thank you. Governor, Members of the Board, Tara Hagan for the record. This is the third such investment management contract that you've seen. Just by way of background, in May, the State Treasurer's Office provided the Board of Finance with information on the request for proposal and the selection process for outside investment management, specific to fixed income portfolios, so various fixed income portfolios within the Treasurer's purview. Through that recommendation, the Treasurer's Office did in June to the Board of Examiners, bring forth one contract for the management of the local government investment pool. And, in addition, we had identified two managers for the general portfolio. One was brought forth in June, which was approved which was Chicago Equity Partners. So, this is the second contract for management within the general portfolio. Let me just pause when I say, a portion of the general portfolio. So, we have a little over \$1 billion that we consider operating portfolio that we manage in-house and we keep that shorter in fixed income duration, obviously to pay expenditures, so more 30-60 day duration.

When we look at what we call, in two separate accounts, also the core account, and we've kept these separate throughout my term, three years here at the Treasurer's Office, and we were looking for expertise for outside fixed income managers for both Chicago Equity Partners and now today the Mackay Shields. That's to bring out that duration of the \$600 million plus eventually. A little bit longer in duration, also, they have expertise in certain fixed income categories that staff does not, such as asset backed securities, corporate bonds, in addition to mortgaged backed securities.

So, with that, we are looking for adding the second manager, so we have some diversification within that general portfolio. We're happy to report that we did have FTN, who is the manager of the local government investment pool, they started in July and has since nearly tripled the return within the local government investment pool. Chicago Equity Partners started positioning the portfolio in August and we started benchmarking them in September. As of the end of September, they are at 1.66%. To give you a little bit of idea as of the core portion, June 30 was 1.11%. So, we have been pleased within this short amount of time with the performance of Chicago Equity and will be reporting that line item to the Board of Finance in November.

Governor: So that includes their fee as well, so if you subtract out their fee, we're still making more money than we were before.

Tara Hagan: Yeah, thank you Governor. Excellent question. In fact, like I said, we provided them with \$200 million in cash in which to position, and as of the end of September, they were a little over \$300,000 to the positive.

Governor: Great, that's good news. All right. I have nothing further, let's move to Contract 3. I'm going to start moving a little faster here. Mr. Hewitt, and I guess you don't even need to make a presentation. So, this is simply the retention of an outside law firm for up to \$400,000. The money is going to be taken out of the College Savings Trust?

Grant Hewitt: Grant Hewitt for the record. That's correct. It's \$400,000 over four years. It's \$100,000 each year that has to be reapproved by the College Savings Board each year. So, in the contract, if the College Savings Board after a year says, we're done, then it backs out and we're only on the hook for the \$100,000. This is to protect the over \$16 billion we have in assets under management in the college savings world. And, the approximately 700,000 College Savings Accounts that we oversee. When it comes to college savings nationwide, Nevada is the third largest holder of College Savings Accounts behind New York and Virginia. And so, we just feel that it's prudent to have the outside legal counsel. Prior administration chose not to, but Treasurer Krolicki and Treasurer Seal both had outside counsel as well.

Governor: All right, thank you very much. Mr. Wells, what's our next item?

Clerk: Next contract Governor is contract number 7 between Department of Education and the American Institutes for Research in Behavioral Science.

Governor: Actually, I'm going to save you some time. I'm actually good and again, I want to be respectful of the Secretary's position being it's 4:00 in the morning now there. So, I'm going to reserve my questions and I'm going to ask them offline, but I support the contract, thank you. Mr. Wells, next?

Clerk: Next contract Governor is number 12 between the Department of Health and Human Services, the Medicaid Division and the Division of Welfare.

Governor: Mr. Fisher, good morning. Again, just be very brief. I asked for this just because of the amount of money involved.

Bonnie Long: Good morning, actually, I'll start Governor. For the record, Bonnie Long. I'm the Administrative Services Officer for the Division of Healthcare, Financing and Policy. This is the third amendment to an interlocal agreement between the Division and the Division of Welfare and Support Services. It increases the contract by \$105 million. It will take us through the current biennium and then also—sorry I'm so nervous, it's my first time representing the Division.

Governor: You're doing great.

Bonnie Long: I'm new to this job. I'm new to the Director's Office Budget Accounts and this one I'm just a little shy. This will continue the reimbursement of the federal share for the services provided by the Division of Welfare and Support Services. And, covered there, I guess, their infrastructure, staffing.

Governor: Well done.

Steve Fisher: Real quick for the record, Steve Fisher, Administrator for the Division of Welfare and Supportive Services. The last time this interlocal agreement was updated was back in December 2013, so as you can imagine, that was right at the beginning of the first open enrollment period for the Affordable Care Act. So, a lot of things have changed since December of 2013 and today and into the future. So, these are the administrative costs involved in paying for the staff to do the eligibility determination. The infrastructure, the facilities that we've added, and as well as the technology that we've implemented. So, that's primarily what these costs are for.

Governor: Great, thank you very much. Mr. Wells?

Clerk: Thank you Governor. Next contracts are 16 and 17 between the Division of Public and Behavioral Health and UNR and UNLV.

Governor: Okay, we can skip those. [laughter] And, I apologize for making you sit for two hours, but maybe you're relieved. In any event, I don't mean to be rude, but like I said, I want to be respectful of the Secretary's time and given the time of day that it is there. Mr. Wells?

Clerk: The last contract Governor is number 28 between the Silver State Health Insurance Exchange and KPS 3.

Governor: I do want to have some testimony on that. And, Mr. Gilbert, perhaps I can save you time. We've got an enrollment period coming up and I just want you to essentially let us know that we're ready to go and what type of testing we've done, etc.

Bruce Gilbert: Thank you Governor, good morning and I appreciate the opportunity to be here. We are ready to go. We have completed all of our kick-off events, our community events are established, media buys are in place, commercials are in post-production. Everything is ready to roll. Just a really quick note, I was reassured earlier today that we remain the Gold Standard of Field Technology.

Governor: So, our technology is ready to go, our personnel are ready to go. Every component of it. And, I'm not suggesting that you haven't done well before, but we've been through some difficulties.

Bruce Gilbert: There are new challenges this year. Obviously the market has changed. Assurant has left the co-op, everybody knows what's happened with that. So, there's been some roiling there. The technology is essentially the same but we now have a partnership with the Association of Agents and Brokers, across Nevada that we think is really going to stimulate enrollment this year.

Governor: When does enrollment open?

Bruce Gilbert: It starts Sunday, November 1st.

Governor: Just around the corner. All right, thank you very much.

Bruce Gilbert: Thank you.

Governor: That's it, right Mr. Wells? And we already did 31. So, the Chair will accept a motion to approve Contracts 1-30.

Attorney General: Move to approve.

Governor: Is there a second?

Secretary: Second.

Governor: The Attorney General has moved for approval of Contracts 1-30 as described in Agenda item number 13. The Secretary of State has seconded the motion. All in favor, please say aye. [ayes around] That motion passes, 3-0.

***14. FOR POSSIBLE ACTION – MASTER SERVICE AGREEMENT**

Three independent contract were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: We'll move to agenda item number 14, which are Master Service Agreements, Mr. Wells?

Clerk: Thank you Governor, there are three Master Service Agreements in exhibit number 3 for approval by the Board today and no additional information has been requested by any of the Members on these three agreements.

Governor: Thank you. I have no questions. Board Members?

Attorney General: No questions. I move to approve.

Secretary: No questions. Second.

Governor: The Attorney General has moved for approval of the Master Service Agreements described in agenda item number 14. The Secretary of State has seconded the motion. All in favor, please say aye. [ayes around] That motion passes, 3-0.

15. CONTRACTS APPROVED BY THE CLERK OF THE BOARD – INFORMATION ITEM

Pursuant to NRS 333.700 subsection 7 (a), the Clerk of the Board may approve all contract transactions for amounts less than \$50,000. Per direction from the August 13, 2013 meeting of the Board of Examiners, the Board wished to receive an informational item listing all approvals applicable to the new threshold (\$10,000 – \$49,999). Attached is a list of all applicable approvals for contracts and amendments approved from August 20, 2015 through September 14, 2015.

Twenty-nine independent contracts were submitted to the Board for review.

Comments:

Governor: We'll move to 15 which are Contracts Approved by the Clerk of the Board, Mr. Wells?

Clerk: Thank you Governor. There were 29 contracts under the \$50,000 threshold approved by the Clerk between August 20, 2015 and September 14, 2015. This item is informational only and there have been no additional requests for information by any of the Board Members.

Governor: Any questions on agenda item number 15?

Attorney General: No questions. Thank you.

16. INFORMATION ITEMS

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

The division has been requested to provide the Board of Examiner's with an annual report on Provider Agreements that summarizes the amount expended for the previous state fiscal year. This report is for the fiscal year ending June 30, 2015.

B. Fiscal Year 2015 Overtime Report

Comments:

Governor: We'll move to 16, the Information Items for DETR.

Clerk: Thank you Governor, there are two items under number 16. The first is an annual report from the Department of Employment, Training and Rehabilitation summarizing the amounts that are expended on their provider agreements for Fiscal Year 2015. The second item is a report on overtime paid by the various State Agencies for Fiscal Year 2015. Pursuant to NRS 284.180, this information is to be provided to the Board quarterly, so you will see the first quarter of FY '16 at the December Board of Examiners Meeting.

Governor: Is everything in order Mr. Wells?

Clerk: Not anything out of the ordinary, Governor, that you would expect on the overtime report. The typical larger agencies are where we're seeing the overtime. The reasons seem to be the standard reasons that most people are aware of. For example, the Department of Corrections and their ability to hire additional guards in Ely State Prison, for example.

Governor: Okay. Any other questions from Board Members on agenda item number 16.

Attorney General: No questions. Thank you.

17. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS

Comments:

Governor: We'll move to agenda item number 17, Public Comment. Is there any member of the public here in Carson City that would like to provide public comment to the Board? Hearing none, I'll move to Las Vegas. Anyone that would like to provide public comment from Las Vegas?

Las Vegas: No Governor, there is nobody here.

*18. FOR POSSIBLE ACTION – ADJOURNMENT

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: We'll move to agenda item number 18. Is there a motion to adjourn?

Attorney General: Motion to adjourn.

Governor: The Attorney General has moved, is there a second, Madam Secretary?

Secretary: Yes, I do want to second that. [laughter]

Governor: I bet you that was the strongest second that we've ever had. And again, before I adjourn Madam Secretary, thank you from the bottom of my heart. I know that this was an inconvenience for you but this room is full and there are a lot of State Agencies that were counting on us to get this done and have a lot of important budget issues that are included as part of this Agenda. So, your participation is extremely meaningful and allows for the business of the State to move forward. So, go get some rest. So, there's a motion and a second, all in favor say aye. [eyes around]

Secretary: Thank you Governor and thank you for putting this all together so that I could be on the call, I do appreciate it. Thank you.

Governor: Okay. Thank you Madam Secretary, this meeting is adjourned.

Respectfully submitted,



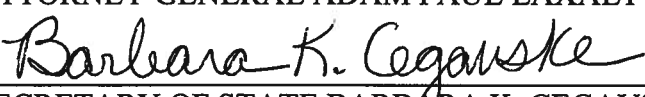
JAMES R. WELLS, CLERK

APPROVED: 

GOVERNOR BRIAN SANDOVAL, CHAIRMAN



ATTORNEY GENERAL ADAM PAUL LAXALT



SECRETARY OF STATE BARBARA K. CEGAVSKE