

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:** September 8, 2020, 10:00 AM

**Location:** *Pursuant to the Governor's Emergency Directive 006, as extended, 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](https://www.youtube.com/channel/UCF8zpKli9VhMDNVq_GsEYuQ/live)

**Conference Call Line:** 775-687-0999 or 702-486-5260  
Please call 775-684-0222 for collaboration code

**MEMBERS PRESENT:**

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

**STAFF PRESENT:**

Susan Brown, Clerk of the Board

**OTHERS PRESENT:**

Dave Haws, Administrator, Department of Administration

## 1. Call to Order / Roll Call

**Governor:** I'd like to call to order today's meeting of the State of Nevada Board of Examiners for Tuesday, September 8, 2020 to order. Could I ask the Clerk to take the roll please?

**Clerk of the Board:** Governor Sisolak?

**Governor:** Here.

**Clerk of the Board:** Secretary of State Cegavske?

**Secretary of State:** I'm here.

**Clerk of the Board:** Attorney General Ford?

**Attorney General:** Here.

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

## 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:** This is the first time set aside for public comment. Anyone wishing to address the Board on any item on today's agenda, please identify yourself for the record. Comments will be limited to three minutes. Do we have anyone in person in Carson City?

**Clerk of the Board:** We do not.

**Governor:** Do we have any written public comments?

**Clerk of the Board:** No, we don't.

**Governor:** Thank you. We'll close public comment.

## 3. Approval of the July 14 and August 11, 2020 Minutes (For possible action)

**Governor:** Item 3 - *Approval of the July 14 and August 11, 2020 Minutes*. Do we have a motion on the minutes?

**Attorney General:** I move for approval.

**Governor:** We have a motion for approval of the July 14 and August 11 Minutes. Is there any discussion on that motion? Hearing and seeing none. All in favor, signify by saying aye. The motion passes.

**4. Authorization to Contract with a Current and/or a Former State Employee (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 Nevada Revised Statute (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 Brian Bracken to perform administrative duties through Master Service Agreement #18404 with HAT Limited Partnership, dba Manpower.

**Governor:** Item number 4, *Authorization to Contract with a Current and/or a Former State Employee*.

**Clerk of the Board:** This request is from the Department of Administration, Purchasing Division on behalf of the Department of Employment, Training and Rehabilitation to contract with a former employee to perform administrative duties for the Pandemic Unemployment Assistance program. This individual will be employed by Manpower through MSA #18404. Any questions?

**Governor:** Do we have any discussion? Do we have a motion?

**Attorney General:** I move for approval.

**Governor:** We have a motion for approval. Is there any discussion on the motion? All in favor, signify by saying aye. The motion passes.

**5. Approval of Master Lease Agreements (For possible action)**

The Department of Administration, Division of Enterprise Information Technology Services, seeks approval for the seventh amendment to the existing master lease agreement with International Business Machines. This amendment extends the termination date from May 31, 2022 to September 30, 2023 and increases the maximum amount from \$12,045,136.35 to \$12,244,220.35 due to the purchase/lease of hardware and software for the mainframe server.

**Governor:** Item 5, *Approval of Master Lease Agreements*. I won't read the whole thing but it's about the IBM contract.

**Clerk of the Board:** Item 5 is a request from the Department of Administration, Enterprise IT Services Division to amend a master lease agreement with IBM for mainframe storage equipment, software and services. This amendment increases the cost of the lease by

\$199,084 and extends the termination date to September 30, 2023 for upgrades to hardware and software support. Are there any questions on this item?

**Governor:** You helped me a lot and you gave me some background on this one and I just got more this morning. The concern I have is this is already the seventh amendment to this lease and I don't know how much it's been extended out, the termination date, if this is the first time there's been an extension on it or there have been other extensions on the agreement but I hope that we don't continue with this.

**Clerk of the Board:** For your information, Governor, this is the third amendment to the time to the extension, the termination date of this lease.

**Governor:** What was the original time?

**Clerk of the Board:** The original timeframe was the lease was not to extend beyond August 31, 2017. The second amendment extended that to June 30, 2021.

**Governor:** I don't know where General Ford and Secretary Cegavske stand but at some point this has got to go out for rebid and now it's extended six years past its original scheduled termination date. So, I would hope this would be the last one. I don't know if either of you have any concern on that or any comments.

**Secretary of State:** I am somebody who is very skeptical after working with a vendor for a couple of years and hearing from other states that's there's issues so I think this is one that you need explanations and that we need to get some background as to why and what the extensions are about. So, I think we need a little more on that one based on your comments.

Again, I do want to thank your staff for getting back to our staff as diligently as they do. They come back to us and give us the information that we've asked for. So, I want to thank them for that. Thank you.

**Governor:** I appreciate your comments and this is kind of the way I feel on this one - this is getting dragged out so long; who is making these recommendations that it just keeps getting extended, extended, added on and increased the amount?

**Dave Haws:** Yes, thank you and good morning, Governor and Members of the Board. The lease that you're looking at in front of you, it's a little bit unusual from perhaps other leases in that it's the mainframe equipment that is used to support some of our largest agencies including Department of Motor Vehicles (DMV), Division of Welfare, Department of Public Safety and a little bit of Department of Employment, Training and Rehabilitation as well.

The reason why this amendment and this lease extends the way that it does is that when we support those particular applications for DMV, Welfare and the other agencies that use the mainframe, keeping in mind that their particular programs and software that they use has to run on the mainframe; and they're specific to that type of environment; and so the amendments that you see and extensions are, in essence, to support those particular business programs.

We would be able to go out to renew the lease and rebid this but it also would require us to work with those agencies and make sure that their applications are ready to either upgrade or migrate to another environment. So, the whole process would take quite a bit of coordination and time – which is not to say that it couldn't be done but it would be fairly extensive to make sure that whatever hardware or software environment that was brought back in through a new lease would still continue to support that business side of things.

The amendments that we've been putting into place typically, is to refresh the equipment and to upgrade to newer versions of the operating software and so on, in order to keep the environment viable to support the business applications.

The amendment that we're working on right now is to replace some equipment that's at end-of-life. As that equipment starts to age, maintenance cost goes up and so you are going to pay a lot more money in maintenance or you improve the equipment, which then lowers the maintenance cost and so right now we're estimating that we'll save approximately \$77,406 per year by this particular amendment. So, I think, in response, yes, we agree that sometimes it's difficult to see this lease keep amending and keep extending but it is a much larger effort to coordinate that with the software that's being used in some of these large agencies and making sure that the two are meshed together so that when you do replace this equipment or you go with another vendor, that all of the applications continue to work. I hope that explains a little bit about what's going on there.

**Secretary of State:** I'm just curious as to why, when this originally was contracted, they didn't know about the infrastructure issues and why this is something that's new to everybody. Everybody knows that your infrastructure is old and so I'm just curious as to why that wasn't part of the vendor's agreement to make sure that the hardware, the software and the mainframe server were all working and what you needed. That wasn't determined beforehand?

**Dave Haws:** In response to that, Secretary, this is a fairly complex environment and includes not only the mainframe but also the supporting disk storage that's required to go into it, disk drives, also, you have tape drives that are associated with it and all of these pieces of equipment, they have different lifespans and so they reach different end-of-life at different times.

The lease that we're managing, we have to keep that environment going and that's a different side. So, as these things start to age out and to keep our maintenance cost down, that's why we end up replacing them as part of the lease. Again, this is a lease, it's not a capital purchase. In order to keep that environment going and making sure that these applications are going to run, we need to refresh the software and hardware from time to time.

**Secretary of State:** I totally understand and get what you're going through because we're going through one of those in one of our divisions but it's very frustrating to sit and listen to this and the increase of money, the timing. We have eight divisions and one of our divisions, it's been like pulling teeth and the vendor has you hooked and there's nothing you can do.

You can't get out of it and I understand that but it is very, very frustrating and I think legislature, governor, are going to have to look deeply at any of these contracts in the future and put in these requirements and deadlines.

Ours is going into the third year and it shouldn't have gone that long. So, with this, that's the only reason I'm saying anything and I feel pain for you because I know what we're going through. I don't think we have a choice but to approve this but I do have concerns about going forward and what needs to be looked at with these vendors.

**Governor:** I appreciate your comments and I couldn't agree with you more. These all, as you described the complex environment, it was a complex environment when this was approved. I'm looking back at the information Susan provided me and I appreciate it. What I'm seeing, amendment number two, increased this maximum amount from \$90,000 to a little over a million dollars back in 2017. Then, later it was increased that year from \$1 million to \$10 million. Then, it was increased to \$11.7 million. Now, we're well over \$12 million with this lease that started as less than \$100,000. Now, I don't know what the checks and balances are but what we have now is not what we bid back in 2017.

**Dave Haws:** Yes, I understand what you're saying. These leases are a little bit different when you start off with them because of, I believe, and this predates me, but I believe that the way that this occurred was that as you start the lease, there was only a certain piece of equipment or a portion of it that moved into a lease. Then as time went by and as equipment aged that was owned, we moved more and more of it into the lease and so, over time, yes, it built up from \$90,000 to 12 million but the reality is that it was probably a \$10 million investment when we owned the equipment and as we moved into the lease and added more and more to the lease and brought more and more of it into the lease, it increased to what it typically would have been had it been a capital purchase type of thing.

So, the lease has grown and it's not that the environment grew from a \$90,000 to a \$12 million environment – it was a large environment to start off with but as we moved into the lease, more and more structure and equipment moved into the lease as it aged out of the capital purchases.

I completely agree. I don't disagree. I think that we do need to take a look at it. It will be a coordinated effort between ourselves and our largest customers to make sure that whatever decision we go with, that we have everything lined up so that if we went with a new vendor or new equipment or new environment, that it would continue to support these large agencies.

**Governor:** I don't disagree and agree with the Secretary that we need to approve this to keep things moving forward but when we originally bid this, if I understand, back in 2016 or whenever it was, much before most of us here, it was \$90,000 and that was something we bid that was different than this. As you're saying, we added things on and we increased it and it's different than the \$12 million contrast – I fully understand that but the RFP that we put out there that was awarded was based on \$90,000 and I want to make sure we're getting the best value when suddenly the term of this is now 100 times what it was back when this lease was originally approved, the scope of this contract.

This is problematic for me because that's not what was bid. There are so many amendments and changes and adds on that I still want to make sure that we're not held hostage here like when this got increased from \$100,000 to 10 million or from one million and then to 10 million back in 2017, I guess.

I can support extending it but I need this thing totally evaluated and I don't want this extended anymore without this going out for at least an analysis with your biggest customers, how we're going to deal with this moving forward, what's the best way to handle this is and a plan so that we don't find ourselves in the same position when this one expires.

Do we have any other comments or is there a motion on this one?

**Attorney General:** Mr. Governor, I can make the motion to approve. Contingent upon everything that you and Secretary Cegavske have indicated you'd like to see on a going forward basis, that'll be satisfactory.

**Secretary of State:** I do know that they need to go forward with what they're doing. It's unfortunate that they have the "gotcha," that's the way that it is so, I'll support this but I do think we need more details and more information and a discussion with the leaders in the legislature about these vendors and what's been going on.

**Governor:** I agree. This is something that's fallen upon us and it's unfortunate that we're owning it right now but I agree wholeheartedly that we have to have this evaluated and be able to have a better plan moving forward. So, with that said, we have a motion on the floor. Is there any further discussion? All in favor, signify by saying aye. The motion passes.

## **6. Approval of Proposed Leases (For possible action)**

**Governor:** Item 6, *Approval of Proposed Leases*.

**Clerk of the Board:** Item 6 includes 9 leases for approval by the Board this morning. Are there any questions on any of these items?

**Governor:** Not from me. Again, Susan, thank you for providing the backup that I asked for on this. Do we have a motion?

**Attorney General:** I move approval.

**Governor:** We have a motion for approval on the floor. Is there any discussion on the motion? All in favor, signify by saying aye. The motion passes.

## **7. Approval of Proposed Contracts (For possible action)**

**Governor:** Item 7, *Approval of Proposed Contracts*.

**Clerk of the Board:** There are 47 contracts for approval by the Board this morning. Are there any additional questions on these items?

**Governor:** The only one that I had was for the Attorney General, contract number 1 went from \$85,000 to \$400,000 - plus potential. I understand the complexity of this case, especially in light of our ruling from Judge Gonzales and moving forward, I assume, Attorney General, somebody is watching this contract closely, right?

**Attorney General:** Yes, Rachel Anderson from our office did submit some answers to questions raised about this particular contract.

**Governor:** Yes.

**Attorney General:** The complexity of this, as well as the individual lawsuits that caused conflicts are those that led to the necessity of retaining outside counsel on these and that's why you see the number potential increase. And some litigation remains on these still, and that's why we have the estimate here.

**Governor:** I do understand that.

Do we have a motion?

**Attorney General:** I move approval.

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

## **8. Approval of Work Plan (For possible action)**

**Governor:** Item 8, *Approval of Work Plan*.

**Clerk of the Board:** There is 1 work plan for approval by this Board this morning.

**Governor:** Do we have any questions on this item?

**Attorney General:** None here.

**Governor:** I assume this is a work plan that we have to use an out of town company again? Did we have any Nevada companies bid on this? Are there any Nevada companies that do this work? I don't even know.

**Clerk of the Board:** I don't know the answer to that question. This did go out to bid so it's possible that others did bid on this but I don't have that information available right now.



**Governor:** If you could just reiterate to all of our departments that when we seek bids, that we do whatever we can to make sure that we try to get Nevada bids from companies. That being said, do I have a motion on item number eight?

**Attorney General:** Move approval.

**Governor:** We have a motion for approval. Is there any discussion? All in favor, signify by saying aye. The motion passes.

## **9. Approval of Proposed Master Service Agreements (For possible action)**

**Governor:** Item 9, *Approval of Proposed Master Service Agreements*.

**Clerk of the Board:** There are 6 master service agreements for approval by the Board this morning. Are there any questions on any of these items?

**Governor:** I do not have any questions. Do we have any questions on this?

**Secretary of State:** None.

**Attorney General:** None here. I move approval.

**Governor:** Well, 4 of the 6 are from Nevada so that's a good thing. At least we have two-thirds of them.

We have a motion for approval. Is there any discussion on the motion? All in favor, signify by saying aye. The motion passes.

## **10. 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 July 21, 2020 through August 17, 2020.

**Governor:** Item 10, *Clerk of the Board Contracts*.

**Clerk of the Board:** There were 36 contracts under the \$50,000 threshold that were approved by the clerk between June 21, 2020 and August 17, 2020. Are there any questions on any of these informational items?

**Governor:** Yes, my question to you regarding item 1, Wayne State University, the study on the weight of boxing gloves – the funding source is really not correct on this, is that right?

**Clerk of the Board:** That is correct. This is funded with fees, not with the general fund.

**Governor:** I just want to make that notation for the record so the athletic commission pays this and not general fund. This is an information item.

## **11. Information Item Reports**

### **A. Statewide Quarterly Overtime Report – Fiscal Year 2020 4th Quarter**

Pursuant to NRS 284.180, the Department of Administration, Division of Human Resource Management must prepare and submit quarterly to the Budget Division of the Office of Finance a report regarding all overtime worked by employees of the Executive Department during the quarter. The Budget Division shall transmit quarterly to the Board of Examiners the report and the analysis of the Budget Division regarding the report. The Budget Division submits the 4th Quarter Overtime Report and analysis for Fiscal Year 2020.

### **B. Stale Claims Account, Emergency Accounts, Statutory Contingency Accounts**

Pursuant to NRS Chapter 353, the Governor’s Finance Office, Budget Division presents a reconciled fund balance report for the TORT Claim Fund, Statutory Contingency Account, Stale Claims Account, Emergency Account, Disaster Relief Account, Interim Finance Committee (IFC) Unrestricted Contingency Funds and IFC Restricted Contingency Funds as of August 27, 2020.

The TORT Claim Fund is the State Treasury Fund for Insurance Premiums. The Statutory Contingency Account, Stale Claims Account, Emergency Account, Disaster Relief Account, IFC Unrestricted Contingency Funds and IFC Restricted Contingency supplement funding for eligible agencies within statutory authority.

Below is the available balance for each account prior to any projected outstanding claims. The below numbers were updated on September 2, 2020.

TORT Claim Fund	\$ 5,382,032.83
Statutory Contingency Account	\$ 2,165,837.60
Stale Claims Account	\$ 646,088.73
Emergency Account	\$ 115,552.00
Disaster Relief Account	\$ 6,904,023.21
IFC Unrestricted Contingency Fund General Fund	\$17,859,684.44
IFC Unrestricted Contingency Highway Fund	\$ 1,638,068.35
IFC Restricted Contingency Fund General Fund	\$14,772,194.00
IFC Restricted Contingency Highway Fund	\$ 2,346,784.00

**Governor:** Item number 11.

**Clerk of the Board:** Agenda item 11 contains 2 items. The first is a report on overtime and accrued compensatory leave for the fourth quarter of fiscal year 2020. My staff summarized the report into a two-page summary. I'm not going to read the details but I'll hit a couple of highlights.

For fiscal year 2020, overtime pay and compensatory (comp) leave account for a total of approximately \$48.05 million or 4.25% of total pay. This is a 3.9% increase from fiscal year 2019. The Department of Corrections had the highest amount of overtime and comp time at \$3.77 million or 8.3% of their base pay; followed by the Department of Health and Human Services at \$1.97 million or 3.03% of base pay; and the Department of Public Safety at \$1.96 million or 7.7% of base pay.

For the fiscal year ending June 30, 2020, the Department of Corrections incurred \$15.3 million in overtime and comp time or 9.11% of base pay; while Department of Health and Human Services has incurred \$10.2 million in overtime and comp time or 3.17% of base pay. Those two agencies account for 53.3% of overtime and comp time for fiscal year 2020. I would also note that as a percentage of base salary, the Department of Veteran's Services had the highest overtime at 10.39%; followed by the Department of Corrections; and then the Department of Public Safety.

Are there any questions on this overtime report?

**Governor:** I do not have any questions. Do we have any questions on this?

**Attorney General:** None here.

**Secretary of State:** None.

**Clerk of the Board:** The second item, 11-B, is an informational report on the available balances in the various contingency accounts managed by the Board of Examiners or the Interim Finance Committee as of August 27, 2020. These accounts are available to cover various contingencies through the 2019-2021 biennium and I'm happy to answer any questions you may have on this item.

**Governor:** Any questions on item 11-B?

**Attorney General:** None here.

**Secretary of State:** None.

**Governor:** That concludes item number 11.

**12. 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:** Item number 12 is *Public Comment*. This is the second time set aside for public comment. Anyone wishing to address the Board on any item, please step forward and identify yourself for the record. Comments will be limited to three minutes. We have no one in Las Vegas. Do we have anyone in Carson City?

**Clerk of the Board:** We do not.

**Governor:** Do we have any written comment?

**Clerk of the Board:** No, we don't.

### **13. Adjournment (For possible action)**

**Governor:** Do I have a motion for adjournment?

**Attorney General:** So moved.

**Governor:** We have a motion on the floor. Is there any discussion? All in favor, signify by saying aye. The motion passes, we are adjourned. Thank you all very much.