

MINUTES

MEETING OF THE BOARD OF EXAMINERS

September 11, 2012

The Board of Examiners met on Tuesday, September 11, 2012, in the Guinn Room on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 3:00 p.m. Present were:

Members:

Governor Brian Sandoval
Attorney General Catherine Cortez Masto
Clerk Jeff Mohlenkamp

Others Present:

Dennis Gallagher, Attorney General's Office
Chris Nielson, Department of Taxation
Susan Hart, Office of the State Controller
Nancy Bowman, Attorney General's Office
Richard Hinckley, College of Southern Nevada
Rebecca Salazar, Department of Administration
Kimberlee Tarter, Purchasing
Richard Vineyard, Department of Education
Steve Fisher, Division of Welfare and Supportive Services
Diane Comeaux, Division of Welfare and Supportive Services
Greg Cox, Department of Corrections
Deborah Reed, Department of Corrections
Fawn Lewis, Department of Education
David Gustafson, Enterprise Information Technology Systems
Terri Chambers, Department of Insurance
Shannon Chambers, Business & Industry
Todd Rich, Department of Insurance
Gina Session, Attorney General's Office
Darlene Roullard, Department of Public Safety
Jaime Tuddao, Department of Transportation
Pete Anderson, Department of Forestry
Dave Prather, Department of Forestry
Doug Van Aman, Governor's Office Economic Development
Robert Chisel, City of Reno
Shawn Oliphant, Reno RDA
Kate Thomas, City of Reno
Nicole Lambole, Secretary of State
Clark Leslie, Attorney General's Office
Julia Teska, Department of Education
Sue Smith, Division of Welfare and Supportive Services
Terry Rubold, Department of Taxation
Claudia Vecchio, Department of Cultural Affairs

Matt Robinson, Department of Cultural Affairs
Tamara Nash, Department of Employment, Training, and Rehabilitation
Frank Woodbeck, Department of Employment, Training, and Rehabilitation
Dawn Rosenberg, Department of Corrections
Katie Armstrong, Attorney General's Office
Andrew Clinger, City of Reno

1. PUBLIC COMMENTS

Comments:

Governor: Good afternoon, ladies and gentlemen. I'd like to call the Board of Examiners meeting to order. The Attorney General is present in Southern Nevada. Can you hear us loud and clear in Southern Nevada?

Attorney General: Yes, Governor, we can hear you.

Governor: Agenda No. 1 is public comment. Is there any member of the public here in Carson City that would like to provide public comment? Is there anyone present in Las Vegas that would like to provide public comment?

Attorney General: No, Governor. There's no one here.

*2. FOR POSSIBLE ACTION – APPROVAL OF THE AUGUST 14, 2012 BOARD OF EXAMINERS' MEETING MINUTES

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: We will move on to Agenda Item No. 2, approval of the August 14, 2012 Board of Examiner's meeting minutes. Madam Attorney General, have you had an opportunity to review the minutes?

Attorney General: Yes, I have, Governor. I would move for approval.

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

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

The State Administrative Manual (SAM) is being submitted to the Board of Examiners’ for approval of additions in the following Chapter: **2000 – Nevada State Library and Archives**

Clerk’s Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 3, Mr. Mohlenkamp, good afternoon.

Clerk: Thank you, Governor. Before the Board is one small change to the State Administrative Manual. It merely changes the location of the Library and Archives Division from Cultural Affairs to the Department of Administration. It’s just something we didn’t catch before, so it’s just a small clean up.

Governor: I have no questions with regard to Agenda Item No. 3. Madam Attorney General?

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

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

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

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

A. STATE OF NEVADA – \$7,250,000

The State of Nevada and Washoe County desire to settle a dispute that exists between them regarding the refund of certain taxes in the amount of \$1.25 million in immediate payment and \$6 million in the form of funding for major road maintenance projects in Washoe County.

Clerk’s Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 4, approval to pay cash settlement. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board is an item that was before the Board actually before as an informational item. On July 6, 2011, Washoe County issued a demand letter or

return of tax funds that they claim were improperly diverted from the County to the State General Fund. This is pursuant to AB595, which is part of the 2007 legislative session, and then AB543, which was in 2009. Washoe County's initial claim was for \$21,497,617. This was brought before the Board as an informational item, at which point in time you directed the Chief of Staff and myself to begin discussions with the county and determine if we could resolve the disagreement. So I'm pleased to report to you that we have entered into settlement negotiations and before the Board is now a settlement request in the amount of \$1,250,000 cash, which would be payable out of the Statutory Contingency Fund, and \$6 million in projects that would be prioritized, these are highway projects out of the Highway Fund, and these are projects that have already been approved by the Transportation Board, but they could be expedited and moved forward more rapidly to deal with some of Washoe County's road issues that they've identified that they'd like to have addressed.

So this claim is before the Board, and it's also been approved by the Washoe County, the Board of Commissioners on August 14, so this is the last piece of the puzzle if you will to move forward with the settlement. I do want to point out one item that the Board needs to be aware of. The current balance of the Statutory Contingency Fund is \$1,721,842. Item 4A and B will bring the Contingency Fund down in the range of 200,000 plus. So it would be my intention moving forward to replenish the fund somewhat, going to Interim Finance Committee for a Contingency Fund allocation. The exact amount of that I haven't determined yet. I've been looking at some historical averages of numbers of what we've spent, and I believe it'll be a few hundred thousand dollars that I'll be requesting. So that will be something that will be coming back before the Board on a future Agenda.

Governor: Thank you, Mr. Mohlenkamp, and with regard to settlement, at least according to math and the amount demanded, that at least with the cash settlement portion, it would be seven cents on the dollar that we were settling for?

Clerk: Yes. Thank you, Governor. What we have here is the initial claim was 21.4 million. After Washoe County had a chance to look at it, and identify that some of what they were claiming was actually highway funds that had been really used in their jurisdiction, they backed away from that portion of the claim. We reduced the claim to about 17.89 million. So if we look at the claim, the 1.25 million from General Fund, basically Statutory Contingency Fund which is part of the General Fund, it really equates to about seven cents on the dollar for that type of, you know, that type of claim. The whole claim, if you include the other highway portion, is about 40 cents on the dollar, or 40 percent of what the demand is at this point.

Governor: But at least with regard to the transportation piece of the settlement, those were projects that would have been built anyway, but now they will receive priority as original to the settlement.

Clerk: Yeah, that's correct. As part of this, these are projects that have been identified. They've been put on the Board of Transportation and approved, and so these things are going to be expedited. They would have been projects that would have been out some years, so they're being expedited and moved forward.

Governor: And I understand Mr. Gallagher is here on behalf of the Department of Transportation. I do have one question if I may.

Dennis Gallagher: Good afternoon, Governor. For the record, Dennis Gallagher of the Attorney General's office representing the Department of Transportation.

Governor: Just a narrow question, Mr. Gallagher. The Department of Transportation has the authority to do what we've just discussed which is determining the timing and the priority of these particular projects?

Dennis Gallagher: Yes, Governor, it does. These projects, I believe, have all been submitted at various times to the Transportation Board and approved by them.

Governor: And there's no issue associated with this settlement, and including this transportation piece in addition to the cash (inaudible).

Dennis Gallagher: That is correct. Representatives of the Department of Transportation met with their counterparts in Washoe County, identified these projects, prioritized them, estimated their value to come up with a number that's close to the \$6 million, and as actual costs may vary, some of the projects may get moved up or moved down, but both parties are aware of that.

Governor: Thank you. And, Madam Attorney General, I do have a couple more comments to make, but did you have any questions for Mr. Gallagher before he leaves the table?

Attorney General: No. I do not, Governor.

Dennis Gallagher: Thank you, sir.

Governor: I suppose my final comment is, and it's not really a question for you, Mr. Mohlenkamp, but there is a provision within the settlement agreement and I point to paragraph three where as a result of this settlement there is no acknowledgement by the State that there is liability here. This is simply a resolution of a disputed claim, correct?

Clerk: Governor, that's my understanding. I'll defer to legal counsel on the specifics of the legality, but my understanding is that the State is not identifying any wrong whatsoever.

Governor: I see Mr. Monroe in the office. If I may ask him a quick question, Mr. Monroe, or that same question. Mr. Mohlenkamp's great, but he...

Clerk: (Inaudible).

Governor: Good afternoon, Mr. Monroe.

Mr. Monroe: Hi, Governor.

Governor: I have the Settlement Release and Waiver Agreement, and within it is paragraph three which is entitled “No Wrongdoing,” and there’s language in there that says essentially that the parties agree and acknowledge that this agreement shall not be construed or interpreted as an admission on the part of either party of any fault, liability or wrongdoing (inaudible) to compromise the dispute for the purpose of avoiding the expense and burden of further litigation. In other words, there is no future -- no one else who may be seeking a claim could construe this as an acknowledgement by the State that this case has a binding effect on the State.

Mr. Monroe: Correct.

Governor: That’s all I have. Thank you. Madam Attorney General, do you have any questions with regard to this Agenda Item 4A?

Attorney General: I do. Just a clarification, because it’s a little hard to hear what’s happening there in Carson City. Did I hear Mr. Mohlenkamp correctly say that if we were to pay out the 1.25 million out of the BOE Statutory Contingency Fund that leaves a balance of just a little over 200,000?

Clerk: Madam Attorney General, when you consider 4A and B together, if those both are approved by the Board, then that’s the amount that we would have left is something just over 200,000. So I was identifying that if both A and B -- 4A and B are approved. This obviously -- if just this approved, and B is not approved, then you would have an additional 274,000.

Attorney General: Okay. And so if A and B are approved and leaving only 200,000 for the remaining of the fiscal year obviously gives us all I think some concern. So did I also hear that you would be looking at other ways to replenish the fund?

Clerk: Yes. The option we have available to us right now until the legislature is in session is to pursue some IFC Contingency Fund allocation, and that is what I would be pursuing. Once we get into session, we would be looking at more of a supplemental appropriation at that point in time if that was necessary. So because I want to be prudent, and I’d rather have too much funds and have to revert some, I will probably be seeking an IFC Contingency Fund allocation, a couple hundred thousand, I’m not sure exactly what balance I’ll be looking for as I’m doing some analysis of claims from prior years to identify about how much we think we’re going to have for the remainder of the year.

Attorney General: Okay. Thank you.

Governor: I have no further questions or comments. Madam Attorney General, are you prepared to make a motion?

Attorney General: Yes. I would move for approval of Agenda Item No., what are we on here, 4A.

Governor: And would that be in sum of \$7,250,000, but it is described in the information that’s been provided in our binders?

Attorney General: That is correct, Governor.

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

B. DEPARTMENT OF ADMINISTRATION – \$274,443

The Department requests settlement approval in the amount of \$274,443 pertaining to a Settlement Agreement between the City of Reno, the Reno Redevelopment Agency, Washoe County, the Washoe County School District and the State of Nevada regarding the outstanding property tax increment dispute.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Move on to Agenda Item 4B. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Another settlement is before the Board. This is requesting to pay the Reno Redevelopment Agency an amount of \$274,443 to settle a dispute with regard to once again taxes that are claimed to have been in this case diverted to the -- I shouldn't say diverted, but not paid to the development authority. Instead those funds from the State's perspective were actually put into the (inaudible) fund. So this claim actually is pertaining to that settlement agreement of which the State is a very small participant, because our piece of the property taxes is very small compared to the county and the cities. Our piece is pretty small. This is a very complicated detailed piece. I've read it three times and I still am not intelligent enough to be able to reiterate it. I'm hoping that somebody from taxation or the attorney is here to be able to deal with this a little bit more intelligently than I can.

Governor: Mr. Mohlenkamp, you're more than adequate, but it is extremely complicated. I see the Director of Taxation is here, Mr. Nielson, and counsel as well. So if you -- I mean, my understanding is essentially there was a floor amount, and because of some changes in property taxes and such that we didn't pay as much as we were supposed to, and now we need to catch up with that amount. And I know that's an overly simplified explanation, but if you would please provide the status of this settlement.

Chris Nielson: Good morning, Governor. For the record, Chris Nielson, Director for the Department of Taxation. And you are correct, Governor. That is the 30,000-foot overview. It was discovered in working with the city about this time last year that there was a shortfall with the RDA allocation. And upon further review, it appeared that the statute had been not interpreted correctly, so we requested an Attorney General's opinion from the Attorney General's office, and we received such opinion, and Washoe County disagreed with that interpretation and the parties, including the city and the school district, have been working together to resolve the disputes. I believe the total amount of the variances is outlined in the

settlement agreement which is about \$4.1 million. And as Director Mohlenkamp had pointed out, the State's share which is attributable to the 17 cent debt service that the State receives on real property totals approximately I believe it's \$270-some thousand. But I have -- if you have any specific questions, Governor, if you want to get in the weeds, I have Terry Rubald from the department here if you have any really detailed questions, and I believe the City is here as well.

Governor: I don't. Thank you, Mr. Nielson. Just that this resolves this claim once and for all is well and correct.

Chris Nielson: Yes, Governor. It resolves this claim, and it also sets some mechanism to -- if there's a shortfall and in future years how that would be calculated, and again, the State's should -- it would be anticipated if there is a short fall that the State's share would be relatively insignificant.

Governor: I have no further questions. Madam Attorney General, do you have any questions?

Attorney General: Just a clarification. One, at least the backup documents that I have show that the Department of Admin is seeking 2.2 million from BOE, and I think that's the Washoe County amount, so we actually are only seeking \$274,443 for the State's amount that we are paying in. And then secondly, and maybe Mr. Nielson can address this, my understanding is that for past and future payments of tax revenue, there is also still a question about the unsecured role and that Department of Taxation will be providing an answer to that question; is that correct?

Chris Nielson: Yes, Madam Attorney General, that is correct. And there is a -- I believe it's an informal opinion that was issued by your office in the early to mid-'80s that appears to address that question, but I think the department will be formally answering that question, so that is correct.

Attorney General: And so is there a possibility that based on whatever that opinion is, and I'm sorry, I'm having trouble hearing you, but is there a possibility that you may be coming back to the State for more money because of your opinions based on this unsecured role analysis?

Chris Nielson: Madam Attorney General, no. I do not believe we will be coming back to the Board of Examiners for more money. I believe it's all set out in the agreement, and the mechanisms are put into place to account, regardless of how the Department of Taxation would weigh in on that issue.

Attorney General: Okay. Thank you. That's all I have, Governor.

Governor: Thank you very much. If there are no further questions, the Chair will accept a motion for approval of Agenda Item 4B.

Attorney General: Governor, I will move for approval of Agenda Item No. 4B in the total amount of \$274,443 as identified in the backup information.

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

***5. FOR POSSIBLE ACTION – REVIEW OF A CONTRACT WITH A FORMER EMPLOYEE**

A. OFFICE OF THE STATE CONTROLLER

Pursuant to Assembly Bill 240, Section 1, Subsection 3 of the 2011 Legislature, the Office of the Controller hereby seeks a favorable Board of Examiner’s recommendation regarding the Controller’s determination to use the emergency provision to use a temporary services contract from August 20, 2012 to December 14, 2012 to employ a former ARRA Report & Account Officer, for four days per week during the contract period, for the purpose of providing assistance to existing staff in completing the State’s Comprehensive Annual Financial Report (CAFR). The CAFR is an essential component of the state’s financial reporting and failure to complete the report in an accurate and timely manner could result in a negative impact to the State’s bond rating.

In the past two years, there has been a twenty-three percent turnover in experienced CAFR staff. In addition, another key CAFR employee may require catastrophic leave during the CAFR preparation period. This former employee previously worked for the State for 28 years, most recently in the Controller’s Office, and at the highest level of financial responsibility.

NRS 284.1729

3. “... If a department, division or agency contracts with a person pursuant to this subsection, the department, division or agency shall submit a copy of the contract and a description of the emergency to the State Board of Examiners, which shall review the contract and the description of the emergency and notify the department, division or agency whether the State Board of Examiners would have approved the contract if it had not been entered into pursuant to this subsection.”

Clerk’s Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: We will move on to Agenda Item 5.

Clerk: Thank you, Governor. Before the Board is another request for approval to contract with a former employee. In this case it’s the Office of the State Controller. They’re seeking approval to have a former employee come back to provide county-related services during the time in which they are completing the CAFR report. Specifically from August 20, 2012, so this is going back prior to this meeting, to December 14, 2012, and at that point in the time the services under this approval would have to terminate. If they were to seek to go -- if they wanted to continue this, they would have to come back before the Board for additional approval.

Governor: Thank you, Mr. Mohlenkamp. My first question is, I recall that this is an employee that we made a payment in a previous meeting of the Board of Examiners for a buyout I believe of \$180,000; is that correct, approximately?

Clerk: Yes. This particular individual left service and they did receive a buyout, I believe, of five years, and that totaled \$181,000.

Governor: And this request is temporary as you say, so if there's -- at least my review of the information that was provided by the Controller's office is this was simply to finish this CAFR report which is the State's Comprehensive Annual Financial Report, and to get them through that because they don't have the personnel to get it done, but thereafter I don't see any indication that they'll be seeking an extension of employment for this employee.

Clerk: I haven't received any information to suggest that the Controller's office wants to continue this beyond the December 14 timeframe. If they did, once again, they would have to come back before the Board, because what's agendaed is only through December 14, 2012. So anything beyond that would require approval. And in this case, the emergency provisions under AB240 allow them to go forward and execute this on their own, but any future, they would have to come back before and get prior approval from the Board. So it would have to be on one of the next couple Agendas if they needed to do that.

Governor: Do you know whether there's any effort to get somebody trained to be able to perform these functions so that we don't have to get -- so this doesn't get...

Clerk: Governor, I'd have to defer to the Controller's office on that.

Governor: Is there -- yes.

Susan Hart: Good afternoon, Governor, Madam Attorney General. This is Susan Hart for the Controller's office for the record.

Governor: Thank you, Ms. Hart. My question to the Director was whether there's an effort on behalf of the Controller's office to get somebody trained in this CAFR area, because that's the purpose of this temporary agreement is because a shortage of skills in the office. But once this contract terminates, will there be a person who's trained to perform those duties and functions?

Susan Hart: Absolutely, Governor. That's the intent of this contract is to bring our CAFR staff up to speed. As you remember from the materials, we had a lot of turnover in the past few years, and this will help us immensely to recapture that expertise.

Governor: What does a 23 percent turnover equal?

Susan Hart: Three out of nine people.

Governor: Three out of nine?

Susan Hart: Nine and a half, yeah.

Governor: All right. That's all I have. Madam Attorney General, do you have any questions?

Attorney General: No, I do not.

Governor: Thank you very much, Ms. Hart. Having no further questions, the Chair will accept a motion to approve the contract with a former employee on behalf of the Office of the State Controller.

Attorney General: Governor, I would move for approval of Item 5A.

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

***6. FOR POSSIBLE ACTION – STATE VEHICLE PURCHASE**

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

AGENCY NAME	# OF VEHICLES	NOT TO EXCEED:
Department of Administration – Division of Enterprise IT Services	2	\$66,406
Department of Conservation and Natural Resources – Division of Forestry	2	\$519,096
Total:		\$585,502

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: We'll move on to Agenda Item No. 6, state vehicle purchase.

Clerk: Thank you, Governor. Before the Board are two requests. The first is from the Department of Administration, Division of Enterprise IT Services. I want to provide a clarification. It identifies two vehicles. This only covers one vehicle, and I've been advised by legal counsel that that adjustment can be made at the table. The amount for the one vehicle is correct. And you'll be seeing the second vehicle come back on a subsequent Agenda. Then the second is the Department of Conservation and Natural Resources, Division of Forestry, and this is for two fire trucks. When I looked at that dollar amount I was a little shocked, but it actually is the fire trucks that they use out in the field, and they -- I believe representatives are here if you have any questions.

Governor: Thank you, Mr. Mohlenkamp. And I have no questions with regard to the fire trucks. I'm sure they're needed, and they're getting a lot of use, correct, Mr. Anderson, or the ones that exist now. My question is not with regard to the validity of the purchase. I'm just curious. I'm starting to see this in a lot of agenda -- or a lot of these requests for the vehicles, is that this vehicle needs to be replaced for the safety of the employee. Now, I understand that

these are high-mileage vehicles. I think one of these has 138,000 miles, but it concerns me that if we put -- do we sell these vehicles once they're replaced?

Clerk: You know, I'm not sure if these particular vehicles are excessed or if they're actually sold at auction, and I think it's probably one of the two. I think in this particular case, both of these situations, we're dealing with people that are out there working out in the field, either out on mountain tops (inaudible) or out fighting fires and the extreme conditions that they're working under, and the remote locations is probably why they're talking about the safety issues. I think that's -- I'm guessing that's probably more to the point.

Governor: No. And I understand that perfectly. Again, I saw the materials that they -- indeed, these are State employees who are in remote places, but I think it gives some kind of an indication that perhaps the vehicle is unsafe and that it might create a liability issue down the line, so perhaps it could be phrased a little differently on resale.

Clerk: Thank you. We'll take a good look at that.

Governor: Thank you. I have no further questions with regard to this Agenda item. Madam Attorney General?

Attorney General: No, Governor. I would move for approval of Item No. 6.

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

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

**A. Debra Lopez and Daniel Marks, Esq. – TC 16293
Amount of Claim - \$105,000.00**

Recommendation: The report recommended that the claim be paid in the amount of \$105,000.00.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Agenda Item No. 7, tort claim.

Clerk: Thank you, Governor. So there is one claim for the Board to consider in the case of Debra Lopez and Daniel Marks. This is a claim of \$105,000, and I believe representatives are here to be able to provide any additional information you need.

Governor: Is there a representative here?

Attorney General: Governor, there is a representative down here in Las Vegas.

Governor: We have the whole state covered.

Nancy Bowman: We do, Governor. This is Nancy Bowman, Tort Manager for the State, and in Las Vegas we've got Richard Hinckley and Diane Welch who are counsel for Southern Nevada - for College of Southern Nevada.

Governor: Thank you. And we have the amount of the settlement is \$105,000, correct?

Nancy Bowman: Yes, that is correct.

Governor: And that is for -- that will resolve all claims against the State?

Nancy Bowman: That is correct.

Governor: And there is a recommendation from the Attorney General's office that this is a good settlement?

Nancy Bowman: It is, Governor. The claimed potential damages if the case were to go to a jury and an adverse judgment could have resulted in a judgment of over 500,000 against the State. The original EEOC complaint had demands of over 800,000.

Governor: And part of the motivation to resolve the case is the witnesses aren't available; is that accurate?

Nancy Bowman: That is correct. Ms. Lopez's direct supervisor has since deceased. Two of other key witnesses live out of state, and the incident happened in about 2007, so because of that time as well, damages would also be increased.

Governor: And, Mr. Hinckley, were you handling this case, or did we have outside counsel?

Richard Hinckley: Governor, we were handling that case.

Governor: All right. And then was there an estimate with regard to the State's exposure on attorney's fees as well in addition to the damages?

Nancy Bowman: Richard, do you know for sure if we had that estimate on attorney's fees?

Richard Hinckley: Sure. Based on prior experience and also taking a look at the elements in this case, if there had been a judgment against us, then the attorney's fees and costs we would conservatively estimate at over \$100,000.

Governor: And final question is, I see that the case was presented to a Magistrate in an early neutral evaluation. So is this settlement -- was it motivated by the findings of that settlement judge?

Richard Hinckley: I couldn't hear the last of the question, but the settlement is consistent with that mediation process, and it's also, I think, helpful to know that the Magistrate that dealt with this recently was general counsel at a large entity that employed many public employees and had good insights, and offered, I think, both parties encouragement towards the end result of this settlement which should be one more encouraging factor as to the outcome.

Governor: That's all I have. Thank you very much. Madam Attorney General, do you have any questions?

Attorney General: No, I do not, Governor.

Governor: Thank you. The Chair will accept a motion for approval of the tort claim in the sum of \$105,000 as described in Agenda Item No. 7.

Attorney General: I move for approval.

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

***8. FOR POSSIBLE ACTION – VICTIMS OF CRIME FY 2012 REPORT**

DEPARTMENT OF ADMINISTRATION– VICTIMS OF CRIME

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

The fiscal year 2012 Victims of Crime Program report states all approved claims were resolved totaling \$24,255,504.52, with \$6,109,634.27 paid out of the Victims of Crime Program account and \$18,145,870.25 resolved through vendor fee adjustments and cost containment policies.

The program anticipates future reserves at \$4.6 million to help defray crime victims' medical costs.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Agenda Item No. 8, Victims of Crime report.

Clerk: Thank you, Governor. Before the Board is an annual report and it summarizes that out of claims resolved totaling over \$24 million, with actual payments of just a little over \$6.1. So I think one of the things that's really triggered or identified is that the process that we use within Victims of Crime actually saved over \$18 million in claim resolution that we didn't have to pay out. I think Rebecca Salazar is down in Vegas to be able to provide any additional information like, but I think this shows future reserves that are available, and a program that seems to be going very well.

Governor: Thank you. And, Ms. Salazar, I have no questions, I only have compliments to give. I think you guys are doing a great job and I really appreciate your hard work.

Rebecca Salazar: Thank you, Governor.

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

Attorney General: Governor, I would echo your comments. You know, I've been working with the compensation fund for a number of years now, and they do a phenomenal job. This is the first report that I've seen though where we actually -- it looks like we have reserves for the future, and we've been able to actually help more victims during this past fiscal year. So thank you very much for the hard work that you do, and quite frankly, with really few staff. How many staff in total at the Victims of Crime?

Rebecca Salazar: Seven statewide.

Attorney General: Seven statewide, so it's a phenomenal job. So thank you very much.

Rebecca Salazar: Thank you very much, I appreciate that.

Governor: Thank you. Madam Attorney General, are you prepared to make a motion to approve the report?

Attorney General: Yes, Governor. I move for approval of Agenda Item No. 8, the Victims of Crime Fiscal Year 2012 report.

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

***9. FOR POSSIBLE ACTION – LEASES**

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

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Move on to Agenda Item No. 9, leases. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are five leases for consideration. I would point out that while we don't -- are not seeing quite as many with a substantial savings, and I think, you know, I don't think we're done yet. We're still going to get some more. Item No. 4 actually does have substantial savings, you know, relatively substantial, \$130,000 over the term, and so we're still seeing some of these come through.

Governor: Thank you, Mr. Mohlenkamp. And my compliments to whoever negotiated that lease and provided that savings to the State. I have no questions with regard to leases described as 1 through 5 in Agenda Item No. 9. Madam Attorney General, do you have any questions?

Attorney General: Governor, I have no questions. I would move for approval of Agenda Item No. 9.

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

***10. FOR POSSIBLE ACTION – CONTRACTS**

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

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

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

Clerk: Thank you, Governor. Before for the Board are 80 -- it looks like my (inaudible) a little off here, but 82 contracts for consideration. I do want to point out that Item 16, the agency has requested that be withdrawn at this point in time, and that'll probably appear on a future Agenda.

Governor: Thank you, Mr. Mohlenkamp. I have asked to hold Contracts 13, 20, 28, 29, 57, 59, 60, and that's all I have. Madam Attorney General, did you have any particular contracts you wanted to hold?

Attorney General: No, Governor.

Governor: Okay. We'll begin with Contract 13, which is the Department of Administration and Las Vegas Rescue Mission.

Kimberlee Tarter: Good morning, Governor. For the record, Kimberlee Tarter, Deputy Administrator with the Purchasing Division.

Governor: Good afternoon, Ms. Tarter. Just a simple question is that we have several of these types of contracts, and I see the Las Vegas Rescue Mission is a new one; is that correct? It says on here a new contract.

Kimberlee Tarter: It is a new contract, but it's not a new business relationship. We have done business with the Las Vegas Mission and several other non-profits to provide food for our emergency food assistance program for low-income families.

Governor: No. And I assure you I'm not here to question policy and the validity of providing these, but is there -- what goes into the decision-making process with regard to which providers you choose to distribute the food?

Kimberlee Tarter: Actually, we enter into these arrangements through a request for qualifications process that the Purchasing Division does facilitate for our quantity food program. We have qualifications, very straightforward ones that we've put out there and for a great extent it's regional. So anybody that can meet the qualification that is willing to distribute the food essentially responds and identifies which region they were willing to provide assistance to. And then we work with them in providing that food, and it's a pass through a federal program. The other thing that's important to note is that those qualifications are essentially those that are established by the USDA, and so we're a gatekeeper for that.

Governor: And is Three Square the central clearinghouse and then these others get their food from there? How does the food get to each one of these providers?

Kimberlee Tarter: Actually, the Purchasing Division is the clearinghouse for the food. We have a warehouse in Reno, and we have a warehouse in Las Vegas, and the food comes to our warehouses. We also have warehouses that have chillers and we bring the food in and it's -- the program is married up with our Excess Property Program, so essentially when we distribute the food to these food programs, we try to keep our trucks full running both ways, so if the food comes into our warehouse and then we load it in the trucks, distribute it out to the non-profit to distribute to the community. As we do that, we work with State agencies to then bring their excess property back with us to our warehouse. So it is as efficient a program as we can possibly make it.

Governor: And I thank you for that, and I guess the bottom line is, I see these one-pagers and I don't understand completely how -- mechanically how it all works, and so I appreciate your giving me that information. So I have no further questions on that.

Kimberlee Tarter: Great. Thank you very much.

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

Attorney General: No, Governor. I do not.

Governor: Thank you, Ms. Tarter. Next item is the Department of Education. Good afternoon, sir.

Richard Vineyard: Good afternoon, Governor. I'm Richard Vineyard from the Office of the Assessment Program and Accountability Curriculum at the Department of Education.

Governor: And similar to what the last Agenda Item is, that this is a new contract that is connected with our collecting information, so I was just interested in I guess a little more specifics as to how this contract is going to work and how the Department of Education will benefit from that.

Richard Vineyard: Okay. Thanks for the opportunity. We're engaging in this contract to expand and enhance our current student information system that we use to collect student information data from all the districts. And since we've been recently granted the waiver under the No Child Left Behind Act, it will allow us to collect and calculate and produce the reports we need for the new Nevada school performance framework. In addition to the kinds of things we collect now, it will also allow us to produce new reports that will be available to the public even on an iPad or an iPhone, and let us do data analysis to see if there are anomalous changes in data that we might want to look into. It's going to allow us collect more data and actually the different kinds of data sets than we currently collect, because we'll need them to populate the tables that we use to calculate the school performance categories, you know, whether it be under the new framework, whether it be for one-star school up to a five-star school, and to produce those reports in ways that will be transparent to the public and easy to understand.

Governor: All right. So you say iPad and iPhone. I'm literally a parent of a third grader. You know, I think I walk in the shoes of a lot of parents. How will this be beneficial to me as I seek information with regard to the education of my child?

Richard Vineyard: My understanding is that once the system is fully developed -- we currently have the Nevada report card which is online and it's a very good system. We're going to -- the contract that we're engaging in under this proposal will actually open a new report card that will have more information on it, and so not only will you be able to go in and look at schools to compare how schools are doing, you'll be able to look at growth within schools, you'll be able to compare schools to each other, you'll be able to look at eventually how teachers in those schools are doing relative to being effective educators or highly effective educators. And, again, that will be available on the computer from us at the Department of Education or on a variety of mobile applications, so it will be more accessible than it's ever been to the public.

Governor: That's excellent. Do you have an estimate of how long it will take for it to go be available?

Richard Vineyard: Well, we're starting the contract hopefully as soon as this -- as soon as we get approval, and we're hoping that this system will be fully operational within the next two years.

Governor: That's all I have. Madam Attorney General, do you have any questions?

Attorney General: No, Governor, I do not.

Governor: Thank you. That was very helpful. Next are Agenda Items 28 and 29.

Steve Fisher: Good afternoon, Governor, Board members. For the record, Steve Fisher, Deputy Administrator for the Division of Welfare and Supportive Services.

Governor: Good afternoon, Mr. Fisher, and I recall approving these contracts before. And, again, I have no -- I'm not questioning the validity and policy of these, but what we're seeking to

do and we're spending close to \$900,000 to improve the likelihood that recipients (inaudible) benefits will make healthy food choices. So do we -- how do we measure whether we're accomplishing that goal?

Steve Fisher: Well, for example, the contract that you're talking about is a contract with University of Nevada Reno in the south. Just for example, in 2011, they provided education to approximately 13,500 Nevadans, so we track who goes through these different classes. They provide up to 15 different programs, different classes all the way from mother breastfeeding classes all the way through to seniors. They partner with the WIC program, food distribution programs, children's nutrition programs. They support the fresh fruit and vegetable programs available for schools, and so and so forth. So I don't if that -- does that answer your question?

Governor: Sort of. And, again, you know, we get these reports that Nevada's is not really up there when it comes to these types of issues, and so I guess where I'm going is, how do we know that we're starting to -- that the clients are clients are starting to make better choices as a result of these programs. Do we know that?

Steve Fisher: I don't know the answer to that question.

Governor: And I'm not, you know, I'm just trying to see...

Steve Fisher: No, I understand. Exactly.

Diane Comeaux: Good afternoon. For the record, I'm Diane Comeaux. I serve as the Administrator for the Division of Welfare and Supportive Services. The money that we use to support this comes to us through a federal grant and we have outcome measures that we have to report on every year to the USDA on whether or not, you know, they test after the training and they go back and follow up with them after the training too, and that's how we know when they're not making good choices. All of the USDA programs that do provide food throughout Nevada have a training component and an outreach component, and I think you're aware we're doing a strategic plan for that. One of the processes or one of the things we're looking at as part of that strategic plan is pooling all of those resources together to be more strategic in the populations that we target for those training. These contracts go through a year, and the plan has already been approved by the USDA for the next year, so the target is for them to start with the planning for the next grant cycle.

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

Attorney General: No, Governor.

Governor: Before you leave, Ms. Comeaux, I was hoping you would come to the table. Just take this opportunity to thank you for your service to the State. I understand that you will be leaving State service in the very near future, and just really appreciate all that you've done in all your different responsibilities and capacities in your State service. So thank you for what you've done and best of luck to you in your future endeavors.

Diane Comeaux: Thank you.

Governor: Thank you, Mr. Fisher. Next is 57, 59, and 60, all Department of Corrections. It's always a pleasure, Director Cox. I mean that in the most affectionate way.

Greg Cox: Thank you, Governor. Good afternoon, Madam Attorney General. I'm here to answer questions in regards to 57, which concerns American Benefit Plan Administrators, now Zenith American, concerning their cost containment efforts and their administration services for the department in regards to medical claims made by inmates and outpatient services.

Governor: And you've anticipated my first question. It was simply how is that utilization going? How are they performing?

Deborah Reed: Let me give you -- Deborah Reed for the record. I'm the Deputy Director of Support Services at the Department of Corrections. The ABPA contract, Zenith American, is a third-party claims administrator. It works very similar to our HealthSCOPE that we use as State employees. We go through, what is it, Hometown Health who approve the claims, do the PPO, you know, that's the PPO network, and then HealthSCOPE pays the bills. And that's what ABPA does for the Department of Corrections. What basically they do is they avoid collusion or fraud for us. We don't get involved in reviewing each and every claim that is sent to the department. It's just a hands back, hands off and they review and they basically protect the department.

Governor: And obviously you're satisfied with their performance given the extension of the contract.

Deborah Reed: Very satisfied. I don't think we would -- it would be very costly for us to have staff do that, to train the staff, to keep the staff going to review all the claims. Another thing that they do too is they review to make sure that it's actually the inmates that we're paying claims on. The example that our administrator gave us today was an inmate being released and going to the hospital two weeks after release, and that's one of the things that they check for.

Greg Cox: Governor, Greg Cox, again, Director. We constantly update that list we provide to them to ensure that someone doesn't go in and get those types of services and then charge them back to the department or the State.

Governor: Thank you. And we'll move on to 59, and I understand this contract is the result of the settlement of that kosher food case.

Greg Cox: Madam Attorney General and Governor, we are still -- currently we have a fairness hearing scheduled October 10. We've been working very closely with the Attorney General's senior (inaudible) in the Attorney General's office to resolve this case. The case is -- the hearing has been put off a number of times as a result of court calendars and the ability of the plaintiff's attorney. It is scheduled for October 10 of this year, so I'm hoping that we'll come to some type of resolution at that time and comply with what the court orders are.

Governor: This would -- this is an important component of that resolution.

Greg Cox: Governor, Greg Cox, again. Absolutely. We've worked with other states, in this case Colorado, finding an expert that deals with kosherization of kitchens and kosherization of food products, and various restaurants and the Colorado Department of Corrections. Working with him and then working with courts and of course the Attorney General's office, we believe this going to help reduce our risk and liability for the department in the future. We are coming along very close now to being at the end of this.

Governor: Thank you. And before I move on to the next contract, Madam Attorney General, did you have any questions on these previous items?

Attorney General: No. Governor, I appreciate Director Cox's comments. I know this has been an ongoing issue that they and my staff have been working on, so I think there is a good resolution here, so I appreciate all of his hard work as well.

Greg Cox: Thank you.

Governor: And then finally with regard to Contract 60, that is associated with the Second Chance Adult Re-Entry demonstration project, and my question simply is, how is that doing? We all want to avoid...

Greg Cox: Regards -- Governor, Greg Cox. We're looking at several things that we're doing with the contract. I've met with all the staff associated with the contract, our re-entry staff, also our contract monitor. The Second Chance Act grant ends effective September 30, and this provides for continued care what we would say wrap-around services to the inmates in regards to vocational substance abuse training, and also quite frankly even clothing, medical, mental health and some potential for housing and things like that to ensure that they have...

****Due to technical difficulties the rest of the minutes are not verbatim.****

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

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

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

The master service agreements were approved.

***12. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS**

Public comment was given by Andrew Clinger, City Manager of Reno.

***13. FOR POSSIBLE ACTION – ADJOURNMENT**

Motion By: Attorney General

Seconded By: Governor

Vote: 2-0

Comments:

Respectfully submitted,

JEFF MOHLENKAMP, CLERK

APPROVED:

GOVERNOR BRIAN SANDOVAL, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER