

Governor Steve Sisolak
Chairman

Susan Brown
Clerk of the Board



Attorney General Aaron D. Ford
Member

Secretary of State Barbara K. Cegavske
Member

STATE OF NEVADA BOARD OF EXAMINERS

209 E. Musser Street, Room 200 / Carson City, NV 89701-4298
Phone: (775) 684-0222 / Fax: (775) 684-0260
<http://budget.nv.gov/Meetings>

MEETING MINUTES

Date and Time: April 14, 2020, 10:00 AM

Location: Pursuant to the Governor's Emergency Directive 006, there will be no physical location for this meeting. This meeting can be viewed on YouTube. The link will not go live until 10:00 am
https://www.youtube.com/channel/UCF8zpKli9VhMDNVq_GsEYuQ/live

For Public Comments: 775-687-0999
Collaboration code: 40270

MEMBERS PRESENT:

Governor Steve Sisolak
Attorney General Aaron Ford
Secretary of State Barbara Cegavske

STAFF PRESENT:

Susan Brown, Clerk of the Board
Dale Ann Luzzi, Board Secretary

OTHERS PRESENT:

Kacey KC, Division Administrator, Department of Conservation and Natural Resources
Brad Crowell, Director, Department of Conservation and Natural Resources

1. Call to Order / Roll Call

Governor: I would like to call today's meeting for the State of Nevada, Board of Examiners for April 14, 2020 to order. Could I ask the Clerk to take the roll, please?

Clerk: Governor Sisolak?

Governor: Here.

Clerk: Secretary of State Cegavske?

Secretary of State: I'm here.

Clerk: Attorney General Ford?

Attorney General: Here.

Clerk: Let the record reflect we do have a quorum.

Governor: Thank you.

2. Public Comment (The first public comment is limited to comments on items on the agenda. No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Board will impose a time limit of three minutes).

Governor: Thank you. This is the first time set aside for public comment. Anyone wishing to address the Board on any item on today's agenda, items on today's agenda, please step forward, identify yourself for the record and comments will be limited to three minutes. Do we have anybody on the phone? Do we have any written public comment? We do not. This concludes public comment.

3. Approval of the March 10, 2020 Minutes (For possible action)

Governor: Moving on to item number 3, *Approval of the March 10, 2020 Minutes*. Do I have a motion?

Secretary of State: Move approval.

Attorney General: I second.

Governor: We have a motion on the floor to approve the minutes. Is there any discussion on the motion? Hearing and seeing none. All in favor signify by saying aye. Are any opposed? The motion passes.

4. State Vehicle Purchases (For possible action)

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

AGENCY NAME	# OF VEHICLES	NOT TO EXCEED:
Colorado River Commission	1	\$25,048
Department of Conservation and Natural Resources – Forestry Division	12	\$2,403,001
Total	13	\$2,428,049

Governor: Item number 4, *State Vehicle Purchases*.

Clerk: There are two requests for 13 vehicles in this agenda item. The first request from the Colorado River Commission and has been withdrawn. The second request is from the Department of Conservation and Natural Resources, Forestry Division for 10 replacement crew carriers for \$2,305,268. This also includes 2 replacement pickups for \$97,733. The 2 pickups have been withdrawn. The crew carriers meet the age and/or mileage requirements in the State Administrative Manual (SAM). Are there questions on this item?

Governor: Yes, there are questions. I have been briefed on this numerous times and you know my concern is that apparently this purchase was made prior to getting authorization. Is that correct?

Kacey KC: Yes, Governor, that’s correct.

Governor: Can you explain to me how that happened?

Kacey KC: Yes. It looked to be a series of issues on our side for which we are very sorry that this happened. We put this on the September Board of Examiners agenda but there were additional questions asked of us by the Governor’s Finance Office. I believe they asked for an updated quote at that time. At that time, both the position, our Fleet Manager position and the position supervisor had left, so this just kind of fell through the cracks.

Governor: These had to have fallen through massive caverns, not cracks.

Kacey KC: Yes, we noticed it when it went on this meeting agenda that the contract had continued to go forward.

Governor: Well, I am hesitant to approve this because procedure was not followed and there’s procedure for a reason, because it keeps it transparent and the public deserves to know what’s going on and this didn’t happen in this case – I don’t want to make this, it’s easier to ask for forgiveness than ask for permission, but I am very disturbed that the Division did not follow any purchasing protocols as it came to this. I just don’t understand how it could

get through. You didn't fall through one crack, there were a whole 100 cracks that this fell through and I just don't get how that happened.

Kacey KC: Governor, I looked back at the records that we had. We did try to follow all of the purchasing procedures and to put it on the Board of Examiners. I agree with you, there are big cracks. As I looked back and I mean, I don't know what to say about it at this point. It is not, I assure you, something that we tried to do intentionally or to beg forgiveness for. I do not operate that way.

Governor: Because I understand the urgency of the situation and the severity of the situation that we need these 10 vehicles with a wildfire season rapidly approaching us. I'm going to go ahead and approve this but I can assure you, if it happens again, I am not going to approve it and I'm going to require some changes be made in the Division. Does everybody understand that?

Kacey KC: Yes, Governor.

Brad Crowell: Yes, Governor, we appreciate the sentiment and we'll follow through accordingly, thank you.

Governor: Thank you.

Does anyone else have any questions as it relates to the purchase of the forestry service vehicles? Secretary or Attorney General, do you have a question on this one?

Secretary of State: I do not, sir.

Attorney General: I do not.

Governor: Do we have a motion?

Secretary of State: With the condition and understanding that you stated so clearly, I move for approval.

Attorney General: I second.

Governor: Thank you. We have a motion on the floor for approval. Is there any discussion on that motion? Hearing and seeing none. All in favor, signify by saying aye. The motion passes.

5. Authorization to Contract with a Current and/or Former State Employees (For possible action)

Board action under this item only grants permission to the employing agency. Current and former employees are still subject to all ethical requirements of NRS Chapter

281A, specifically including subsection 550 which restricts certain former employees and state agencies.

Department of Administration – Purchasing Division

Pursuant to NRS 333.705, subsection 1, the Department of Administration, Purchasing Division requests authority to contract with former employee Tammy Trio to perform fiscal management duties through Master Service Agreement #18404 with HAT Limited Partnership, dba Manpower.

Governor: Item number 5, *Authorization to Contract with a Current and/or Former Employee.*

Clerk: Item 5 includes 1 request to contract with 1 former employee. This request is from the Department of Administration, Purchasing Division to contract with a former employee to provide fiscal management services. This individual will be employed by Manpower through MSA #18404. This is a critical need for this particular position, as this Division that will be hiring this person does not currently have any fiscal people and they are not in compliance with their federal grants, in my understanding, so this will get them back on track.

Governor: Do we have any questions on item number 5?

Attorney General: None here.

Governor: Do we have a motion on item number 5?

Attorney General: Move approval.

Secretary of State: I second.

Governor: We have a motion for approval. Is there any discussion on that motion? Hearing and seeing none. All in favor, signify by saying aye. The motion passes.

6. Request for an Extension on Current Critical Labor Designated Positions in State Government as Continuing Critical Labor Shortages (For possible action)

Department of Public Safety – Capitol Police

Pursuant NRS 286.523, the Department requests an 18-month extension of the Board of Examiners' "critical labor" designation and a Public Employees Retirement System exception for four DPS Officer I positions and one DPS Officer II position.

Governor: Item number 6, *Request for an Extension on Current Critical Labor Designated Positions in State Government as Continuing Critical Labor Shortages.*

Clerk: Item number 6, pursuant to NRS 286.523, it is the policy of the State to ensure that the reemployment of retired public employees is limited to positions of extreme need. An

employer who desires to employ a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public in an open meeting. The Board of Examiners has the authority to designate positions in State Government for which there are critical labor shortages.

In determining whether to designate a position as a critical labor shortage, the Board is to consider and make findings on the efforts made to fill the positions through other means, the turnover rate for the position, the number of openings and number of qualified candidates, the length of time the positions have been vacant, any special circumstances, education or experience requirements for the positions and the history and success of recruitment efforts.

The Department of Public Safety requested and the Board approved the designation of DPS Officer I and II classifications as critical labor shortage positions in January 2016 and again in January 2018. In April 2019, the Board approved an exception to continue this designation for Capitol Police Officers through April 2020.

This item includes a request to continue one DPS Officer II and three DPS Officer I positions through October 2021 for Capitol Police. This item includes a report from the Department on the use and effectiveness of the critical labor shortage designation and a request to continue the designation of these four positions as critical labor and a Public Employees Retirement System exception for Capital Police.

This will allow the Department to continue to reemploy retired public employees who require little or no training to perform important peace officer duties. Should the Board approve the designation, it can delegate to the Clerk the notice of the designation to Public Employees' Retirement System and I will work with Director Togliatti and his staff to insure it is submitted timely.

Representatives from the agency are available to answer any questions Members may have.

Governor: Do we have any questions, Secretary Cegavske or General Ford, on item number 6?

Attorney General: None from me.

Secretary of State: None, Governor.

Governor: Do I have a motion on item number 6?

Attorney General: Move approval.

Secretary of State: Second.

Governor: We have a motion for approval on item number 6. Is there any discussion? Hearing and seeing none. All in favor, signify by saying aye. Are any opposed? The motion passes. Thank you.

7. Request for a Recommendation of Approval to the Interim Finance Committee for an Allocation Amount from the Contingency Account (For possible action)

A. Department of Corrections

Pursuant to NRS 353.268, Nevada Department requests the Board's recommendation to the Interim Finance Committee for \$4,870,606 from Contingency Account, to cover the cost of the projected shortfalls in Inmate Driven and Utilities expenditure categories for the remainder of the fiscal year.

Pursuant to NRS 353.268, the Department requests an allocation of \$2,149,866 in Fiscal Year (FY) 2020 from the Interim Finance Committee Contingency account to fund projected shortfalls in Medical Inmate Driven expenditures.

B. Department of Indigent Defense Services

Pursuant to NRS 353.268, the Department requests the Board's recommendation to the Interim Finance Committee for \$525,036 from the Contingency Account, for use over the biennium (Fiscal Year 2020 and Fiscal Year 2021), as an effort to reach a mutually agreeable resolution in the lawsuit with the American Civil Liberties Union.

C. Judicial Discipline Commission

Pursuant to NRS 353.268, the Commission requests the Board's recommendation to the Interim Finance Committee for \$49,593 from the Contingency Account, to cover the cost of judicial discipline investigations.

Governor: Item number 7, *Request for a Recommendation of Approval to the Interim Finance Committee for an Allocation Amount from the Contingency Account.*

Clerk: This item includes four requests for a positive recommendation to the Interim Finance Committee pursuant to NRS 353.268. The General Fund contingency account has an approximate balance of \$26.8 million to cover unanticipated costs for the remainder of the 2019-2021 biennium. If these items are approved the remaining balance in the account will be approximately \$19.1 million.

The first and second requests are from the Department of Corrections. The first request in the amount of \$4,870,606 is to cover non-medical related costs, this includes increased food costs, utilities and other projected shortfalls for the Department through the end of the fiscal year. The second request is for \$2,149,866 and this covers medical related shortfalls for the Department. The total request from the Department of Corrections is \$7,020,472. Are there any questions on these two items?

Governor: I have some comments on one of these. On number 2. For quite some time now, the Department of Corrections has been studying its policies regarding the Hepatitis C to ensure that the risk to inmates was as low as possible and to reduce the spread of this

infectious disease among the prison population. Department of Corrections (NDOC) took a physician focused approach that allowed doctors to exercise their own independent medical judgment as to what treatment was the most appropriate and when the treatment should be provided.

In November 2019, the Department adopted revised versions of Medical Directive MD-216 and MD-219. MD-216 ensures that all inmates are tested for Hepatitis C upon intake and provided testing for all inmates who had not previously been tested. Currently, approximately 75% of the prison population has been tested. The testing has identified approximately 1,200 Hepatitis C positive patients, requiring treatment. MD-219 provides, as a general policy, that all positive inmates will undergo a set of treatment protocol. This protocol costs over \$15,000 per inmate.

Treating these inmates in prison is critical for two reasons. First, if left untreated, this disease can spread widely through the prisons. Second, if not treated in prison, treatment will most likely occur after the inmate has been released. A large percentage of inmates are on Medicaid and treatment later in the disease lifecycle is more costly than treatment in the early stages. As a result, treatment in prison is less costly to the State.

The State of Nevada has been involved in litigation over this issue to ensure that NDOC is engaging in widespread testing and treatment. While MD-216 and MD-219 address both of these issues, both directives are routinely based on the Medical Director's recommendation. The recommendation to amend these directives is based on sound medical judgment of the Medical Director and not on any threatened or pending litigation. The request will cover the cost of inmate testing who have not yet been tested and treatment through the next fiscal year.

Do we have any questions on this?

Attorney General: I have none.

Secretary of State: No, Governor, thank you.

Governor: We'll take these separately. Do I have a motion on 7-A?

Attorney General: Move to approve.

Secretary of State: I second.

Governor: We have a motion to approve on item number 7-A. Is there any discussion? Hearing and seeing none. All in favor signify by saying aye. Are any opposed? The motion passes.

Item 7-B, *Department of Indigent Defense Services (DIDS)*.

Clerk: This request is from the Department of Indigent Defense Services for \$525,036 to fund items through a mutually agreed upon resolution in a lawsuit with the American Civil Liberties Union.

Governor: I have comments on this one, too. The Department is requesting the Board's recommendation to the Interim Finance Committee for \$525,036 from the Contingency Account for use over the biennium in an effort to reach a mutually agreeable resolution to a lawsuit. DIDS is a new Department created by Assembly Bill (AB) 81 in the 2019 Session.

Section 14 of AB 81 authorizes the Department to request funds from the Contingency Account if money is needed in the interim. AB 81 was a recommendation, Nevada Rights to Council Commission, a group of stakeholders who met ten times between the 79th and 80th Legislative Session to study issues related to the provisions of indigent defense in Nevada. These costs are necessary to stand up the Department, have been expected and will help DIDS comply with its duties under the law. In addition, this item will also help eliminate the risk of very significant costs due to ongoing litigation.

Do we have further comments or any questions on 7-B?

Attorney General: None here.

Governor: Do I have a motion on 7-B?

Attorney General: I move approval.

Secretary of State: I second.

Governor: We have a motion for approval. Is there any discussion on that motion? Hearing and seeing none. All in favor signify by saying aye. The motion passes.

Item number 7-C, *Judicial Discipline Commission*.

Clerk: The final request is from the Judicial Discipline Commission for \$49,593 to cover costs of Judicial Discipline investigations for the remainder of the fiscal year.

Governor: Do we have any questions on 7-C? Do I have a motion?

Attorney General: Move approval.

Secretary of State: I second.

Governor: We have a motion for approval. Is there any discussion on that motion? Hearing and seeing none. All in favor, signify by saying aye. The motion passes.

**8. Request for Authorization to Amend a Current Contract for a Price Increase
(For possible action)**

Department of Motor Vehicles

Pursuant to the contract #21527 section 17.1.5 for services of independent contractor between the State of Nevada and contracted vendor Idemia Identity & Security USA LLC, any increase in the price per card requires approval of the Board of Examiners (BOE). The department is requesting a price per card increase from \$2.16 per card to \$3.0704 or \$3.1039.

Governor: Item number 8, *Request for Authorization to Amend a Current Contract for a Price Increase.*

Clerk: This item is a request from the Department of Motor Vehicles, Administrative Services Division which requests Board approval to increase the pricing contained within the current contract with Idemia Identity and Security USA, LLC. This request changes the per card amount from \$2.16 to a range of \$3.0704 to \$3.1039 to include additional security features and postage. It is required through the contract for any price increases to be approved by the Board.

Governor: Do we have any discussion on item number 8? Do we have a motion on item number 8?

Attorney General: Move approval.

Secretary of State: I second.

Governor: We have a motion for approval. Is there any discussion? Hearing and seeing none. All in favor, signify by saying aye. The motion passes.

9. Approval of Proposed State Administration Manual Changes (For possible action)

Pursuant to NRS 353.040 the Governor's Finance Office – Budget Division requests modifications to the policies and procedures of the State Board of Examiners adopted and collected in the following section of the State Administrative Manual.

1. SAM Section 100 – Agency Attendance and Notification

Governor: Item number 9, *Approval of Proposed State Administration Manual Changes.*

Clerk: Item 9 seeks approval to revise State Administrative Manual, Chapter 100, Agency Attendance and Notification to reflect current practice of the Board. I am happy to go over any changes on this one, if you would like.

Governor: Do we have any questions on manual changes?

Secretary of State: I have none, move for approval.

Attorney General: I second.

Governor: We have a motion for approval on item number 9. Any discussion on that motion? Hearing and seeing none. All in favor, signify by saying aye. The motion passes.

10. Approval of Proposed Leases (For possible action)

Governor: Item number 10, *Approval of Proposed Leases*.

Clerk: There are 9 leases in agenda item number 10 for approval by the Board this morning. Are there any questions on any of these items?

Governor: Do we have any questions or a motion on item number 10?

Attorney General: I move approval.

Secretary of State: I second.

Governor: We have a motion for approval. Is there any discussion on that motion? Hearing and seeing none. All in favor, signify by saying aye. The motion passes.

11. Approval of Proposed Contracts (For possible action)

Governor: Item number 11, *Approval of Proposed Contracts*.

Clerk: There are 52 contracts in Agenda item 11 for approval by the Board this morning. Number 5, the contract with the Department of Administration, State Public Works Division and Carpenter Sellers Del Gato Architects needs to be revised. This would change the project from 17-P08, which is a planning project to 19-C19 which is a construction project and changes the funding source from general fund to bond funds. Are there any questions on any of these items?

Governor: Do we have any questions on item number 11 or a motion on item number 11?

Attorney General: I have no questions, move approval.

Secretary of State: I second.

Governor: We have a motion for approval. Is there any discussion? Hearing and seeing none. All in favor, signify by saying aye. The motion passes.

12. Approval of Proposed Master Service Agreements (For possible action)

Governor: Item number 12, *Approval of Proposed Master Service Agreements*.

Clerk: There are 5 Master Service Agreements under Agenda item 12 for approval by the Board this morning. Are there any questions on any of these items?

Governor: Do we have any questions on the Master Service Agreements?

Attorney General: None here.

Secretary of State: I have none.

Governor: Do we have a motion?

Attorney General: Move for approval.

Secretary of State: I second.

Governor: We have motion for approval. Is there any discussion on that motion? Hearing and seeing none. All in favor signify by saying aye. The motion passes.

13. Information Item – Clerk of the Board Contracts

Pursuant to NRS 333.700, 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 February 15, 2020 through March 23, 2020.

Governor: Item number 13 is information only. *Clerk of the Board Contracts.*

Clerk: There are 43 contracts under the \$50,000 threshold that were approved by the Clerk between February 15, 2020 and March 23, 2020. This item is informational only. However, I would note that number 20, which is between the Department of Agriculture and SMG Reno Facilities, has been terminated; and number 36, Division of Forestry and Carson Nugget, Inc., this event was cancelled. Are there any questions on this agenda item?

Governor: Do we have any questions on the Clerk of the Board Contracts?

Attorney General: None here.

Secretary of State: I have none.

Governor: Thank you.

14. Public Comment (This public comment period is for any matter that is within the jurisdiction of the public body. No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an

agenda as an action item. The Chair of the Board will impose a time limit of three minutes.

Governor: *Public comment.* This is the second time set aside for public comment. Anyone wishing to address the Board on any item, please step forward, identify yourself for the Board. The comments will be limited to three minutes.

Hearing and seeing none, I want to close the public comment.

15. Adjournment (For possible action)

Governor: I wanted to thank everybody for accommodating the difficult situation in conducting a meeting this way. It's not the ideal situation that we'd all have, but under the circumstances that we're in, I appreciate your help and cooperation and staying home for Nevada and practicing good social distancing.

With that, do I have a motion to adjourn?

Attorney General: So moved.

Secretary of State: I second.

Governor: We have a motion on the floor for adjournment. Is there any discussion? Seeing none. All in favor, signify by saying aye. We are adjourned. Have a great day.